# Vol. I

# TRANSCRIPT OF RECORD

(Pages 1 to 462)

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# Supreme Court of the United States

## OCTOBER TERM, 1955

## No. 48

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COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER,

*vs.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

---

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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PETITION FOR CERTIORARI FILED APRIL 13, 1955

CERTIORARI GRANTED MAY 31, 1955

# SUPREME COURT OF THE UNITED STATES

## OCTOBER TERM, 1955

# No. 48

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER,

*vs.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., AUG. 9, 1955

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IN THE

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

No. 14,850

---

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Petitioner,*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, *Respondent.*

---

**On Petition to Review and Set Aside an Order of the Subversive Activities Control Board**

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## JOINT APPENDIX

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**VOLUME I**

**(Pages 1 to 462)**

83D CONGRESS
*1st Session*

SENATE

DOCUMENT
No. 41

# SUBVERSIVE ACTIVITIES CONTROL BOARD

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HERBERT BROWNELL, JR., ATTORNEY GENERAL
OF THE UNITED STATES

PETITIONER

VS.

COMMUNIST PARTY OF THE
UNITED STATES OF AMERICA

RESPONDENT

---

## REPORT OF THE BOARD

PRESENTED BY MR. MCCARRAN

APRIL 23 (legislative day APRIL 6), 1953.—Ordered to be printed

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UNITED STATES
GOVERNMENT PRINTING OFFICE
32491 WASHINGTON : 1953

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# SUBVERSIVE ACTIVITIES CONTROL BOARD

No. 51–101

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES, PETITIONER *v.* THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, RESPONDENT

*William A. Paisley, Frank DeNunzio, Robert B. Gaston, Noel E. Story, Benjamin F. Taylor, Jr., Rourke J. Sheehan, Clifford J. Nelson, Nathan B. Lenvin,* for Petitioner.

*Vito Marcantonio, John J. Abt, Joseph Forer,* for Respondent.

## REPORT OF THE BOARD

On November 22, 1950, the Attorney General of the United States, Petitioner herein, acting under Section 13 (a) of The Subversive Activities Control Act of 1950, hereinafter called the Act, filed a petition with the Board for an order requiring the Communist Party of the United States of America (CPUSA), Respondent herein, to register with the Attorney General as required by Sections 7 (a), (c), and (d) of the Act. The petition alleges that Respondent is a Communist-action organization as defined in the Act and as measured by the standards specified therein, and it sets forth numerous allegations of fact in support of its contention.

A copy of the petition was served by Petitioner upon Respondent on November 24, 1950. Answer under protest was filed by Respondent on February 14, 1951, and on April 3, 1951, an amended answer was filed.[1]

In the amended answer Respondent admits that it was organized in 1919 and has been in existence continuously since that date. Otherwise, the substance and effect of its answer is to deny that Respondent fits the definition and standards of a Communist-action organization as alleged in the petition.

Hearings for the purpose of taking evidence on the petition commenced on April 23, 1951, before three members of the Board sitting as a hearing panel.

On October 20, 1951, one member of the Hearing Panel became unavailable to the Board by virtue of the adjournment of Congress without taking action upon his nomination to the Board. The hearing proceeded before the remaining two members of the Hearing Panel, who were present and participated during the entire hearing. Respondent, on October 23, 1951, moved the Board for an order striking all evidence theretofore received and all proceedings theretofore held

[1] In the interim period Respondent attacked the validity of the proceeding by various motions addressed to the Board, which were denied, and also instituted suit in the United States District Court for the District of Columbia for a preliminary injunction to stay the proceeding and for a permanent injunction and declaratory judgment (Civil Action 419–51). A three-judge statutory court on February 28, 1951, denied Respondent's motion for a preliminary injunction (*Communist Party of the United States* v. *McGrath*, 96 F. Supp. 47) but on March 13, 1951, issued an order staying answer and hearings before the Board to and including March 27, 1951, pending appeal. An extension of this stay was refused by the United States Supreme Court on March 26, 1951, and Respondent voluntarily discontinued the proceeding.

because of the failure of the Senate to confirm the one member, and because of alleged bias and prejudice of the Panel against Respondent, which motion was denied following oral argument thereon. Respondent thereupon instituted suit in the United States District Court to enjoin the hearings but was not successful.[2]

Hearings for the purpose of taking evidence on the petition, having commenced on April 23, 1951, terminated on July 1, 1952.

Briefs and proposed findings of fact were filed by each party on July 28, 1952. On August 6, 1952, reply briefs were filed by each of the parties, and on August 14, 1952, oral argument thereon was held before the Hearing Panel.

On October 20, 1952, the Hearing Panel issued its Recommended Decision finding Respondent to be a Communist-action organization as defined in the Act and recommending that the Board issue an order requiring Respondent to register as such with the Attorney General of the United States.

On November 21, 1952, Petitioner filed exceptions to the Recommended Decision requesting that the Board adopt the Panel's findings with certain minor changes of text. On November 24, 1952, Respondent filed its exceptions to the Recommended Decision, accompanied by a memorandum in support thereof, and four motions. Following oral argument, the motions were denied in our Memoranda Opinions and Orders of December 23, 1952, and February 24, 1953. Oral argument on the exceptions to the Recommended Decision was had before us on January 7, 1953.

Respondent notes 310 exceptions, most of which contain numerous grounds for attacking a specified portion or finding of the Recommended Decision. Illustrative of the nature of its exceptions is Exception No. 51, which reads as follows:

> Respondent excepts to the statement as to the end towards which certain policies and activities of the Respondent are directed (p. 26, ll. 29–32), as being unsupported by the evidence, contrary to the evidence, based on irrelevant matters, based on constitutionally protected conduct and expression, and made with an improper reliance on pre-Act matters.

In addition to taking exception to virtually every statement in the Recommended Decision on what amounts to a line-by-line basis, Respondent in many instances made a general exception to entire captioned sections of the Recommended Decision, illustrative of which is Exception No. 102:

> On the same grounds [same as exception No. 101; i. e., irrational, unsupported by the evidence, contrary to the evidence, beyond the scope of the petition, and based on an improper reliance on pre-Act matters] Respondent excepts to the entire section of the Recommended Decision which appears under the subheading "Trade-Union Activities" (pp. 50–58).

In addition to the foregoing, Respondent, by its Exception No. 310, attacks the Recommended Decision as a whole on the grounds that it is arbitrary; capricious; not in accordance with law; contrary to the Constitution, including the First and Fifth Amendments; made without the observance of procedure required by law; unsupported by the evidence or by a preponderance thereof; contrary to the evidence and a preponderance thereof; largely based on incompetent and irrelevant evidence and on testimony not entitled to credence;

[2] The United States District Court for the District of Columbia, on February 15, 1952, entered an order granting the Board's motion to dismiss, and dismissing the proceeding before the court. *Communist Party of the United States of America v. Peter Campbell Brown, et al.* (Civil Action 4648-51).

based on evidence and findings outside the scope of the petition; and largely resulting from improper use of, and reliance on, matters and events which antedate the enactment of the Act;[3] further, that the Panel has not performed is function of weighing, analyzing, and describing the evidence and contentions of the parties; that the Panel has obscured, concealed, and misstated what the record actually shows; that it has so intermingled pre-Act and post-Act evidence as to confuse and misstate the record and vitiate its findings and conclusions; and, that the Panel's decision is clearly a product of bias and prejudice.

Respondent also preserves all exceptions which have accrued to it as a result of rulings adverse to it heretofore made by the Hearing Panel or the Board.

Notwithstanding the general, sweeping nature of these exceptions and their lack of substantive specificity, we have carefully examined and considered each of them, as well as the matters set forth in Respondent's memorandum in support thereof.

In making our findings herein, we have reviewed the entire record and we have appraised the Recommended Decision, and the exceptions taken thereto by both parties, in the light thereof. Except to the extent the exceptions of either party are expressly or impliedly incorporated herein, they are hereby expressly overruled as being unsupported by the evidence or otherwise lacking in merit.

In this report, we discuss the evidence under topical headings which in the main conform to the sequence of the criteria of Section 13 (c) of the Act which we are required to consider. This arrangement also substantially follows the allegations of the petition.

In making our findings herein, we have considered and weighed all the evidence of record. In weighing Petitioner's evidence, we have considered that certain of its witnesses fall into the category of "informers" and we have scrutinized their testimony accordingly; we have considered and resolved the inconsistencies in the testimony of certain of Petitioner's witnesses; we have considered the testimony of Petitioner's witnesses against the background of their various organizational positions and activities in the CPUSA which afforded the sources of their knowledge; and we have had the benefit of the Panel's observation of their demeanor while testifying. Viewing these considerations in the light of the whole record, we find no basis for disregarding the substance of their testimony.

We have likewise weighed and evaluated Respondent's evidence, taking into account that each of its three witnesses has a vital personal interest in the outcome of this proceeding; that in nature and substance the direct testimony of two of its witnesses amounted, in a large degree, to conclusory denials of the allegations of the petition and the criteria of Section 13 (c) of the Act; that important members of Respondent, whom Petitioner's witnesses had identified as being parties to, or present at, conversations which were detrimental to Respondent herein, were not called to rebut such testimony; and, that the Hearing Panel, having observed the demeanor of its witnesses as they testified, had some misgivings about certain of them.

It is noteworthy that the stenographic record herein comprises 14,413 pages and that in addition 507 exhibits, many of which are entire volumes, are part of the record. To set forth and resolve herein

[3] The matters raised in the exceptions pertaining to Pre-Act evidence and Constitutional issues are dealt with later herein under "Legal Discussion."

all the conflicts between the evidence of the parties would unduly protract this report. Where warranted, however, we treat specifically with conflicts in the evidence and the credibility of the witnesses with regard thereto in the body of this report.

Applying the foregoing considerations, we have made our findings below. Such evidence of record that is inconsistent therewith is not credited.

A short biographical sketch of each witness, containing information pertinent to this proceeding, is contained in Appendix A, and a list of publications which are in evidence and have major importance in this proceeding is contained in Appendix B.

For clarity, it is desirable that we make certain findings based on the evidence herein concerning Respondent's publications and its general nature and organizational composition preliminary to setting out the body of the evidence.

Therefore, we find: That Respondent is a disciplined organization numbering many thousands of members, which is controlled internally between conventions by a National Committee; that it has organizational units at city, county, state, and district (includes multistate) levels which include clubs, cells, fractions, branches, and sections, and committees thereof; that, in addition to the foregoing, it maintains other operating committees for specific purposes; that Respondent has been in existence in the United States since 1919; and, that it is not a diplomatic representative or mission of a foreign government accredited as such by the Department of State.

We also find that the following publications, issues of which are in evidence, are or were during their existence official and controlled organs of Respondent:

(a) *The Daily Worker;*
(b) *The Worker;* this is currently the Sunday edition of the *Daily Worker;* however, in the 1920's a paper with this name fulfilled much the same function as the present *Daily Worker;*
(c) *Political Affairs*, a monthly magazine;
(d) *The Communist;* the predecessor to *Political Affairs*, which served Respondent in the same capacity prior to early 1945. The same title was used for a Party newspaper early in Respondent's existence.

## I. Findings of Fact

### A. WORLD COMMUNIST MOVEMENT

The definition of a Communist-action organization in Section 3 (3), and the terms of the several criteria in Section 13 (e) of the Act make desirable a finding based upon the evidence in this proceeding concerning the world Communist movement, its characteristics and the identification of the leadership of such movement.

Much of the evidence which establishes the allegations of the petition pertaining to the various criteria in Section 13 (e) necessarily shows the existence of the world Communist movement, its characteristics and its leader. The evidence sustaining these allegations is fully set forth hereafter in this report. Consequently, we now set forth in summary form only the evidence adduced in this proceeding which substantiates the existence of the world Communist movement, describes its nature and identifies its leadership.

The Respondent in its amended answer and through the testimony of its witnesses admits that a world Communist movement exists in the sense that the CPUSA and other Communist parties in countries throughout the world are guided in their activity by a concept of "social science" called Marxism-Leninism,[4] and have as their common goal the establishment of "socialism." Respondent contends, however, that the international relationship among the Communist parties of the world is merely a fraternal one. It denies that there exists a world Communist movement which is substantially dominated or controlled by the Soviet Union and which has as its purpose the establishment of dictatorships of the proletariat in all countries throughout the world. Respondent's witness Gates testified that, in referring to "the world Communist movement" in his writings, he had in mind separate autonomous movements. Respondent's expert witness, Dr. Herbert Aptheker, teacher and trustee of the Jefferson School of Social Science, Editor of *Masses and Main Stream*, and Managing Editor of *Political Affairs*, offers the explanation that in Marxist-Leninist literature such terms as "international solidarity," "proletarian internationalism," "working class internationalism," etc., are used simply to indicate the fraternal relationship among the working classes of the countries of the world. Respondent's witness Elizabeth Gurley Flynn draws an analogy with the international trade-union movement, asserting that this movement exists but that there is no worldwide trade-union; and that, similarly, a world Communist movement does exist, but that an international integrated Communist Party does not. The witness Flynn admits that Stalin is universally regarded by Communists as the ideological leader of world Communism[5] and as the leader of the senior Communist Party of the world, the Communist Party of the Soviet Union; however, she denies that either Stalin or the Communist Party of the Soviet Union (CPSU) exercises domination or control over Respondent or any other Communist Party in the world.

We are unable to accept these contentions of respondent concerning the existence, nature, purpose, and leadership of the world Communist movement, as they are contrary to the clear preponderance of evidence.

The present world Communist movement was first manifested organizationally by the formation of the Third Communist International in Moscow in 1919. This event is recorded in the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Pet. Ex. 330), as hereinafter developed.[6]

One year later, July 17 to August 7, 1920, the Second Congress of the Communist International adopted and promulgated its *Theses* and *Statutes* setting forth its aims and purposes as later detailed herein,[7] which includes the following:

> The Communist International is aware that for the purpose of a speedy achievement of victory the International Association of Workers, which is struggling for the abolition of capitalism and the establishment of Communism, should possess a firm and centralized organization. *To all intents and purposes the Communist International should represent a single universal Communist Party, of which the parties operating in every country form individual sections. The*

[4] See pp. 21–44, *infra*, for findings re Marxism-Leninism.
[5] Subsequent to the hearing herein Stalin died; he has been succeeded by Georgi M. Malenkov.
[6] See p. 10, *infra*; see also pp. 42–43, *infra*, for Respondent's adherence to this work.
[7] See pp. 10–11, *infra*.

*organized apparatus of the Communist International is to secure to the toilers of every country the possibility at any given moment of obtaining the maximum of aid from the organized workers of the other countries.*

For this purpose the Communist International confirms the following items of its statutes:

SEC. 1. The new International Association of Workers is established *for the purpose of organizing common activity of the workers of various countries who are striving towards a single aim:* the overthrow of capitalism; the establishment of the dictatorship of the proletariat and of the *International Soviet Republic;* the complete abolition of classes, and the realization of socialism—the first step of Communist Society.—[Italic supplied.] (Pet. Ex. 8, p. 5.)

The Communist International was in fact that which these publications proclaim, i. e., a universal Communist Party organized and controlled as to policies and activities by the Soviet Union and consisting of the various Communist parties of the countries throughout the world, which constituted sections of the Communist International. The Communist International embodied an elaborate organizational structure, including an Executive Committee; departments on Organization Agitation and Propaganda, and Youth; Secretariats or Commissions covering sections of the world, such as the Far Eastern Secretariat, Anglo-American Secretariat, etc., which supervised the Communist parties in these repsective areas; and Field Bureaus.

Respondent joined this international Communist organization shortly after it was constituted and admittedly until 1940 participated therein. Characteristic of the Communist International's worldwide activities were the Profintern or Red International of Labor Unions; MOPR, or the International Red Aid to defend Communists; the maintenance of representatives in various countries, first to enforce and insure adherence to its policies, and further to afford guidance and assistance; the instruction and training of individual members of its section Communist parties and the payment of expenses incident thereto; the rendering of financial aid to the various Communist parties throughout the world, either directly in money disbursed to or for them or indirectly through furnishing of free propaganda materials, publications, printing, etc.; the exercise of strict disciplinary control over individual members and entire Communist Party sections, resulting in expulsion of a member for failure to follow Soviet Union policies and directives; the settlement of intraparty disputes and the resolution of issues relating to tactics, strategy, procedure, and policy of Communist Party sections; the command of paramount allegiance to the Soviet Union as the leader of international Communism and fatherland of the world proletariat; the strict adherence to that body of principles and policies called Marxism-Leninism;[8] all in furtherance of making secure the foundation of the world proletarian revolution, i. e., the Soviet Union, and installing Communist dictatorships under the direction and domination of the Soviet Union in all countries throughout the world, including the United States, by activity both open and secret and by any means whether legal or illegal.

As a result of the passage of the Voorhis Act in 1940 (54 Stat. 1204) Respondent announced a disaffiliation from the Communist International, but did not alter fundamentally its relationship with the Communist International.[9] The Communist International was formally dissolved as such in 1943, at which time the United States

[8] See pp. 21–44; 120, *infra.*
[9] See pp. 14–16, *infra.*

and the Soviet Union were military allies. This formal dissolution was accomplished, assertedly, in order to remove the foundation for "Fascist" charges that the Soviet Union was meddling in the internal affairs of other nations. In truth and in practice the world Communist movement, under the hegemony of the Soviet Union, has remained as theretofore, despite the "dissolution" of the Communist International.

In 1947, the Communist Information Bureau, herein sometimes called the Cominform, was organized [10] to facilitate the coordination of activities of Communist parties of various countries in the struggle against "imperialism"; its membership consists of a number of Communist parties.

Zhdanov, then a member of the Politburo of the Communist Party of the Soviet Union, in calling for greater and closer international coordination of action by Communist parties at the Communist Party Informative Conference in Poland in September 1947 stated, in part, as follows:

> * * * There can be no doubt that if the situation [the tendency toward the isolation of individual Communist parties] were to continue it would be fraught with most serious consequences to the development of the work of the fraternal parties. The need for mutual consultation and voluntary coordination of action between individual parties has become particularly urgent at the present juncture when continued isolation may lead to a slackening of mutual understanding, and at times, even to serious blunders (Pet. Ex. 214–A, p. 4).

Georgi M. Malenkov, successor to Stalin and presently leader of the Soviet Union, also addressed this conference laying additional emphasis on the necessity for coordination of international Communist activities. Pertinent excerpts from Malenkov's report are set forth herein at pp. 18–19, *infra*.

In the United States, Respondent refrained from formally joining the Cominform, because "* * * reactionary and pro-Fascist forces now whipping up anti-Communist hysteria and war incitement in our country would undoubtedly seize upon such action * * * as a pretext for new provocations and repressions against the Communists * * *" (Pet. Ex. 368). However, the CPUSA announced firm agreement with and approval of its formation. Notwithstanding this lack of formal affiliation, manifestations of the world Communist movement and Respondent's participation therein continued. Known representatives of the world Communist movement remained in the United States and continued their participation in the affairs of Respondent; leaders of Respondent went abroad at Party expense to international gatherings where they met and consulted with world Communist leaders; the official organ of the Cominform, *For a Lasting Peace, for a People's Democracy*, is used by Respondent's leaders as a source of authoritative direction on matters pertaining to the world Communist movement and Respondent's participation therein; detailed "greetings" containing messages are sent and received by the various Communist parties of the world, including the Communist Party of the Soviet Union and Respondent; Respondent unswervingly adheres to the positions taken by the Soviet Union on international issues; and Respondent continues to advocate, teach and apply Marxism-Leninism.

Adherence to Marxism-Leninism, as its principles and precepts are stated in the Classics, is completely incompatible with Respondent's

[10] See *infra* pp. 16–19, re detailed findings concerning the Communist Information Bureau.

contention that it and numerous other Communist parties throughout the world apply Marxism-Leninism individually, separately and autonomously. It is clear that international organization, which affords the coordination of activity and discipline as directed by the Soviet Union and which commands the subordination of all national duties and also requires allegiance to the Soviet Union, is the very essence of Marxism-Leninism as understood and practiced by Respondent.[11]

The international integration of the world Communist movement is further illustrated by the perspective in which Respondent regards the incidents affecting, or activities of, Communist parties in other nations. For example, a letter sent by Respondent to the Communist Party of France as reprinted in the *Daily Worker* of June 9, 1952, regards the arrest of French Communist leader, Jacques Duclos, as an act of the men of "Wall Street." The letter states in part:

> * * * We American Communists are conscious of our responsibility to show the people at home that it is the Wall Street men of the trusts who are the real fomentors of the present hysteria, arrests, and persecutions in your country. We will do everything to convince the American people that it is U. S. imperialism which strives to impose upon the French people the same kind of wartime dictatorship they seek to impose in our own land. We know your struggle is our struggle—a common fight against a common enemy—to defeat the North Atlantic war alliance, to prevent the renazification [sic] and remilitarization of Western Germany, to fight for a Five-Power Pact of Peace and Friendship as the only path to peace and freedom * * * (Pet. Ex. 495).

Similarly a "greeting" from Respondent to the Seventh Congress of the Italian Communist Party, published in the Daily Worker of April 4, 1951, stated:

> * * * "your work in defense of peace and socialism under the magnificent leadership of Palmiro Togliatti, has a particular repercussion in our country.
>
> "The great battle of the Italian workers for their independence, peace, and social progress calls forth greatest admiration among us. We are confident that in fraternal battle against Wall Street, the cause of Italy's millions, which is our cause too, will triumph" (Pet. Ex. 456).

Respondent, at its 15th National Convention held from December 28 to 31, 1950, in New York City, received "greetings" from Communist parties in the Soviet Union, People's Democratic Republic of China, France, Italy, Hungary, Poland, Bulgaria, Czechoslovakia, Rumania, German Democratic Republic, Western Germany, Austria, Great Britain, Canada, Mexico, Brazil, Cuba, Spain, Norway, Denmark, The Netherlands, Northern Ireland, Eire, India, Israel, Algeria, Ceylon, Free Territory of Trieste, Belgium, Australia, New Zealand, Indonesia, and the Yugoslav Political Revolutionary Emigrants (Pet. Ex. 376).

Many such "greetings" expressed regret that it was impossible to send delegates as Respondent had invited, but noted in varied detail the problems (from a Communist viewpoint) in the particular country involved, as well as those facing Respondent. These "greetings" likewise are replete with phrases that reveal the characteristics and leadership of the world Communist movement, of which the following are illustrative:

> * * * all persons who oppose the aggressive policy of American imperialism and the rule of Fascist terror, are uniting in joint resistance * * *.

[11] See "Marxism-Leninism" pp. 24-25; 31-32, *infra*, for detailed findings to this effect.

* * * the decisions of your Convention, taken in the light of the teachings of Marx, Engels, Lenin, and Stalin, will enable you to advance forward on the road of unity of action * * *.

Your successes are our successes.

We know your struggle is difficult, but together with you, 800 million people, led by the invincible Soviet Union, defend peace and liberty.

* * * your party will raise still higher the immortal banner of Marxism-Leninism and will honorably fulfill its patriotic and internationalist duty * * *.

* * * the fight of the millions of common people for peace and democracy, inspired by peace-loving Soviet Union and the great Stalin, will win.

Your fight, dear comrades, is our fight, just as the struggle of the German Friends of democracy and peace is your struggle.

The invincible peace camp under the leadership of the Soviet Union and the great Stalin, defends the happiness of all peoples. You have a decisive place in the camp of peace.

We feel closely bound up with your struggles not only because we pursue the same aims but also because we face the same enemy, American imperialism.

* * * our common struggle against Anglo-American imperialism.

Headed by the mighty Socialist Soviet Union and our friend and teacher, Joseph Stalin, the world camp of peace is going forward to win * * *.

* * * your decisions will victoriously guide the American people in their determined struggle for the defense of the cause of peace and socialism so brilliantly led by Comrade Stalin.

United by proletarian internationalism under the banner of the great Stalin, we will march victoriously on the road to peace and Socialism.

* * * we are firmly convinced * * * that you will fulfill the great task of world significance * * *.

Your invitation confirms that proletarian internationalism, in spite of hate, persecution, and terror, is a living reality.

Our fight for peace, independence, and freedom is directed against the same enemy as your fight.

Long live proletarian internationalism.

We pledge our maximum contribution to the peace movement headed by the Soviet Union

Long live the solidarity of the working people in the whole world * * * for the triumph of the ideas of Marx, Engels, Lenin, and Stalin!

The foregoing statements in this section are fully supported by a preponderance of the evidence, which is set out in detail in our findings in the captioned portions of this report which follow. Based on the evidence adduced in this proceeding we find (1) that there exists a world Communist movement, substantially as described in Section 2 of the Act, which was organized by the Soviet Union, and which has as its primary objectives the establishment of Communist dictatorships of the proletariat in all countries throughout the world, including the United States, and (2) that the direction, domination, and control of this movement is vested in, and is exercised by, the Soviet Union.

## B. POLICIES AND DIRECTIVES

### *1. Respondent's organization and leadership*

The nature of this proceeding is such that we cannot and should not single out one factual situation as determining the issues, but must consider the record as a whole. In so doing, we have taken into consideration the evidence hereinafter summarized concerning the events which have resulted in Respondent's present organizational form, and which establishes certain facts regarding the background and activities of Respondent's present leadership. We find this evidence tends to establish that Respondent is a Communist-action organization.

Respondent was organized in 1919 and has been in existence continuously since that date. The evidence leaves no doubt that the Respondent is molded organizationally and operationally along the

lines found by the Communist Party of the Soviet Union to be most effective in establishing the dictatorship of the proletariat in the Soviet Union. Such an organization and operation is in accordance with the strategy and tactics of Marxism-Leninism. It is also in accordance with the requirements of the Communist International.

Before treating with Respondent's organization and internal administration, it is of major importance for a clear understanding of our findings and of the background and bases for a number of Respondent's policies and activities, to review the evidence and set forth certain pertinent facts regarding an association or organization known as the Communist International (Comintern). According to Respondent's witness Flynn, this organization was "a federation, as it were, of Communist Parties, who met together, consulted together, and exchanged knowledge and experience in relation to the struggles that they were carrying on in their particular countries."[12] The record, however, establishes a different nature and different characteristics of the Communist International.

Upon consideration of the sizable quantity of both oral and documentary evidence relative to the matter, we find that the Communist International was organized in 1919 by the Soviet Union as the international organization of Communist Parties in all countries—a World Communist Party—with the aim to overthrow "capitalist" states and to create the dictatorship of the proletariat in the Soviet form. Significant evidence establishing the foregoing includes the documents, *History of the Communist Party of the Soviet Union (Bolsheviks); Theses and Statutes of the Third (Communist) International*, adopted July 17–August 7th, 1920; the *Programme of the Communist International*, issued at the Sixth Congress in Moscow in 1928; and, Respondent's *Manual On Organization*, issued in the 1930's. These documents are further identified and discussed later in this report.

In the *History of the Communist Party of the Soviet Union*, it is stated:

> In March 1919, on the initiative of the Bolsheviks, headed by Lenin, the First Congress of the Communist Parties of various countries, held in Moscow, founded the Communist International. Although many of the delegates were prevented by the blockade and imperialist persecution from arriving in Moscow, the most important countries of Europe and America were represented at this First Congress. The work of the congress was guided by Lenin.
>
> * * * * * * *
>
> The congress adopted a manifesto to the proletariat of all countries, calling upon them to wage a determined struggle for the dictatorship of the proletariat and for the triumph of Soviets all over the world.
>
> * * * * * * *
>
> Thus was founded an international revolutionary proletarian organization of a new type—the Communist International—the Marxist-Leninist International (Pet Ex. 330, pp. 231–232).

The Theses and Statutes stated that—

> * * * all the events of world politics are inevitably concentrating around one point, namely, the struggle of the bourgeoise world against *the Russian Soviet Republic, which is grouping around itself* the Soviet movements of the vanguards of the workers of all countries, and all national liberation movements of the colonial and subject countries, which have been taught by bitter experience that there can be no salvation for them outside of a union with the revolutionary proletariat, and the triumph of the Soviet power over Imperialism." [Italic added.] (Pet. Ex. 8, p. 67.)

[12] This is in substance the same characterization Respondent places on the present organization of Communist Parties known as the Information Bureau of Communist and Workers' Parties or the Communist Information Bureau. See pp. 16–19 of this report.

Also:

> The Communist International makes its aim to put up an armed struggle for the overthrow of the International bourgeoisie and to create an International Soviet Republic as a transition stage to the complete abolition of the State. The Communist International considers the dictatorship of the proletariat as the only means for the liberation of humanity from the horrors of capitalism (ibid., p. 4).

The Constitution and Rules of the Communist International as set forth in the *Programme* includes:—

> The Communist International—the International Workers' Association—is a union of Communist Parties in various countries; it is a world Communist Party. As the leader and organizer of the world revolutionary movement * * * and the upholder of the principles and aims of Communism, the Communist International * * * fights for the establishment of the world dictatorship of the proletariat, for the establishment of a World Union of Socialist Soviet Republics, for the complete abolition of classes and for the achievement of socialism—the first stage of Communist Society (Pet. Ex. 125, p. 85).

Respondent's *Manual on Organization* defines the Communist International as follows, which is pertinent for comparison with the foregoing quotations:

> The Communist International is the international organization of Communist Parties in all countries. It is the World Communist Party. The Communist Parties in the various countries affiliated to the Comintern are called Sections of the Communist International (Pet. Ex. 145, p. 42).

The record shows, in addition to the fact that the Communist International was organized and formed by the Soviet Union and had the aforestated aims, that the Soviet Union exercised complete control over the policies and activities of the Communist International. All of the heads of the Comintern that are identified in the record have been leading members of the Communist Party of the Soviet Union. The meetings of the governing committees and the congresses shown in the record have been held in Moscow. Witnesses who had been representatives of Respondent to the Comintern established that the Communist Party of the Soviet Union was the leading party (section) in the Comintern, and its decisions were binding on the executive committee of the Comintern and such decisions of the Comintern bound all other member parties; furthermore it had five votes on the executive committee to one each for the other larger parties. The government of the Soviet Union financed the Comintern.

The record also establishes through both oral and documentary evidence that as a section or member of the Communist International, Respondent was under the complete domination and control of the Communist International regarding its policies, activities, programs, and other operations. Illustrations and examples of Respondent's acceptance of and adherence to directions and instructions from the Communist International are covered in the parts of this report which follow and include the teaching and advocacy of the overthrow of "imperialist" governments; trade union activities; work among the youth; and the recognition and acceptance of discipline; as well as details concerning Respondent's organizational structure and internal administration.

Also significant, and indicative of Respondent's acceptance of, or submission to, control over it by the Communist International, are various other official statements and teachings by Respondent subsequent to the time that it became a part of the Communist Interna-

tional, and Respondent's acceptance and following of instructions of Comintern respresentatives sent to the United States. The activities in the United States of Comintern and other foreign Communist representatives is covered elsewhere in this report. With respect to the specific actions of Respondent and its teachings as evidencing the acceptance of domination and control by the Comintern, the record shows that early in 1921, Respondent revised its program and constitution "in conformity with the Theses and Statutes of the C. I.", and adopted the "twenty-one points for affiliation to the C. I." [13] (Pet. Ex. 123, p. 1), and became an "integral part of the Communist International" (p. 2). In 1929, Respondent's Central Committee issued a "Discussion Outline for Lenin Campaign" which in effect explains the role of the Party as that defined by the "Program of the Comintern" and states:

> One who fights the Soviet Union and the Comintern is an agent of capitalism directed against our Party in its campaign to mobilize the workers against imperialist war and for defense of the Soviet Union (Pet. Ex. 108, p. 6).

The "Thesis and Resolutions" for the Seventh National Convention of Respondent [14] which were adopted by the Convention in 1930, refer to "communications" from the Comintern in connection with various tasks of the Party (Pet. Ex. 132, p. 54). The resolutions adopted at the 8th convention of Respondent in 1934 include the following:

> The E. C. C. I. is the Executive Committee of the Communist International. It is the general staff of the world revolutionary movement giving unity and leadership to the Communist Parties of the world. The E. C. C. I. meets in plenary session at intervals of between six months and one year. The body acting in highest authority between one pleanry session (Plenum) of the E. C. C. I. and the other, is the Presidium of the Communist International. The Communist Party of the U. S. A. is the American Section of the Communist International (Comintern) (Pet. Ex. 136, p. 18).

Petitioner's witnesses Budenz, Crouch, Gitlow, Honig, Johnson, Kornfeder, Lautner, Meyer, and Nowell each testified concerning various aspects and manifestations of the control exercised over Respondent by the Communist International while these witnesses were members of Respondent and held various official positions. Gitlow was a top official of Respondent and in 1928–1929 was a member of the Executive Committee of the Communist International. He states unequivocally that the Comintern controlled all major policies of Respondent and cites instances such as convention arrangements and the policy of the party press which were based upon Comintern directives or instructions. Kornfeder knows of no instance during his membership, 1919–1934, when Respondent deviated from Comintern instructions and shows that the qualifications for attending Communist training schools in Moscow were set up by the Comintern, and that members of Respondent recommended to become students at the schools had to be approved by the Comintern. Nowell and Honig both were in Moscow during the 1930's as students and representatives of Respondent and participated in the work of the Communist International, particularly the preparation of directives to Respondent—which directives were carried out. Meyer, an American citizen, returned to the United States in 1934, having been a member of the British Communist Party, and was not required to fill out an appli-

[13] These "conditions" spelled out rigid requirements of allegiance to the Comintern with provisions for strict discipline as well as details as to the form of the Communist Parties and their activities.

[14] The "Thesis and Resolutions" represented the prime authority of Respondent in its programs, policy and practical orientation for the period 1930–1934 which were applied in practice and in Respondent's schools.

cation to join Respondent since he was merely transferring from one section of the Communist International, or Communist movement, to another. Johnson, a member of Respondent from 1930 to 1940 and at one time on the Central Committee, was taught at Respondent's National Training School, and saw in operation, that under the rules of the Comintern no person could hold or resign from a position of leadership without the approval of the Comintern. He also states unequivocally that he knows of no single instance during his membership where Respondent ever opposed a decision of the Comintern.

The foregoing is only a part of the considerable testimony on the activities of the Communist International concerning the Respondent in the United States but serves to illustrate Respondent's role as a member or part of the Communist International.

In view of our finding that the Communist International was founded and controlled by the Soviet Union, and of our further finding that the Communist International dominated and controlled Respondent, and upon the entire record, we find and conclude that the Communist International for over twenty years constituted the organizational instrumentality through which the Soviet Union dominated and controlled the Communist Parties throughout the world, including Respondent.[15]

As later herein covered, Respondent announced its "disaffiliation" from the Communist International in 1940, and the "dissolution" of that organization was announced in Moscow in 1943. It is pertinent before concluding this aspect of our findings concerning the Communist International to note that the Communist International stood "wholly and unreservedly upon the ground of *revolutionary Marxism* and its further development, Leninism" (Pet. Ex. 125, p. 8). Because of the importance of "Marxism-Leninism" in this proceeding, its meaning is determined in detail later in this report.

Concerning Respondent's organizational form and changes therein, we find that early in Respondent's existence, in 1924, the Communist International "decided" that various factions in the United States should amalgamate into a single party, which was done. The evidence hereinafter summarized and the entire record establishes that Respondent is that Party.

We further find that in 1929 another factional dispute existed in Respondent which was a reflection of a struggle in the Communist Party of the Soviet Union and in the Communist International between the forces led by Stalin and those led by Bukharin. Although a minority of only about 10 percent in Respondent, led by Foster, supported Stalin, whereas the majority of about 90 percent, led by Lovestone and Gitlow sided with Bukharin, the solution of the dispute dictated by Stalin was adopted by the Comintern and accepted by Respondent, representatives of the Comintern being sent to the United States to supervise its effectuation. The result of the "liquidation of the factional situation in the Communist Party" (Pet. Ex. 126, p. 245) was the expulsion from Respondent of Lovestone, Gitlow and others and the placing of the leadership of Respondent in the Foster group. Earl Browder was recalled from China by way

[15] Respondent's witness Gates stated on cross-examination that "The Communist International was an actual organization of the world Communist movement and we were affiliated at one time. We are not affiliated now, and the organization no longer exists."

of Moscow to become General Secretary of the Party. Foster was given a high position. He became a "builder of the Party" (Pet. Ex. 126, p. 247). This is the William Z. Foster who is presently National Chairman of Respondent.

In 1940, Respondent announced its disaffiliation from the Communist International. We find that the primary reason for the disaffiliation was to avoid registration of the Respondent as a foreign agent under the Voorhis Act of October 17, 1940; and that the disaffiliation did not alter in any substantive way the relationship between Respondent and the Communist International or the world Communist movement. Respondent's amended answer admits it was "affiliated" with the Communist International prior to November 1940, and states that it "disaffiliated" from the Communist International in November 1940. The amended answer and the evidence offered by Respondent seek to establish, however, that, "Since 1940, the Communist Party has had no international affiliation of any kind —although it follows with interest the experiences of other Communist Parties, reads their journals, and on appropriate occasions sends or receives fraternal greetings" (amended answer, p. 17).

Witness Meyer was present as a member at the State Committee meeting when the delegation to the convention of Respondent which considered the disaffiliation reported back to the Illinois-Indiana District. The substance of the delegation's report was that the disaffiliation was a matter of expediency, that it changed nothing fundamentally or significantly, and that it had to be done to preserve the legality of the Party. Witness Lautner was a delegate to the convention and also describes the understanding of the convention to be that the disaffiliation was one of expediency which in no way affected the Party's attitude on the question of proletarian internationalism. Witness Crouch attended a convention-time meeting of the Politboro and district organizers where Earl Browder, then general secretary of the Party, said that the actual relations of the Respondent to the Communist International would remain exactly the same in the future as they had in the past, that Respondent would continue to be guided by the Communist International and that because of the political development of Respondent the matter of formality in the relationship was no longer as necessary as it had once been. The district organizers were assigned the duty to go back to the respective districts and explain the reasons for disaffiliation which Crouch, being a district organizer at the time, did.

Respondent's witness Flynn testified on cross-examination that she was on the National Committee of Respondent when the resolution of disaffiliation was discussed. She says:

> * * * we were not disaffiliating in anger, or disaffiliating to fight the Communist Internationale. It was, you might say, a friendly divorce (Tr. 14002).

We find the evidence preponderates to establish that the disaffiliation was for the expediency of avoiding registration as a foreign agent and did not alter Respondent's relationship with the Communist International or the world Communist movement.

We have heretofore set forth our finding that the Communist International was the means or vehicle through which the Government and the Communist Party of the Soviet Union directed and led the Communist Parties of the various countries, including Respondent. In 1943, upon approval by the various member Communist Parties of

a proposal by the Presidium of the Executive Committee, the Communist International was dissolved.[16] Respondent, having a few years earlier announced its "disaffiliation" from the Communist International, was not "called upon to participate in the decision" (Pet. Ex. 207, p. 657). It did, however, hail and support the dissolution. Stalin, who at the time was the chairman of the Council of People's Commissars of the U. S. S. R. and a leading member of the Politboro of the Central Committee of the C. P. S. U., stated the dissolution was "proper and oppoftune" in that it facilitated the organization of a general onslaught against the common enemy, Hitlerism (Pet. Ex. 204). In supporting and hailing the dissolution of the Communist International, Respondent took the same line as that expressed by Stalin, i. e., that the dissolution "is a well aimed blow * * * at Hitler * * *" (Pet. Ex. 206), and pointed out in the Daily Worker that the "particular organizational form for international proletarian unity * * * became a hindrance to the further strengthening of the national workers' parties" but that the dissolution "must not be mistaken as a sign of weakness or of helpless collapse" (Pet. Ex. 205). In view of the foregoing, and upon consideration of the subsequent manifestations of the operations of the world Communist movement and of Respondent's conduct and activities as elsewhere herein covered, and upon the entire record, we find and conclude that the dissolution of the Communist International was merely the termination of the use of that "particular organizational form," and a change in the means and the particular vehicle for promoting and advancing the world Communist movement.

We find that during the year following the announced dissolution of the Communist International, Respondent's organizational form and some of its tactics underwent a change. It became known as the Communist Political Association from May 1944 until June 1945,[17] when it was reconstituted as the Communist Party. During this period, there was a deemphasis on the use of some of the Marxism-Leninism principles and the central teaching was around the current documents of the Party, which put forward the so-called "Teheran line" that advocated, at least for the time being, a peaceful coexistence of the United States and the Soviet Union. We note that in becoming the CPA there was no substantial change: Respondent's membership and leadership were the same, and upon reverting to the CPUSA in 1945, similarly, its membership was the same and, with one substantial exception, so was the leadership. Because of his lack of adherence to the proper tactical line, Earl Browder was characterized as a "revisionist" and "deviationist," [18] and was deposed as a leader whereupon the full Marxist-Leninist revolutionary ideology and action was again reemphasized.

Respondent's present organizational form commenced with its return in 1945 to the name Communist Party upon simultaneous dissolution of the Communist Political Association. A primary pur-

[16] Petitioner's witness Dr. Mosely considers that because of the nature of the Communist International the "proposal" to dissolve it by its Presidium was regarded as a "decision" to dissolve it (Tr. 7370).

[17] Foster opposed the change on the ground it was not in line with the revolutionary position of Marxism-Leninism. His opposition was contained in a letter to the National Committee, which letter was suppressed from the membership at the time and not made known until shortly before the change back to the CPUSA.

[18] In January 1950, Petitioner's witness Lautner, then on Respondent's Central Control Commission, and Jack Kling, then National Treasurer, discussed Browder's recent pamphlet wherein he stated that during the fifteen years of his leadership in Respondent, all major policies put into effect had the previous knowledge, consent, and active support of the decisive international Communist leadership. Kling called it stool-pigeon work on the part of Browder.

pose of again changing was to reemphasize the Marxist-Leninist Classics, particularly the writings of Stalin, the *History of the Communist Party of the Soviet Union (Bolsheviks)* and Dimitroff's Report to the Seventh Congress which deals with the true nature of how to conduct the united front while forwarding the Communist revolutionary aims.

We find that in addition to this reemphasis on Marxism-Leninism, which it was established by the evidence in this proceeding are the basic laws for a world Communist revolution, the facts directly surrounding the reconstitution are indicative of foreign domination and control of Respondent. A few weeks after returning from Moscow to France, Jacques Duclos, a leader of the French Communist Party, member of the Executive Committee of the Communist International until the announced dissolution of that organization, and a spokesman for the world Communist movement, issued a statement through the French Communist Party Journal, entitled "On the Dissolution of the Communist Party of the United States" (Pet. Ex. 208). Duclos' statement appeared in the April 1945 issue of the French publication. The substance and effect of the Duclos statement is that it was a mistake to dissolve the Communist Party of the United States—"in truth, nothing justifies the dissolution of the American Communist Party, in our opinion" (Pet. Ex. 208, p. 671); that a "powerful Communist Party" in the United States is necessary "in the struggle taking place between the progressive forces of the earth and Fascist barbarism" (Pet. Ex. 208, p. 672). Upon the record, we find that the Duclos statement represented authoritative criticism made by a spokesman for the world Communist movement.

In the month (May 1945) following the publication of the Duclos statement in the French Communist Party organ, Manuilsky, a leading Soviet Union Communist, and a former official of the Communist International, who at the time was in the United States as Ukranian representative to the United Nations Conference on Organization in San Francisco, let it be known to Respondent that it should observe the guidance and counsel of the French comrades. In June, the National board of the Communist Political Association met and called a meeting of the National Committee for later in the month, which in turn called a national convention for July. It was at this convention that the CPUSA was reconstituted in its present form as a militant Marxist-Leninist party.

As in the case of forming the Communist Political Association the year before, the same persons who had been officials of the CPA and the Party before that, led in reforming the Communist Party and, with the exception of Browder and a few others with minor rank, remained the leaders of the reconstituted party. As earlier herein found, Browder was expelled as a "revisionist" for departing from the orthodoxy of Marxism. Foster, upon taking over as a national chairman pointed out the necessity for reemphasizing the revolutionary line of Marxism-Leninism.

The record establishes that subsequent to the reconstitution of Respondent, an additional event of significance has taken place in the world Communist movement—the formation of an organization known as the Information Bureau of Communist and Workers' Parties or the Communist Information Bureau, sometimes referred to in the record as the "Cominform". The significance lies in respondent's attitude

toward this organization, the sameness of views and policies of respondent and the organization, and Respondent's use and treatment of statements appearing in *For a Lasting Peace, for a People's Democracy*, the official organ of the Cominform.

The exact nature and characteristics of the Communist Information Bureau are no precisely defined on the record. The record shows that the organization is composed of a number of Communist Parties of various countries and was established as a result of a decision taken at a conference held in Poland toward the end of September 1947. The record contains copies of two reports given at this founding conference, one by A. Zhdanov, then a member of the Politburo of the Communist Party of the Soviet Union and principal Soviet representative at the founding conference. The other report was given by Georgi M. Malenkov, then a member of the Central Committee of the Communist Party of the Soviet Union and secretary of the CPSU.[19] Based on these reports and the testimony of witnesses, we find that the purpose of the Communist Information Bureau is to mobilize forces in opposition to United States "imperialism".[20]

Shortly after the establishment of the Cominform, Respondent announced publicly that "the present political situation in the United States is such that the Communist Party should not affiliate" with the new Information Bureau, but stated the establishment of the Bureau "is of great significance" and makes more effective the "resistance to the program of imperialist expansion." Respondent's announcement further states that respondent "will continue to promote the international solidarity of all anti-fascists and anti-imperialists" (Pet. Ex. 368).

Respondent's witnesses Gates and Flynn, members of the National Committee, in summarizing Respondent's position stated that all they know about the Information Bureau is what they read in the "capitalist" press and the journal of the Bureau; that the Information Bureau never issued directives to Respondent; and, that Respondent's use of *For a Lasting Peace, for a People's Democracy* is to see what is going on within various Communist Parties throughout the world with whom Respondent shares common interests. The record shows an attitude of arrogance and evasiveness on the part of witness Gates concerning the Communist Information Bureau which causes us to discount much of his testimony on the matter. Even after considerable questioning on cross-examination he was unwilling or unable to explain what was meant by "official documents" of the Cominform for which Respondent waited, before taking a position regarding the organization, and was unwilling or unable to explain why and how, in that connection, Respondent's announcement that it would not join the Cominform was made 7 days before publication of the first issue of *For a Lasting Peace, for a People's Democracy*, dated November 10, 1947, which he had said might have been the official documents. Upon being asked whether issues of *For a Lasting Peace, for a People's Democracy* weren't received over here "before they were published? Before November 10, when the first issue came out?" the record shows the following at page 13212:

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[19] Subsequent to the closing of the hearings for the purpose of taking evidence in this proceeding, and upon the announced death of Joseph Stalin, Malenkov has become the announced leader of the Soviet Union. See additional reference to Malenkov at p. 53 of this report.

[20] The Communist concept of "imperialism" and "the struggle against imperialism" is covered in detail at pp. 44–56 of this report.

Answer: [by Gates]. Well, I don't believe in the supernatural, but if you do, that may have been possible.

Mr. BROWN. That is unnecessary.

The WITNESS. I can only answer a stupid question in such a way.

Later, Gates was questioned regarding whether the Communist Party in the United States or the *Daily Worker* or *Political Affairs* ever deviated from the expressed views and policies of the Cominform, and answered to the effect that the party and *Daily Worker* never deviate from what they consider the best interests of the American people and "if we have not expressed any disagreement with any views that have been put forward in *For a Lasting Peace, for a People's Democracy*, that is because we believe those views have not been in contradiction to the interests of the American people." (Tr. 13226–13227). He was then asked to give any instances of deviation and replied, "I have answered the question." The question was repeated by a Panel member who asked the witness if he could answer "Yes" or "No," to which the reply was: "[It] is a loaded question," and, upon being advised the panel did not consider it to be, the witness responded with "You may not think so, but I think so"; and, "After all, I am the one who is on the witness stand and not you."

The evidence shows that the Zdhanov report, contained in the first issue of *For a Lasting Peace, for a People's Democracy*, was studied in Respondent's clubs or cells as "the key to the whole movement"; that it was used in Respondent's schools as a major document stating and explaining the strategic aims of the world Communist movement. Malenkov's report was also studied and discussed. The record further shows that copies of *For a Lasting Peace, for a People's Democracy* have been made available to functionaries and clubs or cells of Respondent. Petitioner's witness Philbrick, based on 9 years' membership and activity in the Party, states that a member of Respondent could not disagree with a directive or a position taken by the Cominform and still remain a member of the Party. Additional facts concerning the Communist Information Bureau are set forth elsewhere in this report.

The two aforementioned reports of Zdhanov and Malenkov comprise the most direct evidence of record bearing upon the nature and characteristics of the Communist Information Bureau aside from what is contained in Respondent's announcement that it would not join the organization. Zdhanov's report says the Communist International was dissolved because "the direction [21] of these parties [what he calls "mass labor parties"] from one centre became impossible and inexpedient." But, he continues, "experience has shown that such mutual isolation of the Communist Parties is wrong, harmful and, in point of fact, unnatural" and that "continued isolation may lead to a slackening of mutual understanding, and at times, even to serious blunders." (Pet. Ex. 214–A).

Malenkov puts it as follows:

> The absence of contact between Communist Parties is a hindrance in coordinating the actions of Communists in various countries in their resistance to the plans of the imperialists, particularly now, when American monopoly capital is organizing an offensive against Communism and democracy against the U. S. S. R. and the new democracies, developing its expansionist plans with the intention, under the guise of "aid", of enslaving a number of European and other countries,

[21] Compare Zdhanov's use of "direction" with the public announcements that the Comintern was dissolved to help defeat Hitlerism (p. 15 herein) and to stop the "false charges" of direction from Moscow.

and when Communists are called upon to define their attitude to these plans of American imperialism.

In our opinion it is necessary to put into effect definite measures designed to eliminate the present abnormal situation in this respect.

That is why we consider it necessary to discuss at the present conference both the international situation and the question of improving contact between Communist Parties, of establishing regular connections between them a view to achieving mutual understanding, exchange of experience and voluntary coordination of activities of the Communist Parties whenever they consider this necessary (Pet. Ex. 367, p. 145).

Respondent's statement characterized the Cominform as "a medium through which these parties can consult, and, if they deem it desirable, coordinate activity." (Pet. Ex. 368, p. 2).

In 1943, upon approval by the member Communist Parties of a proposal by the Presidium of the Executive Committee, the Communist International was dissolved to stop what they called false charges that the International dictated directives from Moscow.[22] As later herein developed, a fundamental principle of the world Communist movement is to do the best possible for the cause under given circumstances—to charge when conditions warrant and to retreat when conditions require so as to marshal forces and await the sharpening of the opportunities. In view of these facts, of the foregoing facts concerning the Cominform, and on the entire record, we find and conclude that the Communist Information Bureau represents what the Communists consider the best possible substitute at the present time for the Communist International and that Respondent's support of the Information Bureau, its use of *For a Lasting Peace, for a People's Democracy*, and its nondeviation from the line of the Bureau, are done for the purpose and with the aim of advancing the objectives of the world Communist movement.

Summarized, the foregoing establishes that shortly after its formation in 1919 Respondent became a part of the "World Communist Party" dominated and controlled by the Soviet Union; that in 1924 Respondent was "amalgamated" pursuant to instructions of the Soviet Union; that in 1929 a factional dispute in Respondent was settled by the Soviet Union and new leadership of Respondent was installed according to directives from the Soviet Union; that in 1940 Respondent publicly announced "disaffiliation" from the Communist International (organizational form of the World Communist Party) and that the real reason being to avoid registration as a foreign agent and its "disaffiliation" was merely pro forma and represented no change; that from May 1944 to June 1945 Respondent's name was changed to the Communist Political Association and Respondent followed the tactical maneuver of advocating the possibility of peaceful coexistence between the United States and the Soviet Union; that in June 1945 Respondent changed its name back to the Communist Party under circumstances in which the Soviet Union played an active part; and that since June 1945 there have been no major or substantial organizational changes in Respondent.

In addition to the fact that the variations in the organizational structure of Respondent have been based upon specific directives and instructions from the Soviet Union, these variations are a manifestation of Respondent's following the overall Marxism-Leninism policy of doing what is opportune at any stage of the revolution, as later herein developed.

[22] See Note 21, *supra*, p. 18.

In determining whether or not Respondent is dominated and controlled by a foreign government, we have taken into consideration certain facts established on the record concerning the careers and activities in their official capacities of a number of Respondent's present leaders, including its national chairman, William Z. Foster. We have previously herein set forth the fact that Foster became a leader of Respondent as a result of the solution in 1929 of the factional dispute in Respondent upon action by Joseph Stalin and the Communist International. In this connection, it is pertinent to consider the following statement by Stalin in 1929 as contained in certain speeches he made on the American Communist Party:

> The struggle for the winning of the millions of the working masses to the side of Communism must be intensified. The fight must be intensified for the forging of real revolutionary Party cadres and for the selection of real revolutionary leaders of the Party, of individuals capable of entering the fight and bringing the proletariat with them, individuals who will not run before the * * * storm and will not fall into panic, but will sail into the face of the storm (Pet. Ex. 145, p. 111).

It is reasonable to conclude that the selection of Foster as a leader of Respondent, following the speech of Stalin, identifies Foster as the type of leader to whom Stalin referred.

We further find that for a number of years prior to 1940 Foster was an official of the Communist International; that Foster and Jack Stachel, among others, represented the Respondent at the Seventh World Congress of the Communist International in Moscow in 1935; that Foster is a recognized spokesman for the world Communist movement; that Foster is recognized among Communists as an authority on and follower of Marxism-Leninism; that Foster in 1944 did not push his objections to the formation of the Respondent as the Communist Political Association but rather refrained from deviating, for the stated reason that he would have been expelled if he had. In view of the foregoing, and upon the whole record, we conclude that William Z. Foster has been controlled in his activities as a top leader of Respondent by leaders of the Soviet Union and, during its existence, by the Communist International; and we find that this furnishes some evidence that Respondent as an organization has been and is controlled by the Soviet Union.

We further find that a substantial number of Respondent's present leaders, including Foster, Stachel, Bittelman, Green, Winter, and Williamson, have been to the Soviet Union on numerous occasions on Party business and have been indoctrinated and trained in the Soviet Union on Russian strategy and policies. These leaders have taught in Party schools, written for the Party press, and spoken at Party meetings, on various phases of Marxism-Leninism, including the leading position of the Soviet Union, the concept of proletarian internationalism, and the necessity of revolutionary overthrow of imperialist nations, particularly the United States. We find that Foster and these other leaders of Respondent have accepted the views and policies of the Soviet Union and have carried such views and policies into Respondent, making them the views and policies of Respondent. We find that this fact furnishes additional evidence that Respondent is dominated and controlled by the Soviet Union.

In making the foregoing findings, we have taken into consideration the facts as to the recognition by Respondent's leaders of a disciplinary power in the Soviet Union, and the allegiance of such leaders to the Soviet Union, as elsewhere in this report set forth.

The variations in the organizational structure of Respondent can very well be said to conform to the overall policy of Marxism-Leninism of doing what is expedient under the given circumstances at any stage of the revolution, as set forth in *Strategy and Tactics of the Proletarian Revolution* (Pet. Ex. 343, pp. 21–22), one of Respondent's compilations of basic Marxist-Leninist material. It is pertinent at this point to determine the meaning of "Marxism-Leninism" as understood and followed by Respondent.

*2. Marxism-Leninism*

The Respondent's constitution (1948) (Pet. Ex. 374) (readopted in 1950) states in the first sentence of its Preamble: "The Communist Party of the United States is a political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism." Respondent's amended answer (pp. 10, 20–21) also admits that Marxism-Leninism is basic to the CPUSA. Marxism-Leninism is nowhere in the record specifically defined. It should be noted that we recognize that the theory of Marxism-Leninism, as such, is not an issue in this proceeding. Nor is it our purpose to consider the merits of Capitalism vis-a-vis Communism. However, in view of the fact that Marxism-Leninsim is declared to be basic to Respondent and because of the numerous references to it in the course of these proceedings, and in order to cast as much light as possible upon the issues involved, we have deemed it important to determine its actual meaning from the evidence of record. In this section, we present our findings of what it is, and how it is understood, used and followed by Respondent. We have limited ourselves here, in the main, to the meaning of Marxism-Leninism. The extent of Respondent's acceptance of it and adherence to it is more specifically treated in other portions of this report, wherein it is shown that adherence to Respondent's conception of Marxism-Leninism is evidentiary of submission to the domination and control of the Soviet Union.

In our determination we have had to reach certain conclusions concerning some of the terminology employed both in the writings and in the testimony of the witnesses. Where a difference in the meaning of any term appeared, we have given it the meaning warranted by a preponderance of the evidence.

The sources of Marxism-Leninism and also its corpus are to be found in the writings of Marx, Lenin, and Stalin and their collaborators, which writings are generally referred to as the Classics.[23] In order to understand the content of these Classics, we deem it desirable to present something of the background in which they are produced and also to indicate what we consider to be the chief contributions of each of the above individuals to the Classics and to Marxism-Leninism.

In the middle of the nineteenth century, Karl Marx, a German scholar, and Frederick Engels, an Englishman, developed what became known as Marxism. This was a form of Socialism. The basic tenet of Socialism is the ownership by the state of all the means of production and distribution. According to Marx, all society consisted of antagonistic classes, the principal one being the bourgeois or capitalist class, which, as a result of owning privately the means of production, exploited the propertyless working class. Marx announced particular interest in the propertyless factory workers whose numbers had

[23] See Appendix B, attached.

increased as a result of industrialization. These factory workers he designated as the proletariat. Marx was influenced by the dynamic theories of the German philosopher Hegel, and applied Hegel's theories to the materialistic concepts of the Greek philosphers and developed a system which he called dialectical materialism. This is a theory of reality assuming continuous transormation of matter and dynamic interconnection of things and concepts and implies social transformation through socialism toward a classless society. Marx came to the conclusion that the only true value was the labor of the industrial working class. It was his thesis that capitalism had to expand in order to continue to exist and, as it spread, the proletariat class would correspondingly increase in numbers. According to his conception of history, capitalism contained the seeds of its own destruction and consequently it was inevitable that the classless state of society which he designated as Communism would ultimately come about. In order to expedite this, he theorized, it was necessary that the proletarian class, which would be greater in numbers than the bourgeoisie, be organized and be given leadership by a political party of all the workers of the world. The objective of this party would be to bring capitalism to an end and substitute for it a dictatorship of the proletariat in a socialist state. Eventually, according to his theory, the dictatorship of the proletariat would not be necessary because the state would wither away as soon as its citizens had become conditioned to living in a one-class society. Two of his most basic considerations were the class struggle and the world-wide character of the revolution. Much of this appears from the *Communist Manifesto* (Pet. Ex. 31), published by Marx and Engels in 1848.

Lenin, a Russian revolutionist, adapted Marxism to Russian revolutionary purposes.[24] He proceeded to implement it in a way that gave it a practical turn. He utilized slogans. Consequently, he gave capitalism a new name: "imperialism." The quintessence of imperialism is monopoly-capitalism which "is the eve of the proletariat social revolution." He recognized that for the success of the proletariat revolution two things were most important: rigidity of organization and flexibility of policy. Organizationally, one of his first postulates was the necessity of creating a homogeneous group of disciplined professional revolutionists, among whom no factionalism or dissent would be tolerated, as a nucleus for the party of the proletariat. It should be noted that the Communist Party was formed in 1898 in Russia.[25] Lenin's group therein, the Bolsheviks, obtained control of that party in Russia because it was an intransigent body which permitted no deviation or compromise.

Stalin later advanced the Marxist-Leninist ideas to a practicality which developed somewhat differently from Marxist theoretical schemes. He says (*History of the CPSU(B)*) (Pet. Ex. 330, p. 355):

> The Marxist-Leninist theory is the science of the development of society, the science of the working-class movement the science of the proletarian revolution, the science of the building of the Communist society. And as a science it does not and cannot stand still, but develops and perfects itself. Clearly, in its development it is bound to become enriched by new experience and new knowledge, and some of its propositions and conclusions are bound to change in the course of time.

[24] See foreword to *What Is To Be Done?* (Pet. Ex. 417), by Alexander Trachtenberg, one of Respondent's leaders and manager of International Publishers.
[25] Trachtenberg's Foreword to *What Is To Be Done?* (Pet. Ex. 417).

are bound to be replaced by new conclusions and propositions corresponding to the new historical conditions.

What this means becomes clearer from what he previously stated (p. 355):

> The power of the Marxist-Leninist theory lies in the fact that it enables the Party to find the right orientation in any situation, to understand the inner connection of current events, to foresee their course and to perceive not only how and in what direction they are developing in the present, but how and in what direction they are bound to develop in the future.

There is also clarification in what he says subsequently (p. 356) when he tells how Lenin altered Marxism because of his experience in the Russian revolutions of 1905 and 1917. The tactical aspects of the theory thus attains a flexibility which would appear to make it mean what the current leaders of the CPSU want it to mean. So regarded, the theory supplies an easy explanation for all phenomena and furnishes a justification for any line of conduct which these leaders have adopted.

Marx, Lenin, and Stalin represent the supreme authorities of what became known as Marxism-Leninism as these writings constitute its body. All postulated the revolution on a world-wide basis. Lenin, and after him Stalin, proclaimed that it was not necessary to wait until the proletariat throughout the entire world was ready for a revolution, but that the attack against the capitalist world rightfully began by breaking its chain at the weakest link, which proved to be Russia. The Communists in Russia having succeeded, they then sought help from the proletariat throughout the world to support their victory. They also proceeded to try to foment revolution in any part of the world where it had a chance of being successful. The best example of applied Marxism-Leninism is the Communist International. That this organization is based on Marxism-Leninism appears from the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Pet. Ex. 330, pp. 231–232). (See also pp. 10 and 13, under Organization and Leadership, *supra*.) Using the Communist International as an instrument, the Soviet Union, as the leader of an integrated organization with subsidiary groups throughout the world, issued directives to the Communist parties in the several countries. What these directives were and how they applied to Respondent will appear in a discussion of the Classics and of the testimony of witnesses which follows, as well as in various other sections of this report.

Against this background, it is pertinent to inquire why the Classics were written. An examination of their content discloses that they were intended to create, promulgate, and advance the world revolution of the proletariat. At an intermediate stage, they concentrated in large measure on Russia. At no time, however, was the main objective forgotten and when the revolution was successful in Russia, the emphasis was again brought back to the revolution on an international scale.

It should be noted that in the summaries, paraphrases, and quotations from the Classics which follow, we have conscientiously striven, and, we believe, successfully so, for complete accuracy and have endeavored to hold closely to the essence of the material being analyzed. Where excerpts have been quoted, we have selected those which we consider representative of the whole tenor of the writing from which they are taken.

How basic the international and revolutionary factors of Marxism-Leninism are appears at its inception in *The Communist Manifesto* (Pet. Ex. 31); "The history of society is the history of class struggles" (p. 9), "The bourgeoisie has played a most revolutionary role in history" (p. 11). "* * * and are now to be superseded by the proletariat through similar means" (p. 15). The proletarians have become organized into a class and consequently into a political party (p. 18). Of all the classes opposing the bourgeoisie, the proletariat alone is a really revolutionary class (p. 19). The Communists are a proletarian party whose aim is the conquest of political power by the proletariat (p. 22). The proletariat will become the ruling class and will use its political supremacy to wrest all capital from the bourgeoisie. The measures used to do this will be different in different countries (p. 30). The Communists everywhere must support every revolutionary movement against the existing order of things. Their ends can only be attained by the forcible overthrow of all existing social conditions. Workingmen of all countries are exhorted to unite for the Communist revolution (p. 44).

This international and revolutionary aspect is further stressed in the writings of Lenin and Stalin. In *State and Revolution* (Pet. Ex. 139), Lenin objects to the "chauvinism" of those "leaders of Socialism" who would water down Marx's doctrine by limiting it to single states (p. 5). Speaking of the Russian Revolution of 1917, he states: "This revolution can be understood in its totality only as a link in the chain of Socialist proletarian revolutions called forth by the imperialist war" (p. 6). "A Marxist is one who *extends* the acceptance of the class struggle to the acceptance of the dictatorship of the proletariat" (p. 30). In *The Dictatorship of the Proletariat* (Pet. Ex. 423, pp. 47–48), one of Lenin's fundamental postulates is quoted by Stalin on the international question: International imperialism cannot live side by side with the Soviet Republic and the greatest difficulty of the Russian Revolution is "the necessity to solve international problems, the necessity to call forth the world revolution." Stalin makes this thought even clearer in *Foundations of Leninism*. He says (at p. 9) that Leninism is not merely a Russian but an international phenomenon; and (at p. 17) that the Russian Communists were impelled by the whole situation, domestic and foreign, to transfer the struggle to the international arena. The same thought is even more forcibly expressed in Stalin's definition of Leninism (*Problems of Leninism*, Pet. Ex. 138, pp. 7–9; see also p. 19). From this definition it is clear that the whole movement based on Marxism-Leninism is regarded by its founders and chief protagonists as an internationalism which must operate with common theory and strategy and tactics in all countries. It is inescapable that all those working for the ultimate ends of the movement must work in unison and in one cohesive organization on a worldwide basis. This thought is expressed strongly in the *Theses and Statutes of the Third (Communist) International* (Pet. Ex. 8, p. 67):

> 4. It follows from the fundamental principles laid down above, that the policy of the Communist International on the National and Colonial questions must be chiefly to bring about a union of the proletarian and working masses of all nations and countries for a joint revolutionary struggle leading to the overthrow of capitalism, without which national equality and oppression cannot be abolished.
>
> 5. The political situation of the world at the present time has placed the question of the dictatorship of the proletariat in the foreground, and all the events of

world politics are inevitably concentrating around one point, namely, the struggle of the bourgeois world against the Russian Soviet Republic, which is grouping around itself the Soviet movements of the vanguard of the workers of all countries, and all national liberation movements of the colonial and subject countries, which have been taught by bitter experience that there can be no salvation for them outside of a union with the revolutionary proletariat, and the triumph of the Soviet power over Imperialism.

The same thought suffuses the Classics throughout. It is not a tenet that can be accepted here and rejected there. It is integral in the whole texture of the material of the movement which those Classics represent. Like a fast dye, it colors every portion of that movement and cannot be eradicated because it is of its very essence.

It would burden this report unduly to quote in extenso the references in the Classics to the international and revolutionary nature of Marxism-Leninism and the interrelation of the sections of the Communist parties in all countries which it requires. Attention is directed to a number of places where these references are deemed particularly significant:

*Foundations of Leninism* (Pet. Ex. 121, pp. 17–19; p. 45, last par. and p. 46); *History of the Communist Party of the Soviet Union* (B) (Pet. Ex. 330, pp. 273–75); *State and Revolution* (Pet. Ex. 139, pp. 5, 6); *The Theory of the Proletarian Revolution* (Pet. Ex. 422, pp. 85–89); *The Dictatorship of the Proletariat* (Pet. Ex. 423, pp. 48–49).

We conclude from the above that the Classics advocate a revolution of the proletariat on an international basis, through the instrumentality of an international organization.

The primary objective of the world revolution is the termination of capitalism and establishment of the dictatorship of the proletariat. Lenin used the word "imperialism" to designate what he calls the parasitism and decay of capitalism at its highest stage of historical development (*Imperialism*, Pet. Ex. 140, p. 14). This imperialism is the arch enemy of the proletariat.

Not the slightest progress can be made toward the solution of the practical problems of the Communist movement and of the impending social revolution unless the economic roots of this phenomenon are understood and unless its political and sociological significance is appreciated.

Imperialism is the eve of the proletarian social revolution. This has been confirmed since 1917 on a worldwide scale.

It should be noted that the Classics emphasize strongly the use of slogans. The word "imperialism" and its adjective-noun form "imperialist" are used therein to form a variety of slogans. Thus, it will be seen from *The History of the Communist Party of the Soviet Union* (Pet. Ex. 330, pp. 167–69) that the Bolsheviks advanced the slogan of "*converting the imperialist war into a civil war*" and the slogan-policy of "*the defeat of one's own government in the imperialist war.*" As a corollary to this approach, wars are designated as "just" and "unjust." The "just" or "anti-imperialist" war is waged assertedly to liberate the oppressed from the yoke of imperialism. The "unjust" war is supposedly to conquer and enslave others. Wars of the first kind, the Bolsheviks supported. Of wars of the second kind, the Bolsheviks said, a resolute struggle must be waged against them to the point of revolution and the overthrow of one's own imperialist government. From these pages it will be seen that, according to Lenin, while capitalism is decaying and moribund, "imperialism" would not rot on the stalk; it could not be overthrown without a revolution.

We conclude from this that the Classics designate as the enemy, against which the international revolution must be directed, that form of capitalism which they term "imperialism"; and that they declare that any war waged against such imperialism is a just war and any war waged in its behalf is an unjust war.

Equally basic with the international and revolutionary character of the movement is the tenet of the dictatorship of the proletariat. In view of the divergence of testimony of witnesses for Petitioner and those of Respondent concerning the meaning and application of this tenet, we have taken particular pains to ascertain its real character. It is best understood from the volume *Dictatorship of the Proletariat* (Pet. Ex. 423), which is one of a series of "Readings in Leninism," consisting of articles and excerpts dealing with basic points of Leninist theory. Lenin's postulates on this question (pp. 47–54) make clear how important this phase of the revolution is deemed. Having once seized power through revolution, he states it becomes necessary that this power be held by a "dictatorship of the proletariat." A definition of what this is intended to be appears on page 49:

> The dictatorship of the proletariat is not the end of the class struggle but its continuation in new forms. The dictatorship of the proletariat * * * which has achieved victory and has seized political power, against the bourgeoisie who have been defeated but not annihilated, who have not disappeared, who have not ceased their resistance, who have increased their resistance.

Lenin makes clear that this dictatorship is not to be confused in any way with "popular" and "nonclass" government. He goes on to say:

> The class that has seized political power has done so, conscious of the fact that it has seized power alone. This is implicit in the concept of the dictatorship of the proletariat. This concept has meaning only when one class knows that it alone takes political power into its own hands, and does not deceive either itself or others by talk about popular, elected government, sanctified by the whole people.

Having seized power, the proletariat may find it necessary to enter into certain alliances to maintain that power. These alliances, however, are only temporary for the purpose of consolidating the revolutionary victory. It is emphasized again on page 52 that violence is essential, although not exclusive. The following passages are enlightening:

> But, of course, the dictatorship of the proletariat does not merely mean violence, although there is no dictatorship without violence.
>
> Dictatorship (says Lenin) does not mean violence alone, although it is impossible without violence. It likewise signifies a higher organization of labor than that which previously existed (*Collected Works*, Russian edition, Vol. XXIV, p. 305).

It involves the concept of "exercise of violence, unrestricted by law" (p. 54). Also significant is the position to be held by the Communist Party in the dictatorship of the proletariat. It is stated (p. 100): "The stronger the Communist Party created by us in each country the sooner will the 'Soviet idea' triumph." The Communist Party has declared itself to be necessary to the working class not only before the seizure of power and not only during the seizure of power, but before the power has passed into the hands of the working class. It is further stated (p. 101) that the Party must keep in control until the classless society is finally attained.

From *Problems of Leninism* (Pet. Ex. 138, pp. 34–38) it will be seen what meaning Lenin and Stalin give to the dictatorship of the proletariat. At the core of the dictatorship is the Party which gives

directions. These directions are carried out by the mass organizations of the proletariat and are fulfilled by the general population. The minority seizes power and controls because the exploited workers have not yet developed their human faculties. There is another step which may become necessary. If the bourgeoisie resist or there is intervention in its behalf then the active body is the proletariat as a class. The Party takes power, the Party governs the country, and it is the core of this power; but it takes power in the name and purportedly on behalf of the class.

In *Foundations of Leninism* (Pet. Ex. 121, p. 53), the origin of the dictatorship of the proletariat is thus stated:

> Briefly: *the dictatorship of the proletariat is the rule—unrestricted by law and based on force—of the proletariat over the bourgeoisie, a rule enjoying the sympathy and support of the labouring and exploited masses* (*The State and Revolution*).
>
> From this follow two main conclusions:
>
> *First conclusion:* The dictatorship of the proletariat cannot be "complete" democracy, democracy for *all*, for the rich as well as for the poor; the dictatorship of the proletariat "must be a state that is democratic *in a new way—for *the proletarians and the propertyless in general—and dictatorial in a new way—against** the bourgeoisie * * *" (Lenin, Selected Works, Vol. VII, p. 34) (Pet. Ex. 121, p. 53). *[my italics—J. S.]
>
> *Second conclusion:* The dictatorship of the proletariat cannot arise as the result of the peaceful development of bourgeois society and of bourgeois democracy; it can arise only as the result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police (Pet. Ex. 121, p. 54).

We conclude that "dictatorship of the proletariat" as used in the Classics connotes a seizure of power by or in the name of the proletariat through violence, if necessary, and the absolute and despotic rule by a minority in the name of the proletariat.

In addition to the requirements for a rigid Party organization with a hard core of dedicated workers, noted above, the overall policies and rules for effectuating the ends and objectives of the Party are to be found in the Classics. These are effected through an organizational principle known as "Democratic Centralism" and by general directions for strategy and tactics.

The *History of the Communist Party of the Soviet Union (Bolsheviks)* (Pet. Ex. 330, p. 198) states that in July and August 1917, prior to the successful October Revolution, the CPSU adopted "new Party rules" providing that "all Party organizations shall be built on the principle of *democratic centralism*," which provided, inter alia, that all directing bodies of the Party shall be elected; that they give periodic reports to Party organizations; that there be strict Party discipline and the subordination of the minority to the majority; and that all decisions of higher bodies shall be absolutely binding on lower bodies and on all Party members.

*Strategy and Tactics of The Proletarian Revolution* (Pet. Ex. 343, p. 62) states:

> The Party is the vanguard of the working class, and consists of the best, most class conscious, most active and most courageous members. It incorporates the whole body of experience of the proletarian struggle. Basing itself upon the revolutionary theory of Marxism and representing the general and lasting interests of the whole of the working class, the Party personifies the unity of proletarian principles, of proletarian will and of proletarian revolutionary action. It is a revolutionary organization, bound by iron discipline and strict revolutionary rules of democratic centralism, which can be carried out owing to the class consciousness of the proletarian vanguard, to its loyalty to the revolution, its ability

to maintain inseparable ties with the proletarian masses and to its correct political leadership which is constantly verified and clarified by the experiences of the masses themselves.

"Democratic Centralism" is stated by the witnesses for Respondent to represent the highest form of democracy in that it provides that all decisions and policies of the Party are determined by the membership and that authority flowed up from this membership through intermediate local and regional committees to the central committee. A decision once made, however, would be binding on all members. Witnesses for Petitioner testified that "Democratic Centralism" was theoretically a two-way process by which authority flowed upward from Party cells through intermediate local or regional committees to the top and discipline flowed downward from the same channels. However, they stated that in practice the double process has been reduced to a single process in which discipline flows downward with limited right of discussion in the lower echelons on matters of local tactics.[26]

This policy is strongly expressed in the *Programme of the Communist International* (Pet. Ex. 125, p. 84):

> This international Communist discipline must find expression in the subordination of the partial and local interests of the movements to its general and lasting interests and in the strict fulfillment, by all members, of the decisions passed by the leading bodies of the Communist International.

The idea behind democratic centralism is best expressed by Stalin in *Foundations of Leninism* (Pet. Ex. 121, pp. 119–121): What is required for success is an iron party under iron discipline. A Communist Party will only be able to perform its duty if its Party center is a powerful and authoritative organ. No factions are permitted—there must be absolute unity of will and that must emanate from the Party's center. All groups or factions which disagree must be immediately expelled.

We conclude from the whole record that "Democratic Centralism", as it is used in the Classics, is an organizational principle which contemplates a rigid discipline emanating from the top of the movement, binding on the parent and all subsidiary organizations and on all members of such organizations. Failure to adhere to such discipline is punishable by expulsion from the movement.

With the organizational structure thus indicated, the Classics then provide strategic and tactical directions for arriving at the objectives of Marxism-Leninism.

One of the characteristics of Marxism-Leninism is that in addition to its doctrine it also provides directives for the attainment of the objectives contemplated by such doctrine. Marxism-Leninism is declared to be a guide to action (*History of the CPSU (Bolshevik)*) (Pet. Ex. 330, p. 306). While the ends to be reached are fixed, the manner and methods of reaching them, it will be seen, are exceedingly

[26] As witness Kornfeder states it, he was taught that the Party's basic form of organization is a supercentralized political party with a high degree of discipline. He describes it as a military type of political organization with an established chain of command, permitting lower units considerable leeway in discussing local tactical problems. He states that he was taught that the general staff or the general headquarters of the organization was the Communist International, in Moscow. At the time of which he speaks, he says that the Communist parties of all countries were affiliated with the Communist International. Witness Philbrick stated when asked whether a member of his group could refuse to accept the decision of the Cominform and still continue membership in the Communist Party of the United States, that such member could not continue as a member of the Party. Witness Lautner says that it was a breach of democratic centralism for any Communist Party anywhere, including the CPUSA, to refuse to follow the dictates of the Soviet Union.

flexible. What these are appear most concisely in *Strategy and Tactics of the Proletarian Revolution* (Pet. Ex. 343).

In summary, it states the following: The strategy and tactics were elaborated in the period of proletarian revolution when the question of the overthrow of the bourgeoisie became a question of immediate practice. Lenin brought into the light of day the ideas of Marx and Engels on tactics and strategy and developed them further into a "*system of rules and principles for the leadership of the class struggle of the proletariat*" (p. 8). Communists of every country must adapt themselves to the peculiar features of the economics, politics, culture and national composition of the country in which they are operating (p. 14). As long as national and state differences exist among peoples and countries, the unity of international tactics of the Communist working-class movement requires, not the elimination of variety, but an adaptation of the fundamental principles of Communism (Soviet power and the dictatorship of the proletariat) to the national and state differences. The vanguard of the working class having been won over, the next step is to seek the transition or approach to the proletarian revolution (p. 15). The revolutionary class must be able to master all forms of social activity and must be ready to pass from one form to another with the utmost expedition (p. 16). The tactics of the Bolsheviks were correct because they were the only international tactics and did everything possible in one country for the development, support and stirring up of the revolution in all countries (p. 16). Bolshevism has helped in a practical way to develop the proletarian revolution in Europe and America (p. 17). The world proletarian revolution has been assisted, accelerated and supported by the victory of the proletariat in Russia (p. 18). The objective elements of the working class movement are the economic development of the country, the development of capitalism, the disintegration of the old government, the spontaneous movements of the proletariat. The collision of classes proceeds irrespective of the will of the proletariat. But the subjective element, the reflection in the minds of the proletariat of these processes, is the subject of the directing influences of strategy and tactics (p. 19).

The theory of Marxism postulates that the fall of the bourgeoisie, the seizure of power by the proletariat and the replacement of capitalism by socialism are inevitable (p. 20). Strategy is the determination of the direction of the main blow of the proletariat at a given stage of the revolution (p. 21) and it changes with the transition of the revolution from one stage to another and remains unchanged throughout the duration of a given stage (p. 22). Tactics are the determination of the line of conduct of the proletariat during the ebb and flow of the movement, changing the forms of struggle and its slogans (p. 25). Thus, in the Russian revolution changes were made as the struggle progressed; strikes, boycotts, slogans were used and varied along with the forms of organization, a worker's party operated more or less openly, as the immediate situation required. In the earlier phases the Party was compelled to resort to tactics of retreat. When the revolution ebbed, operations were less open and the Party went underground; and cultural work and the organizations "permitted by law" took the place of revolutionary mass organizations. The same was true during later stages of the revolution (p. 26). Tactics are

the operations suited to the concrete situation of the struggle at any given moment (p. 27). The successful struggle for the dictatorship of the proletariat presupposes the existence in every country of a compact Communist Party, hardened in the struggle, disciplined, centralized and closely linked up with the masses. The Party is a revolutionary organization, with these fundamental strategic aims: It must extend its influence over the majority of the members of its own class, including working women and youth. It must secure predominant influence in the broad mass proletarian organizations, e. g., trade unions, factory councils, cooperatives, sport and cultural organizations. It is particularly important to win over the trade unions (p. 62). Leadership of wide sections of the toiling masses should be acquired by the proletariat and the membership of the middle classes of the peasantry must be secured (p. 63). It must carry on propaganda against all forms of "chauvinism" and against "imperialist" maltreatment of enslaved peoples and races (e. g., Negroes, "yellow labor" and anti-Semitism) (p. 64).

In determining its line of tactics, each National Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie and fit slogans and methods of struggle to the circumstances of the particular country. Demands and slogans must be lent to the revolutionary aim of capturing power and overthrowing bourgeois capitalist society. The party is to utilize the daily needs and struggles of the working class as a starting point from which to lead the working class to the revolutionary struggle for power (pp. 65–66). When the ruling class is disorganized, propaganda in favor of increasingly transitional slogans and mass action should be used. Strikes and armed demonstrations should be used, as well as intensified revolutionary work in the army and the navy (p. 66). When conditions are right, it is dangerous to fail to start rebellion. When the revolutionary tide is at ebb, partial slogans and demands should be made which correspond with the everyday needs of the workers. United front tactics should then be used (p. 67). In this period of marking time, demands and slogans should be made in such spheres as labor, local politics, and world politics, e. g., the attitude toward the U. S. S. R., the struggle against "imperialism" and the war danger, and systematic preparation for the fight against imperial war (p. 68). Also systematic work must be carried on among the proletarian and peasant youth; and, in imperialist countries, Communist Parties must impair the war effort against colonies (p. 69). The further consolidation of the Land of the Soviets, the mighty growth of the international authority of the Communist Party of the Soviet Union, the growth of the Communist International are all accelerating the development of the world Socialist revolution. The capitalist world is entering a period of sharp clashes. The united front of the working class must be established. The victory of the revolution has to be prepared for by a strong proletarian revolutionary party (pp. 81–82). When the country in which they live engages in an imperialist war in order to utilize the economic and political crisis, it is the duty of Communists to turn the war into a civil war for the overthrow of capitalism (pp. 94–95). Should an imperialist war break out, the interest of the workers of all countries demands that the defense of the Soviet Union be considered paramount (pp. 95–96).

From this résumé, it becomes apparent that the rules for making the doctrine effective have within them instructions for short-range and long-range action and that they are intended for more than local application. In addition, there has been provided an elasticity which makes them applicable under an endless variety of circumstances. Considerable significance, therefore, may attach to their use by allied groups under given circumstances at a given time. Therefore, the manner and extent of their application by the CPUSA is a factor to be considered in determining whether the United States Party is a part of a worldwide movement and whether it is dominated and controlled by the Soviet Union.

Another factor of Marxism-Leninism which pervades the Classics with the same insistence as its international revolutionary character is the dominant position of the Soviet Union, that is to say, the Communist Party of the Soviet Union, in the world Communist movement. At an earlier date, i. e., after the successful revolution in Russia, Stalin points out (*Problems of Leninism*, Pet. Ex. 138, p. 64) that for an ultimate victory of socialism in the world, the protection of that Russian victory by workers of all countries is necessary. In *Foundations of Leninism* (Pet. Ex. 121 at p. 19) he quotes Lenin:

> "History has now confronted us [i. e., the Russian Marxists–J. S.] with an immediate task which is the *most revolutionary* of all the *immediate* tasks that confront the proletariat of any country. The fulfillment of this task, the destruction of the most powerful bulwark, not only of European, but also of Asiatic reaction, would make the Russian proletariat the vanguard of the international revolutionary proletariat."
>
> In other words, the centre of the revolutionary movement was bound to shift to Russia.
>
> As we know, the course of the revolution in Russia has more than vindicated Lenin's prediction.
>
> Is it surprising, after all this, that a country which has accomplished such a revolution and possesses such a proletariat should have been the birthplace of the theory and tactics of the proletarian revolution?
>
> Is it surprising that Lenin, the leader of this proletariat, became the creator of this theory and tactics and the leader of the international proletariat?

In *The Theory of the Proletarian Revolution* (Pet. Ex. 422, p. 87) Stalin states it is necessary to support Russia in order to make it "the basis of the further unfolding of the world revolution, into the lever for the further disintegration of imperialism." He emphasizes this (p. 88) by asserting that "the victorious proletariat of Russia" should "after it has expropriated the capitalists and organized its socialist production at home," rise against the capitalist world, attract to itself the oppressed classes of other countries, raise insurrection in them against the capitalists and even use military force against the exploiting classes and their states.

Dimitroff in *The United Front* (Pet. Ex. 149, at pp. 279 and 280) restates the importance of the U. S. S. R. to the international proletariat. And in the *Theses and Statutes of the Third (Communist) International* (Pet. Ex. 8, p. 67) it will be seen that the Russian Soviet Republic is "grouping around itself the Soviet movements of the vanguard of the workers in all countries."

What is being advocated is an extension of Lenin's hard-core principle to a wider area. Whereas in the Soviet Union the party is that core, in the world scheme the U. S. S. R. becomes the center. As such, it must be protected, and from it will emanate leadership which

will direct and hold together the party in other countries. This thought is thus expressed in *Strategy and Tactics of the Proletarian Revolution* (Pet. Ex. 343, p. 81):

> In the struggle to defend against fascism the bourgeois-democratic liberties and the gains of the toilers, in the struggle to overthrow fascist dictatorship, the revolutionary proletariat prepares its forces, strengthens its fighting contacts with its allies and directs the struggle toward the goal of achieving real democracy of the toilers—Soviet power.
>
> The further consolidation of the Land of the Soviets, the rallying of the world proletariat around it, and the mighty growth of the international authority of the Communist Party of the Soviet Union, the turn toward revolutionary class struggle which has set in among the Social-Democratic workers and the workers organized in the reformist trade unions, the increasing mass resistance to fascism and the growth of the revolutionary movement in the colonies, the decline of the Second International and the growth of the Communist International, *are all accelerating and will continue to accelerate the development of the world Socialist revolution.*

At pages 95 and 96, it is declared that if an imperialist war breaks out, the defense of the Soviet Union must be considered paramount.

It will be seen from the above that allegiance to the Soviet Union assumes considerable proportions in the Classics of Marxism-Leninism. First, after the 1917 Revolution, it must be protected from outside intervention. Thereafter, its role as a leader of a successful world revolution is stressed. At all times, loyalty and assistance are due it in any conflict which may arise between it and any "imperialist" power.

We conclude from the Classics that the Soviet Union has a specific place in Marxism-Leninism; it represents the first victory of the proletariat; therefore, it is the center of the world proletariat and it is entitled to the allegiance of the proletariat everywhere. The authority of its Communist Party is international. The corollary of this is that a Communist Party which adheres to Marxism-Leninism is, of necessity, under the domination and control of the Soviet Union.

It is also evident from the Classics that as the Soviet Union is to be considered the leader of the world proletariat in the class war, so the United States takes on a special importance as the mightiest of the "imperialist" powers, the arch enemy of the proletariat. Lenin, in *Imperialism* (Pet. Ex. 140, p. 125) states: "In the United States, economic development in the last decades has been even more rapid than in Germany, and for this very reason the parasitic character of modern American capitalism has stood out with particular prominence." Stalin points out (*Foundations of Leninism*, Pet. Ex. 121, last par., p. 55 and 1st two pars., p. 56) that conditions in the United States had changed since the days of Marx and that this country could no longer be considered one in which there could be a "peaceful evolution of bourgeois democracy into a proletarian democracy." The United States has become definitely "imperialistic" and "the law of violent proletarian revolution" becomes applicable to it. This quotation from Lenin in this connection (p. 56) reveals how strongly the Soviet Union felt that action was required in this country:

> Today, said Lenin, "in 1917, in the epoch of the first great imperialist war, this qualification made by Marx is no longer valid. Both England and America, the greatest and the last representatives—in the whole world—of Anglo-Saxon 'liberty,' in the sense that militarism and bureaucracy were absent, have slid down entirely into the all-European, filthy, bloody morass of military-bureaucratic institutions to which everything is subordinated and which trample everything underfoot. Today, both in England and in America, the 'preliminary condition for every real people's revolution' is the smashing, the *destruction* of the 'ready-

made state machine' (brought in those countries, between 1914 and 1917, to general 'European imperialist perfection'" (Selected Works, Vol. VII, p. 37).

*A Resolution on the American Question* (Pet. Ex. 43) issued by the Communist International in 1929, begins with the statement that: "The United States of America has developed into the mightiest imperialist power * * *. The task of the Workers (Communist) Party is to form a broad united front and to intensify the struggle against American imperialism." (See also Tr. 619, 667–68.) Specific attention is directed to this aspect of the approach to be used in applying Marxism-Leninism to the United States. In Dimitroff's *The United Front* (Pet. Ex. 149, pp. 41–43) an anti-Fascist party is suggested. We find, at page 43, some revealing language. "Our comrades in the United States acted rightly in taking the initiative for the creation of such a party. * * * We should develop the most widespread movement for the creation of such a party, and take the lead in it." The "we" who are planning parties in the United States have "comrades" there who have already started work in that direction. The *Theses and Statutes of the Third (Communist) International* (Pet. Ex. 8, p. 28) has this to say:

> The class struggle in almost every country of Europe and America is entering the phase of civil war. Under such conditions the Communists can have no confidence in bourgeois laws. They should create everywhere a parallel illegal apparatus which at the decisive moment should do its duty by the party, and in every way possible assist the revolution. In every country where, in consequence of martial law or of other exceptional laws, the Communists are unable to carry on their work lawfully, a combination of lawful and unlawful work is absolutely necessary.

In *Strategy and Tactics of the Proletarian Revolution* it is stated (p. 17):

> Bolshevism has helped in a practical way to develop the proletarian revolution in Europe and America more powerfully than any party in any other country has ever succeeded in doing.

From these expressions, it must be concluded that the Classics disclose a positive attitude on the subject of the United States which makes it a prime objective for the activities of the Soviet Union and for any of its subsidiaries.

In order fully to understand what Marxism-Leninism is, the significance of certain of its programs and policies must be considered. Certainly in the Classics themselves, these programs and policies are all aimed at one objective: the forwarding of the world revolution. That such a revolution was not an evolutionary one in the normal use of this term appears from Stalin's statement in the History of the Communist Party of the Soviet Union (Pet. Ex. 330, p. 168) which he presents as one of Lenin's teachings; without a revolution of the working class capitalism cannot be overthrown; even though capitalism is moribund, it must be given the coup de grace:

> Lenin showed that under imperialism the unevenesss of development and the contradictions of capitalism have grown particularly acute, that the struggle for markets and fields for the export of capital, the struggle for colonies, for sources of raw material, makes periodical imperialist wars for the redivision of the world inevitable.

There is nothing to indicate that "The elements of a war of liberation from imperialism" is used in any figurative sense. The context in which this appears leads to a contrary conclusion.

Consequently, while some of the policies and programs may have a dual character, one of the elements of each of them is always the furtherance of the *war* against capitalism and of speeding the ultimate victory of the proletariat over the "imperialists." This we find to be so in work with and in labor unions, with youth and with minorities; it is the real purpose in resorting to secrecy, entering into united fronts, and in resorting to slogans; it is the motivating force in training Communists, requiring reports from them and insisting that they do not deviate from the strict Party line.

As appears from Lenin's *What Is To Be Done?* (Pet. Ex. 417, pp. 105, *et seq.*) the Marxist should not be interested in labor unions, as such, but rather from the use which can be made of such organizations as part of the revolutionary scheme. A union can be used as a front for political, agitational, and revolutionary organizations. As Stalin points out in *Problems of Leninism* (Pet. Ex. 138, p. 30), they are the all-embracing organizations of the working class. "They constitute a school of Communism." "They unite the masses of the workers with the vanguard." In effect, what Lenin and Stalin are saying is: Here are ready-made groups of substantial size, made up of members of the class which according to the labor theory of value are the exploited, and consequently should belong in the revolution; and infiltration of such groups by a hard core of diligent workers for the Party offers a ready field for propaganda and proselytizing. As it is stated in the *Theses and Statutes of the Third (Communist) International* (Pet. Ex. 8, p. 29):

> Every party desirous of belonging to the Communist International should be bound to carry on systematic and persistent Communist work in labor unions, cooperatives, and other labor organizations of the masses.

The same volume discusses the trade-union movement (p. 53, *et seq.*), and (at p. 57) it states:

> Consequently, the Communists must strive to create as far as possible complete unity between the trade unions and the Communist Party, and to subordinate the unions to the practical leadership of the Party, as the advance guard of the workers' revolutions.

*Strategy and Tactics of the Proletarian Revolution* (Pet. Ex. 343, pp. 67–68) states that one of the principal tasks of a Communist is the joining of a union to win the leadership in the workers' struggle.

We conclude that the Classics direct Communists to engage in activity in trade unions in order to utilize such unions for the purposes of the Party and to further the world revolution.

The Classics disclose that youth programs are considered to be important. Concerning the Young Communist League, Stalin says in *Problems of Leninism* (Pet. Ex. 138, p. 31):

> Its task is to help the Party educate the younger generation in the spirit of socialism. It provides young reserves for all the other mass organizations of the proletariat in all branches of administration.

Lenin's attitude on the necessity of particular emphasis on youth may be gleaned in part from two quotations in an article in *Political Affairs* (Pet. Ex. 477, pp. 86 and 88):

> Is it not natural for young people to predominate in our party, the party of revolution? We are the party of the future and the future belongs to the youth. We are a party of innovators and innovators are always followed most eagerly by the youth. We are a party of self-sacrificing struggle against the rotten old system, and the youth are always the first in self-sacrificing struggles.

* * * * * * *

> The youth will decide the issue of the whole struggle, the student youth, and still more the working-class youth. * * * Do not fear their lack of training, do not tremble at their inexperience and lack of development. If you are unable to organize and stimulate them to action, they will turn to the Mensheviks and Gapons, and this inexperience of theirs will cause five times more damage. * * * Only you must unfailingly organize, organize and organize hundreds of circles. * * * Either you create new, young, fresh, energetic, militant organizations everywhere for revolutionary Social-Democratic work of all sorts and kinds, and among all strata, or you will perish, enveloped in the glory of "committee" bureaucrats.

Dimitroff offers another reason for enlisting the efforts of youth (*The United Front*, Pet. Ex. 149, p. 150):

> The whole antifascist youth is interested in uniting and organizing its forces. Therefore you, comrades, must find such ways, forms and methods of work as will assure the formation, in the capitalist countries, of a new type of mass youth organizations, to which no vital interest of the working youth will be alien, organizations, which, without copying the Party, will fight for all the interests of the youth and will bring up the youth in the spirit of the class struggle and proletarian internationalism, in the spirit of Marxism-Leninism.

There is no question that the enrolling and training of youth is deemed to have value in the world revolutionary movement. From the *Theses and Statutes of the Third (Communist) International* (Pet. Ex. 8, p. 8), it appears that the International League of Communist Youth was given a representative with a right to vote on the Executive Committee of the Communist International and the Communist International had the right to a similar representative on the Executive Committee of the League. And in the *Strategy and Tactics of the Proletarian Revolution* (Pet. Ex. 343, p. 69), it is stated that "Systematic work must also be carried on among the proletarian and peasant *youth*. * * *" It will be seen from this that a youth program is considered an essential part of the activities of the Party in all countries and is required by the dictates of Marxism-Leninism.

We conclude that the Classics direct Communists to engage in youth programs for the purposes of the Party and to provide reserves for the world revolution.

In *Foundations of Leninism* (Pet. Ex. 121, p. 89), Stalin states that Lenin developed the tactics of Marx and Engels and combined them into a system of rules and guiding principles for the leadership of the class struggle.

Among these, as noted above, is the use of slogans and their propaganda value (*Strategy and Tactics of the Proletarian Revolution*, Pet. Ex. 343, pp. 66–67); *Foundations of Leninism* (Pet. Ex. 121, p. 92). "Imperialism" is one of these; and as a corollary thereto, "anti-imperialism" and "just and unjust wars." "Peace" was another of the slogans which eventually came into use. These slogans have been used by the Soviet Union, by the Communist Parties throughout the world, and by the CPUSA. Their common use, contemporaneously and currently by the Soviet Union and the CPUSA, is significant. Their use also is recommended for the purpose of forwarding the world revolution (*Strategy and Tactics, supra*).

The same can be said to apply to united-front tactics. Throughout the Classics, the value of such tactics is stressed. The extent of such collaboration furnishes a considerable part of the texts of the writings of Lenin and Stalin. Dimitroff's *The United Front* (Pet. Ex. 149) devotes itself to that tactical principle. Again, it should be noted that united fronts, at the organizational, political and national levels,

are to be used but not in any way that might bolster capitalism. At all times they are to be used to protect the Party in Russia, to increase the number of its adherents and always to promote the world revolution. Their simultaneous adoptions by the Parties in various forms in various countries also cannot be ignored. This stands out particularly at the time of the Soviet Union's changes of alliances before and during World War II.

We conclude that the use of slogans as shibboleths for the purposes of Communist Parties, including Respondent, in order to advance the world revolution, is directed by the Classics.

Secrecy and its uses also finds a place of prominence in the Classics. (See Pet. Ex. 343, pp. 22–26; and Pet. Ex. 417.) Respondent contends that its practice by the CPUSA was not for the purpose of concealing foreign direction, domination and control or of expediting or promoting its objectives, but rather to protect its members from local hysteria or from being harassed and penalized economically for the holding of unpopular views. In *What Is To Be Done?* which Respondent urged its members to read as recently as 1951, Lenin shows how Party members can use trade unions as a front, keeping their identity as revolutionists secret. Stalin, in his speeches on the CPUSA (Pet. Ex. 109), published by the Central Committee of the CPUSA, in pamphlet form, speaks of the danger of exposing the "conspirative" nature of the Communist Party. The manner of use and timing, and the nature and degree of these practices negatives the contention of Respondent's witnesses. Certainly, as used in the Classics, secrecy was not always to be used for legal purposes (*What Is To Done?* Pet. Ex. 417, p. 107).

We conclude that the secrecy directed by the Classics is, among other things, for the purpose of concealing the conspiratorial nature of Communist Parties and for the advancement of the world revolution.

Operationally, it will be seen that the Classics propose a strong central organization, on an international as well as on a national scale. As Trachtenberg says in the introduction to *What Is To Be Done?* (Pet. Ex. 417):

> Only a centralized party, working according to a carefully prepared plan, with each member assigned a specific task for which he is to be held accountable, could successfully lead the Russian working class in the struggle against capitalist exploitation and tsarist rule.

Lenin points out that with this, it is necessary for the organization to be composed of professional revolutionists, trained men, that no movement can be durable without a stable organization of leaders to maintain its continuity. The training of cadres is thus basic in the movement (p. 116); and in view of the centralized nature of the organization, leaders and cadres once trained, can be depended upon to keep in touch with the center of the movement and keep it informed of all that transpired by reports.

We conclude that the training of leaders and cadres and the reporting by such leaders to the controlling body of the movement is directed by the Classics.

The position taken by the Classics on the questions of Minorities and Colonials is also basic to the whole movement advocated by Marx and Engels, Lenin and Stalin, particularly the latter two. Any contributions in those directions by their collaborators is no more than

elaboration and amplification of the works of these four. They are implicit in Lenin's definition of imperialism. It will be seen from these and other portions of the Classics that the founders of the movement were not concerned with purely local conditions in Russia. In *Foundations of Leninism*, cited above, it becomes clear (p. 79) that the national problem is part of the general problem of the proletarian revolution to be used for that purpose only to the extent that it is of advantage to such revolution. This also appears from *Strategy and Tactics* (*supra*, pp. 63-65).

We conclude that the Classics contemplate work among Colonials and Minorities to advance the world revolution.

One of the requirements of Marxism-Leninism is conformity Discipline is considered vital. Deviation from doctrine and practice is not permissible except in local problems in the area of minor tactics. That nondeviation is abjured is patent from *Foundations of Leninism* (Pet. Ex. 121, pp. 119-21).

> The achievement and maintenance of the dictatorship of the proletariat is impossible without a party which is strong by reason of its solidarity and iron discipline. But iron discipline in the party is inconceivable without unity of will, without complete and absolute unity of action on the part of all members of the Party.

As stated by Stalin (p. 120), the existence of factions is incompatible either with the party's unity or its iron discipline. He quotes Lenin:

> "In the present epoch of acute civil war," says Lenin, "a Communist Party will be able to perform its duty only if it is organised in the most centralised manner, only if iron discipline bordering on military discipline prevails in it, and if its Party centre is a powerful and authoritative organ, wielding wide powers and enjoying the universal confidence of the members of the Party" (*Selected Works*, Vol. X, p. 204).

The penalty for nonconformity is expulsion from the Party (p. 121). (See also *Strategy and Tactics*, Pet. Ex. 343, p. 62.)

We conclude that the Classics require conformity on the part of all organizations and members in the movement and that no deviation from the party line is permitted on penalty of expulsion therefrom.

From the Classics themselves, Marxism-Leninism constitutes an uncodified system of political philosophy and practice which declares that it is inevitable that a classless state of society will be reached through an intermediate stage in which there will be socialist states controlled by dictatorships of the proletariat under the leadership of the Soviet Union. For the attainment of these dictatorships, a hard core of revolutionary zealots is required who operate under exceedingly flexible rules on an international basis. The vehicle for their operation is a so-called political party, the Communist Party, which is provided with strategic and tactical directives. The first objective is to bring to an end capitalistic (bourgeoisie) society. For this purpose, special attention must be paid to labor unions, youth, Minorities and Colonies. Temporary alliances, known as fronts, may be entered into, but always with the ultimate revolutionary goals in view. Capitalism is termed "imperialism." Slogans should be employed in aid of the Party's objectives. "Anti-imperialism" and "peace" are two of the slogans which may be effective. The leader of the movement, which is integrated on an international scale, must be the Soviet Union, which must be protected as the first country in which the dictatorship of the proletariat has been attained. All allegiance is due the Soviet Union as the leader of the vanguard of the proletariat. Force and violence

shall be used to reach objectives if persuasion and guile are ineffective. Where lawful methods are effective, these should be used; where not, unlawful methods should be resorted to. Secrecy, where necessary, should also be used. Discipline must be rigid, though a certain amount of latitude is permissible in local tactical matters, under an organizational structure designated as democratic centralism. This is supposed to be a two-way process but orders emanating from the top, which is the Soviet Union, may not be ignored. Operations are to be on a world-wide basis, including in its sphere, *inter alia*, the United States. Taken on its face, Marxism-Leninism, as it appears in the Classics, is a system under which there is to be a world-wide revolution for the establishment of the dictatorship of the proletariat under the domination and control of the Soviet Union. This revolution is to take place in the various countries as conditions permit. An accepted Marxist-Leninist party is one which is a part of this system.

Subjecting the content of the Classics to further scrutiny in the light of the testimony of the witnesses for both sides, we are better able to reach a determination of the real meaning of Marxism-Leninism. All of the witnesses (except Petitioner's witnesses, Dr. Mosely, Logofet, and Carrington) testified to some knowledge of the Classics and of Marxism-Leninism. They studied it, were taught it, or were subject to it in practice. Admittedly, the Classics have been in use by the members of the CPUSA continuously to the date of the hearings in this proceeding.

Respondent's chief witness concerning Marxism-Leninism was Herbert Aptheker, a teacher at the Jefferson School of Social Science, a school with a general Marxism-Leninism orientation, whom it offers as an expert and who says Marxism-Leninism principles are fundamental to the CPUSA.

Summarized, his testimony is to the effect that Marxism-Leninism is in its inception and thereafter to be found in the writings of Marx, Engels, Lenin, Stalin and others; that its heart is dialectic materialism; that its aim is the end of capitalism and the attainment of a socialist state which will eventually dissolve into Communism; that it is a science, usable in all countries as such and that in this sense it applies to the United States which is an "imperialist" nation; that it only contemplates revolution in the sense of an evolutionary change to rule by the proletariat, and that a dictatorship of the proletariat means rule by that class when that class represents a majority; that its international aspects are only fraternal and represent a similarity of interests of the working class of all countries; that the Classics are used for illumination and for historical background by Communists; that Marxism-Leninism provides a guide for action only as a science would be a guide for a scientific experiment; that it contains no directives and the CPUSA is not controlled or dominated by the Soviet Union thereby; that the name Marxism-Leninism is not used to denote any hidden meaning for the direction of initiates in the Communist movement.

What is not clear from his testimony is the actual content of Marxism-Leninism and the extent of its applicability to the CPUSA. It is not possible to determine therefrom what portion of the Classics have asserted current validity and how much of Marxism-Leninism is acknowledged to be applicable in any particular place. Moreover,

the credibility of his testimony as a whole is impaired by the inverted outlook it discloses. An example of this appears from his explanation of Lenin's use of Aesopian language (*Imperialism*, Pet. Ex. 140, p. 7) which Lenin said was used to avoid Czarist censorship when the pamphlet was originally written. Aptheker says, as a Marxist-Leninist scholar, that Marxists understood Lenin's use of Aesopian language not in terms of deception; Lenin was not trying to fool anybody, he was trying to illuminate ideas by the use of allegory. This is patently not so, as far as the censors were concerned. It did apply to the initiates of his own party. Again, his insistence that Douglas was right in lying to a court because that court represented what the witness characterized as tyrannical oppressors is indicative of a viewpoint that might permit his conscience to misstate facts if they did not favor his side. His explanation that the American revolution was not in a real sense a revolution because the colonists were oppressed by England casts some doubt on his definitions of revolution and the dictatorship of the proletariat. Moreover, these definitions are not in accord with those which appear in the Classics. The evasiveness of Aptheker's testimony, and the distorted viewpoint, indicated above, renders extremely questionable what he says concerning Marxism-Leninism and the Classics and the extent to which they apply to the CPUSA.

Respondent's witness Gates adds little to the meaning to be given to Marxism-Leninism. He says it is a social science. He says that the CPUSA is an independent and completely autonomous organization. Concerning the Classics, he states that while *Problems of Leninism* has been used for teaching in the CPUSA schools, it is taught as historical writing and not as a blueprint or an order for Communists to follow all over the world and that it is not the program of the CPUSA.

Witness Flynn states that the Classics have been and are used in the Party schools as of the date of her testimony (June 26, 1952) but as reference books for history, and for the principles of Marxism-Leninism.

The witnesses for Petitioner,[27] all of whom, as Party members, had some instruction in the meaning of Marxism-Leninism and some of whom were officials, writers or teachers for the Party, agree with Respondent's witnesses only to the extent that one of the component parts of Marxism-Leninism is the philosophic-sociological concept that capitalism must and will inevitably be superseded by a dictatorship of the proletariat which will eventually be succeeded by a stateless class of society known as Communism. This original Marxist doctrine, they state, has superimposed on it the revisions and the supplementations of Lenin, Stalin, Dimitrov, and others which provide it with plans, policies, programs, and directives to bring about the end of the present capitalistic era, designated as "imperialism," on a worldwide scale and by any means, including force and violence. The effort to bring about the dictatorship of the proletariat is an integrated effort of the working classes in all countries and the leadership thereof is in the Soviet Union, where it has succeeded.

Witness Lautner states: "The leader of the world Communist movement is the General Secretary of the Communist Party of the

[27] Whose testimony we accept in this connection.

Soviet Union, Joseph Stalin [28] * * *. And the Party he represents." He says adherence to Marxism-Leninism has implicit in it complete subservience on the part of all Communist Party organizations, whether in the United States or elsewhere, and on the part of the individual members in all strategic and most tactical matters, to the rulers of the Soviet Union. The CPUSA adheres to Marxism-Leninism and consequently its Constitution is no more than a bylaw to Marxism-Leninism and has no validity except insofar as it conforms thereto. Petitioner's witness Budenz, a former Party member and Editor of the *Daily Worker* testified when asked the meaning of the first sentence of the Party's 1945 Constitution (which sentence is identical with the first sentence of the 1948 constitution):

> Marxism-Leninism is a well-known and historical term in the Communist documents and discussions. It is that interpretation of so-called scientific socialism based on the writings of Marx, Engels, Lenin and Stalin, and which holds as the goal of the Communist Parties of the world the necessity for the violent shattering of the bourgeoise states in order to set up in their place a completely new state machinery, the dictatorship of the proletariat. This shall be achieved under Marxism-Leninism through the Party of the new type, the Bolshevik Party under Bolshevik discipline, which rejects the concept of class peace (Tr. 11831).

He goes on to state that the Communists in the United States at that time (1945) regarded the American government as a bourgeois state, and that further statements in the Preamble concerning the Communist Party's defense of the United States Constitution were not reconcilable with the sentence above quoted. He goes on to say:

> The statements cannot be reconciled. The dedication of Marxism-Leninism is the dedication historically and categorically to the violent shattering of the bourgeoise state as the necessary step toward progress, and this other language in the light of that, since Marxism-Leninism principles prevail, is merely a window-dressing for legal protective purpose. It is part of the Aesopian language recommended by Lenin [29] (Tr. 11832).

He states further that the classics were used in his work up to the time he left the party (October 1945). Speaking of his use of Aesopian language, he states:

> I referred to Marxism-Leninism. I referred to Stalin as the leader, teacher, and guide, things of that sort, which was Aesopian to the extent that it presented Stalin as the leader, teacher, and guide, but didn't explain that he completely controlled the Communist movement, although I could have done it because Bittelman had stated in Milestones that Stalin was the leader, the Communist Party of the Soviet Union was the leader (Tr. 12263).

He says, concerning Communist activity in the trade-union movement: "No Communist is permitted to deviate from the line set down for the Communists of the world * * *" (Tr. 12267). Petitioner's witness, Lautner, former Party member, leader, and teacher, tells what he was taught concerning the meaning of Marxism-Leninism, and at Tr. 9514, states:

> Marxism-Leninism taught us that monopoly capitalism or imperialism was a worldwide phenomenon, therefore there is need of a worldwide organization, an organization that has ties to successfully cope with this problem and eventually bring about the downfall of monopoly capitalism and imperialism.

Further, that the *Program of the Communist International* was used by him in classes in 1947, 1948, and 1949 "because the program of the

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[28] The record discloses no basis for any inference that the death of Stalin will terminate, lessen, or otherwise affect the domination of Respondent by the U. S. S. R.

[29] For a definition of "Aesopian," see *Imperialism, the Highest Stage of Capitalism* (Pet. Ex. 140, p. 7, n. 1).

Communist International lays down the strategic aims of the Communist Parties."

Another witness for Petitioner, Meyer, said he taught Marxism-Leninism in Respondent's schools and that it was a body of doctrine which is first a philosophy of history, secondly, a guide to the Communist Party on the basis of that philosophy, in carrying out its historical role which is the overthrow of the capitalist system and its replacement with a dictatorship of the proletariat to establish socialism which is to lead to the stage of Communism. Petitioner's witness, Philbrick, states he was taught this, and that the lessons of Marxism-Leninism were to be applied to present-day affairs as a guide to action.

The witnesses for the Petitioner aver that the Classics represent a body of living doctrine and directives by which the Communists throughout the world are guided and governed. Witness Meyer testified that the *History of the Communist Party of the Soviet Union (Bolsheviks)* was used as a living guide to revolutionary action based on the experience of the Bolsheviks and the writings of Lenin and Stalin. He points to a speech by Trachtenberg made in Washington, D. C., in 1949, which declares that the leaders must know the Classics and be able to apply the basic principles to any current situation at any time. Witness Matusow says, by way of example of current applicability of the Classics that the *Communist Manifesto*, though 100 years old, "is just as relevant today as it was in 1848 when it was written." He goes on to say that this was so of other pieces of Marxist literature, pointing out particularly *The Young Generation* by Lenin, written in 1905 and used extensively in the Labor Youth League in 1949. The Classics were in use by the CPUSA, to his knowledge, as of December 1950 (tr. 11032–33). Witness Evans says the Classics were used in the Marxist-Leninist Institute from April 1949 to June 1950. Witness Budenz testified that Trachtenberg, head of the cultural commission in charge of the direction of Communist cultural activities and in charge of the Party's general publishing field, stated he was not permitted to issue any Marxist literature, especially the Classics, without the authorization of the Marx Institute in Moscow. The *Daily Worker* used the Classics in its work. He states that Dennis recommended:

> A thorough return throughout the Party to the Marxist-Leninist Classics, particularly to the writings of Stalin, the History of the Communist Party of the Soviet Union, Foundations of Leninism, and Dimitrov's Report to the Seventh Congress, which dealt with the true nature of how to conduct the United Front while forwarding the Communist revolutionary aims (tr. 11812).

While writing for the *Daily Worker* (from 1935 to 1945), Budenz did not directly advocate the overthrow of the government by force and violence. This was done by reference to Marxism-Leninism and the Classics. Witness Lautner testified that on the basis of the Classics, at the National Training School in 1941, he was taught how Lenin applied Marxism to the epoch of imperialism and established a party of a new type; how Stalin applied this to the party as a force, the leading political party of the working class; that Marxism-Leninism was a guide to action in the party in the United States; that the aim of the party was to gain political and economic power in this country and that this was to be accomplished, on the basis of Marxism-Leninism, by a worldwide organization.

From the Classics themselves, it is clear that force and violence was deemed necessary for the overthrow of the government of the Czars by the Russians. It is also clear that they call for international action by the working class in other countries so that Russia, when freed from the Czars would not be left standing in a hostile bourgeois world alone and friendless. The Classics definitely call for action on an international scale. It is the contention of the Respondent that the call to aid the Soviet Union was only applicable when the Soviet Union was weak and struggling; now that it is strong, such international action on her behalf is not necessary. Is this so? It is clear that, in the period of the Communist International, the Classics were admittedly meant to be applied as the basic law of all Communist Parties, in every country where such parties existed. Under this basic law, the Soviet Union was the leader of a world organization of all such Communist Parties, in a worldwide movement to emancipate the working class from capitalist rule, so the directives, programs, and policies by which this was to be accomplished were clearly set forth in such Classics. Deviation therefrom was considered heresy and not to be tolerated.

While Marxism-Leninism is allegedly dynamic, there is no internal evidence in the portion of this amorphous amalgam which has been reduced to writing, and has become known as the Classics, which indicates a change in its character to make it inapplicable to the CPUSA. On the contrary, Petitioner's witnesses have established that the Classics are in current use and are applicable to the Party. Dr. Aptheker admits that no CPUSA member has altered the fundamental precepts of Marxism-Leninism.

We find the testimony of the witnesses for Petitioner, concerning Marxism-Leninism credible and in accord with the meaning thereof to be obtained from a reading of the record as a whole.

We find that the testimony of the witnesses for the Respondent concerning Marxism-Leninism is in and of itself, and in the context of the record as a whole, unrealistic, apologistic rather than explanatory, and not credible, except as to the origins of Marxism-Leninism and, generally speaking, that its objectives are the attainment of a socialist state under a dictatorship of the proletariat and an eventual classless state of society known as Communism.

How Marxism-Leninism is understood, used, and followed, by Respondent has been established in the discussion of the testimony of the witnesses, above. In addition thereto, consideration has been given to the numerous exhibits which shed light on the above question. From them it further appears that Respondent, its leaders, and its members taught, studied, discussed, used, and applied the Classics in the manner intended by the authors of these Classics and to an extent incompatible with any claim that the Classics are not binding upon them in all fundamentals.

One of the most important, if not the most important, of the Classics in the period under examination in this proceeding, is the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Pet.

Ex. 330).[30] A resolution, adopted August 10, 1939, signed by the Communist Parties of France, Great Britain, the United States, Germany, and Italy (Pet. Ex. 296), states, *inter alia* (p. 73):

> The appearance of the *History of the Communist Party of the Soviet Union (Bolsheviks)* is one of the greatest events in the life of the Communist world movement and of the international labor movement, in the struggle of the working people of all countries for emancipation. Written with the immediate participation of Comrade Stalin and authorized by the Central Committee of the C. P. S. U. (B.), the *History* occupies an extraordinary place among the classic works of Marxism-Leninism. The *History* is intended to play—and will undoubtedly play—a very important role in the successful mastering of Bolshevism by the Communists of the capitalist countries, in the consolidation of the Sections of the Communist International, and in raising their ideological and political level.

A reading of the exhibit as a whole is enlightening concerning the use of the Classics advocated by Respondent and the position they are given in the propagation of Marxism-Leninism. At page 83 it states:

> (g) The work of the publishing houses is to be so organized that, besides the contemporary agitational literature, they not only publish the works of Marx, Engels, Lenin, and Stalin, but also strive to achieve for them the very widest distribution.

Not only are the Classics given wide distribution but they are also integral in the teachings and activities of the Respondent.[31]

Consequently, we conclude that the classics are one of the chief means by which the CPSU directs, dominates, and controls the CPUSA.

From a review of the classics and of the testimony, we make the following findings concerning Marxism-Leninism as it is understood, used, and followed by respondent:

Marxism-Leninism is a composite of the doctrines, dogmas, and guides to action of Marx and Engels, as supplemented and revised by Lenin, Stalin, and others, which advocates a worldwide revolutionary movement. The objective of the movement is the destruction of capitalism (which it designates as "imperialism"). It asserts as its ultimate goal a stateless class of society which it designates as "communism." The first step toward this end is the attainment of a socialist state under a dictatorship of the proletariat. "Proletariat" generally is synonymous with "working class." But "a dictatorship of the proletariat" connotes the rule by a minority in the name of the working class. Such a dictatorship should, theoretically, come about

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[30] Witness Meyer's testimony on this point (Tr. 5554) is sufficiently significant to warrant quotation here: "The WITNESS. The fundamental textbooks used before the History of the Communist Party of the Soviet Union appeared—that must have appeared late in 1939, but I can't date it exactly. I can date it by epoch. It appeared during that general 1939 to 1940 epoch, but I think it appeared in late 1939 or it might have been early 1940. At any rate before that appeared the major textbooks used, at the core of the whole problem—there were others used but the essential ones always were the Communist Manifesto of Marx and Foundations of Leninism, by Stalin. The whole course of Marxism-Leninism was organized around these two. Then, so to speak, radiating from them were special problems: Lenin's State and Revolution, Lenin's Imperialism, Stalin's Problems of Leninism. I should say these were the central ones, except at one point also, I think in the earlier part of this period primarily, there were three rather widely used textbooks of excerpts from the writings of Marx, Engels, Lenin, and Stalin. One was called Strategy and Tactics, another the Theory of the Proletarian Revolution, and another one the Dictatorship of the Proletariat. After the History of the Communist Party of the Soviet Union appeared it became the Central Textbook."

[31] Some of the instances of the use of various of the more important classics in evidence appears from the following exhibits which refer to study outlines, reading lists, school curricula, sales lists of Marxist literature and advertisements. It should be noted that these represent use of the items in years 1948 and 1949 and 1950. *Foundations of Leninism* (Pet. Ex. 121) Pet. Exs. 339, 346, 351, 369, 370, 416, 419, 420, 424, 425, 427; *Problems of Leninism:* Stalin (Pet Ex. 138) Pet. Exs. 370, 416, 419; *State and Revolution:* Lenin (Pet. Ex. 139) Pet Exs. 346, 370, 424; *Imperialism, The Highest Stage of Capitalism:* Lenin (Pet. Ex. 140) Pet. Exs. 339, 346, 369, 370, 419, 425, 427; *Communist Manifesto:* Marx and Engels (Pet. Ex. 31) Pet. Exs. 339, 351, 369, 370, 420, 424; *The Theory of the Proletarian Revolution* (Pet. Ex. 422) Pet. Exs. 419, 425, 427; *The United Front, The Struggle Against Fascism and War* (Pet. Ex. 149) Pet. Exs. 346, 420, 424, 427; *Theses and Statutes of the Third (Communist) International* (Pet. Ex. 8) Pet. Ex. 7; *Mastering Bolsherism:* Stalin (Pet. Ex. 335) Pet. Exs, 370, 416; *What Is To Be Done?* (Pet. Ex. 417) Pet. Exs. 346, 370, 416, 420, 424.

by a nonviolent revolution which would evolve from natural economic change. Actually, Marxism-Leninism requires that such revolution be hastened by action. This action must be taken by a dedicated group of revolutionaries, banded together as a so-called political party: the Communist Party. Under the leadership of the Soviet Union, this Party shall bring about, by force and violence if necessary, dictatorship of the proletariat in every country of the world whenever circumstances shall permit. Marxism-Leninism includes within itself the plans and procedures to accomplish this end. Adherence to its principles involves acceptance of its doctrines, tenets, and obligations; and membership in the world revolutionary movement mentioned above. Marxism-Leninism contemplates the Communist Party of the United States as part of the world Communist movement. The name "Marxism-Leninism" is frequently applied in an esoteric sense to conceal from the uninitiated the full implications of such adherence and membership.

We proceed to examine the record as to Respondent's basic policies and activities to determine the extent to which they are formulated and carried out pursuant to Marxism-Leninism as hereinbefore defined; the extent to which such policies and activities reflect compliance in their formation and execution with other directives or instructions of the Soviet Union; and, the extent to which such policies and activities have as their purpose the furtherance of the policies of the Soviet Union and the advancement of the objectives of the world Communist movement. We treat first with the voluminous evidence concerning what Respondent and other Communist Parties throughout the world Communist movement constantly term the "struggle against mperialism", and with Respondent's participation in such "struggle".

3. *Imperialism*

The record establishes and we find that among the major activities of Respondent are teaching, advocacy, and agitation in opposition to what Respondent calls United States imperialism. This includes programs and activities such as "the struggle for peace"; the doctrine of "just and unjust wars"; the theory that the world is divided into two hostile camps, one led by the Soviet Union and the other by the United States; and the necessity of overthrowing existing "imperialist" governments by force and violence if necessary.

The record further establishes, and therefore we find, that a basic objective of the Soviet Union and of the world Communist movement is to bring about the downfall of the so-called "imperialist" countries, including the United States, believing that, in so doing, several coveted objectives will be achieved: protecting and defending the Soviet Union, establishing the dictatorship of the proletariat in the various countries, centralizing of all power—political, economic, and social—in the Communist Parties.

Upon consideration of the evidence hereinafter summarized and upon the entire record, we further find and conclude that respondent's teachings, advocacy, and agitation as above stated have as their objective and purpose the advancement of the world Communist movement; and they are formulated and carried out on the basis of Marxism-Leninism and other directives and instructions from the Soviet Union. We proceed to review the more significant evidence establishing the foregoing findings.

Respondent's witness Dr. Aptheker says there never was a period when the Communists of the United States ceased to characterize the United States Government as "imperialist," and that the United States, with its social system and ruling class, fits the definition of "imperialism" as given by Lenin and as adopted by Respondent. Typical of Respondent's position in this respect is the following quotation from an article appearing in the January 1951 issue of *Political Affairs:*

* * * U. S. imperialism is the most reactionary force in the world today, seeking to fascize, not only America, but every capitalist country (Pet. Ex. 378, p. 9).

Additional illustration is furnished by an article by Betty Gannett published in the February 1951 issue of *Political Affairs* (Pet. Ex. 376, pp. 183–194) which emphasizes that the United States is imperialist and is plotting a new world war (p. 186); that "one of the main pillars of U. S. imperialism is its anti-Sovietism" (p. 189), whereas the Soviet Union is for peace, is not an aggressor, and, being a workers' state, cannot and does not pursue an imperialist course (p. 190). The oral and documentary evidence establishes convincingly that Respondent has consistently characterized the United States as an "imperialist" nation. This fact, standing alone, is not disputed on the record.

We proceed to review the evidence and make our findings concerning why Respondent teaches, advocates, and agitates against what it calls American imperialism. The *Communist Manifesto* (Pet. Ex. 34, p. 9) declares that society as a whole is splitting into two great hostile camps, the bourgeoisie and the proletariat. Lenin in *Imperialism* (Pet. Ex. 140, pp. 9, 11, 126) designates capitalism as "imperialism" and predicts a proletarian victorious revolution after the impending imperialist war; the United States is designated as "imperialist." In *State and Revolution* (Pet. Ex. 139, p. 6), Lenin explains in the preface that the Russian Revolution of 1917 "can be understood in its totality only as a link in the chain of Socialist proletarian revolutions called forth by the imperialist war." Stalin in *Foundations of Leninism* (Pet. Ex. 121, p. 15) develops the idea further to show that "imperialism" has made the revolution inevitable and has provided favorable conditions for it. In *Problems of Leninism* (Pet. Ex. 138, p. 9), he indicates that Leninism provides "suitable and obligatory" theory and tactics for the proletarian revolution against "imperialism".

In 1927, the Communist International issued a *Resolution On The American Question* (Pet. Ex. 43) which states that "The United States of America, during the last decade, has developed into the mightiest imperialist power" (p. 1); and, that the task of the Communist Party is "to form a broad united front and to intensify the struggle against American imperialism" (p. 1). The *Resolution* lists the policy of the United States in China and its attitude against the Soviet Union among the questions that "must" be utilized by the Party to rally the broad masses in defense of the Soviet Union and in its struggle against American imperialism (pp. 2–3).

The evidence summarized above is illustrative of a quantity of evidence which establishes that it is fundamental to Marxism-Leninism and to the world Communist movement led by the Soviet Union that all countries other than those of a victorious socialist revolution (which encompasses only the Soviet Union and those brought within

its orbit—are characterized as "imperialist," against which the Communist Parties must wage the "struggle against imperialism."

In addition to the voluminous documentary evidence of record, Respondent's continuous adherence to these fundamentals of Marxism-Leninism and of the world Communist movement is established by the testimony of Petitioner's witnesses based upon their experiences as members and officials of Respondent; upon directions they received while in the Party and the instruction they gave as teachers in the Party; and upon their study of official Party publications. The more significant oral testimony is summarized as herinafter set forth.

While Petitioner's witness Gitlow was a high officer of Respondent, until 1929, its aims and purposes were: to defend the Soviet Union as the fatherland of the working class of the world; to carry out the orders and directives of the Communist International; and to work for the undermining of the foundations of the American Government in order to make it possible for Respondent to overthrow our form of government and set up in its place a dictatorship patterned after that which operates in the Soviet Union today.

In 1932, Petitioner's witness Kornfeder, a former leading official of Respondent, taught in a school at the Party headquarters that the main doctrine of Lenin called for the complete and total overthrow of all existing social institutions, the government, the existing organizations that support the government, the complete elimination of the present state structure and its replacement by a dictatorship led by Respondent.

Petitioner's witness Nowell was taught at the Lenin School in Moscow in 1932, and subsequently he himself taught in Respondent's schools in 1933 and 1934 in the United States, that the Government of the United States was the executive committee of the capitalist class in the United States and was subject to the same Marxism-Leninism laws of growth, development, and decay as all capitalist states; that the proletarian revolution and the dictatorship of the proletariat were necessary and equally as inevitable in the United States as in other capitalist countries; that it was the duty of the Communists to work for the overthrow of the Government of the United States and the establishment of the dictatorship of the proletariat, following the form of the Soviet, and under the hegemony of Respondent and the Communist International; and, that it was the necessary duty of Respondent, as a part of world Communism, to work for the overthrow of the other "imperialist" nations.

Petitioner's witness Meyer taught in Respondent's schools until near the end of 1945. He instructed the members of Respondent that Marxism-Leninism is a guide to Respondent in carrying out its *historical role or mission* to overthrow the capitalist system and political states founded on the capitalist system; to destroy the economic organization on which that society is founded and its political system, and to replace it with the dictatorship of the proletariat, to establish the kind of socialism that will lead to Communism.

Petitioner's witness Johnson was taught at Respondent's training school in about 1932 that it was the duty of the Communists to build themselves up to the position where they could challenge the power of the government, and that the Red Army would not hesitate to throw its weight into the scales to tip the balance in favor of the

Communist revolutionists in America; also, that the Communists should agitate and work for the demoralization of the Armed Forces of the United States by convincing them that they must refuse to fight against the Soviet Red Army and go over on the side of the Red Army using their guns against the Government of the United States and all the forces that remained loyal to it. This was the policy of Respondent throughout Johnson's membership, until 1940, and was elaborated upon by such leaders as Foster, Bedacht, Bittelman, Browder, and Stachel, at committee meetings and conventions. It is significant that Foster is the present national chairman of Respondent and some of these others are still high officials (see pp. 20 to 21 herein).

Petitioner's witness Lautner who was a member of Respondent until 1950, and Petitioner's witness Janowitz who was a member at the time of testifying in this proceeding, corroborate this evidence.

Petitioner's witness Matusow stated the aims and objectives of Respondent in case of a war between the United States and the Soviet Union were not to support the American "imperialists." The establishment of the dictatorship of the proletariat in the United States would have to be accomplished by violent means because "the ruling class would not give up its power." While in the Party (1947 to 1951), he did not hear or see anything to indicate a change in the aims of Respondent. He refers to a statement of Izzy Brown, Club Education Director of the Friedlander Youth Club in New York in 1948, that it was the policy of Respondent not to support the United States in an "imperialist war" against the Soviet Union.

Petitioner's witness Scarletto relates a discussion in the latter part of 1950 by Party members in which it was felt advisable that members go into the service of the United States in the Korean War because they would be in a position to sabotage the United States effort. At a meeting about the middle of November 1950 of functionaries of the Mexican Concentration Club, a suggestion was made to raise money through a neutral country for the North Koreans. The chairman of the Club at a meeting in the latter part of 1950, told witness Scarletto that it would be a good idea if he went back into the Navy Air Corps where he would have a good opportunity to sabotage. At a meeting of a Party club about December 1, 1950, the chairman reported American officers had been killed by their Korean orderlies. There were several expressions of satisfaction over this and the report that the war was going against the Americans at the time.

Petitioner's witness Evans, a member of Respondent from 1948 to 1952, was taught that in a war between the Soviet Union and the United States all members of Respondent should help defeat the predatory aims of imperialism.[32]

In the years between 1945 and 1950, Petitioner's witnesses Cummings, Hidalgo, Blane, Markward, and Baldwin were taught that the world was divided into two camps: the imperialists and the anti-imperialists (democracies); that Russia was anti-imperialist and democratic; that the wars of the imperialists were unjust wars and the wars of the anti-imperialists were just wars; that in a war between imperialists and anti-imperialists, the members of the CPUSA must

[32] The organ of the Communist Party of the Soviet Union in March 1950 stated that while imperialism exists there also exists the danger of new aggression and that in the presence of imperialism and its predatory plans wars are unavoidable (*Pravda*, Pet. Ex. 217).

aid the anti-imperialists; and that this would hold true in the case of a war between the Soviet Union and the United States.

Documentary evidence of Respondent's expressions confirms the oral testimony that Respondent's policy is to oppose many United States policies and activities as imperialists, and as aggressive against the Soviet Union; also, that Respondent's policy is to support the Soviet Union and defeat the aims of imperialism. *Political Affairs* for March 1951 describes President Truman's activities as "imperialism" on the way to bankruptcy and as a provocative semimobilization for an outright war against the Soviet Union.

A pattern throughout the world Communist movement for teaching, advocating, and agitating for the overthrow of "imperialist" governments exists in the concept or slogan that the world is divided into two hostile camps, one led by the Soviet Union and the other by the United States. As previously herein set forth, Lenin, Stalin, and the Communist International, in interpreting and adapting to the world Communist movement the writings of Marx and Engels, took the original concept that society is divided between the bourgeoisie and proletariat, and developed it into the doctrine or slogan that the world is divided into two hostile camps—the camp of the imperialist states and the camp of the dictatorship of the proletariat in the USSR. In the *Programme of The Communist International* (Pet. Ex. 125) this is explained as follows:

> The difference in class structure and in the class character of the government in the two camps, the fundamental differences in the aims each pursues in internal, foreign, economic, and cultural policy, the fundamentally different courses of their development, brings the capitalist world into sharp conflict with the victorious proletariat State. * * * The class struggle, which hitherto was conducted in circumstances when the proletariat was not in possession of State power, is now being conducted on an enormous and really world scale; the working class of the world has now its own State—the one and only fatherland of the international proletariat * * * (pp. 24 and 25).
>
> * * * * * * *
>
> Thus, as a result of the first round of imperialist wars a new, fundamental antagonism has arisen of world historical scope and significance; the antagonism between the U. S. S. R. and the capitalist world (p. 25).

The record establishes a consistent advancement of this doctrine or slogan by the Soviet Union and by the Communist Information Bureau, and its acceptance and use by Respondent. Of late, the slogan of "peace" has been added as hereinafter covered.

The Soviet Union in January 1949 characterized the postwar foreign policy of the United States and Great Britain as one of aggression and unleashing a new war for world domination, whereas, it stated, the Soviet Union struggles for universal peace and international security. This position of the Soviet Union as reported in *Pravda*, points out that "The very existence of the Soviet State, with its growing power and its international authority, and likewise the powerful support given to it by the democratic forces in other countries constitute an insurmountable barrier in the way of all plans of any kind for the establishment of world domination by one power or another." (Pet. Ex. 251, p. 19).

*Pravda* for March 11, 1950 (Pet. Ex. 217), contains a speech by V. M. Molotov which states that "Since the October Revolution in our country, the victory of the national liberation movement in China appears as a new and most powerful blow at the entire system of world imperialism and at all plans of imperialist aggression in our

time" (p. 4), and "Now the Soviet Union has not only come out of international isolation but is also the center of the powerful international democratic camp. * * * In the capitalist countries themselves, we now have millions of active friends who are closing ranks more and more in a broad democratic, anti-imperialist movement." (p. 5) * * * "*The democratic camp*, which unites the USSR and the countries of the people's democracy, is opposed by the camp of the imperialist powers, headed by the ruling circles of the United States of America" (p. 6). [Emphasis added.]

*For a Lasting Peace, for a People's Democracy* issue of November 10, 1947, sets forth a speech delivered by A. Zhdanov[33] at the Informative Conference of the Nine Communist Parties held in Poland at the end of September 1947. A section of this speech is entitled: "The New Post-War Alignment of Political Forces and the Formation of Two Camps: the Imperialist and the Anti-Democratic Camp, and the Anti-Imperialist and Democratic One" wherein it is stated the principal driving force of the imperialist camp is the United States with whom Great Britain and France are allied; the second camp—anti-imperialist—is based on the USSR and the "new democracies" (Pet. Ex. 214–A).

*For a Lasting Peace*, issue of March 10, 1950, contains an article which concludes with the following:

> A comparison of the economic successes achieved by the Peoples' Democracies in a very short period of their history with the extremely difficult position of the working people in the capitalist countries constitutes a terrible indictment of American imperialism and of the whole decaying capitalist system (Pet. Ex. 412, p. 1).

With respect to Respondent, when Petitioner's witness Lautner left the Party at the end of 1949, the Party line was that the United States headed the imperialist forces of the world and that Russia led the anti-imperialist forces and that everything should be done to aid Russia and to disconcert the United States. Further, in 1949 an instructor in courses on the ABC's of Marxism included the United States in the imperialist camp and a similar position was taken by a Party study group in Boston, Massachusetts, in 1948, where it was stated that the United States led the "imperialists" and the Soviet Union led the anti-imperialists or Peoples' Democracies.

A "Discussion Outline" on "The Marxist Position Toward War" issued by Respondent's Educational Department, Michigan State Committee, in April 1949 (Pet. Ex. 400) has a section entitled, "IV. World War II was Just War" which says in part:

> The post-war world was split by the U. S. and Britain into two camps—the camp of imperialism and fascism under the leadership of American imperialism and the camp of democracy, national freedom and peace, headed by the U S S R (p. 4).

Similar teachings by Respondent are evidenced by study and teaching material used in various schools and groups (Pet. Ex. 425, p. 16; Pet. Ex. 424, Sess. 9).

Related to the concept of the world being divided into two hostile camps, is the concept or slogan set forth by Lenin and Stalin that distinguishes between "just wars," which are those carried on by "anti-imperialist" nations, and "unjust wars," i.e., those engaged in

[33] The Zhdanov Report has recently been widely used and followed by Respondent. It was published in *Political Affairs* and discussed and studied throughout the Party while Lautner and Philbrick were members. It is variously listed as "required reading," "reading material," and "reading," in study and teaching materials used by Respondent in 1949.

solely by "imperialist" nations among themselves or against any "socialist" country, such as the Soviet Union. We find that the concept of "just" and "unjust" wars, requiring the Communist Parties to support the Soviet Union in a war between the Soviet Union and any other country, and in a war between the Soviet Union and their own country to use every means to assist the Soviet Union, is basic to Marxism-Leninism; and that it has been continuously advanced and advocated by the Soviet Union, and has been continuously taught and followed by Respondent. Respondent's policies and activities centering around the doctrine of "just" and "unjust" wars is covered later in this report in connection with the issue as to what country the leaders of Respondent consider they owe allegiance. Accordingly, it is sufficient at this point to state our finding that Respondent's teachings and advocacy of this line represent a continued following of directions as to the line from Marxism-Leninism, the Communist International, and the Soviet Union.

We proceed to review the evidence concerning Respondent's use of the words "peace" and "democracy" in connection with the struggle against "imperialism" and for the advancement of the aims and objectives of the world Communist movement. Earlier in this report we have reviewed the united-front tactic as set forth in Marxism-Leninism as one of the means used for establishing the dictatorship of the proletariat. The united front has taken various approaches throughout the period since 1919. In the interest of reasonable summarization of the record, we limit this report to the use of the united-front tactic from 1935 on.

In 1935, the Communist International, with Respondent represented, mapped out the "tactical line" for the years ahead which consisted of forming a "united front" with other organizations in order to achieve national unity in the various countries for the purpose of combatting fascism.[34] The record shows that early in the 1930's, Stalin, in a report on behalf of the Central Committee of the CPSU to its Party Congress, pointed out that "the buorgeoisie would seek a way out of the economic crisis, on the one hand, by crushing the working class through the establishment of fascist dictatorship, i. e., the dictatorship of the most reactionary, most chauvinistic, most imperialistic capitalist elements" (Pet. Ex. 330, pp. 300–301). The record also shows that the Soviet Union realized a "second imperialist war" represented a serious danger to the USSR. (Pet. Ex. 330, pp. 334–5). In mid-1935, discussions were started in the Communist International on the matter of the united front—the "anti-Fascist front"—which were supported by the Communist Party of the Soviet Union as evidenced by an article in the August 6, 1935, issue of *Pravda;* this points out that "Unity—that is the command of the movement!" and emphasizes "that this unity be directed against Fascism, against the danger of a new imperialist war, against the offensive of capital," while also emphasizing that the Communists "know that only the dictatorship of the proletariat, only the Soviet Government is the sole salvation of the working class * * *" (Pet Ex. 183).

Thus, it is more than a coincidence that the Communist International in 1935 gave among the reasons for developing the "new

[34] In Communist documents, fascism is a form of imperialism.

tactical orientation," the economic crisis facing capitalism, the offensive of fascism, and the growth of the threat of a new imperialist war and of an attack on the U. S. S. R. (Pet. Ex. 137, pp. 21–22). In a speech at the close of this meeting of the Comintern, Georgi Dimitrov pointed out that "Ours is a Congress of struggle for the preservation of peace, against the threat of imperialist war" [35] (*ibid*, p. 8), and that:

> Standing firmly on the impregnable position of Marxism-Leninism, which has been confirmed by the entire experience of the international labor movement, and primarily by the victories of the great October Revolution, our Congress, acting in the spirit and guided by the method of living Marxism-Leninism, has reshaped the tactical lines of the Communist International to meet the changed world situation (*ibid*, p. 11).

The Resolution of the Comintern concerning the new approach or use of the united-front tactic lays down various things which the Communist Parties are to do in carrying out the revised line, and in that connection uses such words as "enjoins" (p. 26), "must" (p. 36), and "imperative" (p. 37). The record shows that Respondent fully and completely complied with this line laid down by the Communist International as evidenced by the following, which is among the more significant evidence of record on this point.

In November 1935 the Central Committee of Respondent adopted a resolution "fully and wholeheartedly" endorsing the decisions of the Seventh World Congress of the Communist International in which resolution the "chief task" of Respondent at the time is stated to be "to reorientate the work of the Party in accord with the tactical line of the Seventh World Congress," and in which "The Central Committee calls upon the party organizations and every Party member to prosecute the struggle for the united front with the utmost determination and flexibility in the *new way* pointed out by the Seventh World Congress" (emphasized in text) (Pet. Ex. 185, pp. 1182–1184). Like the resolution of the Comintern and the statements of the Soviet Union, Respondent's resolution takes care to point out that the line is an application "in a living way" of "the teachings of Marx, Lenin, Engels, and Stalin"; and that it is linked to the prosecution of the Party's "revolutionary aims" and "revolutionary principles and program" (*ibid*, p. 1185).

Some of the details of Respondent's compliance with the instructions of the Communist International are furnished by Petitioner's witness Nowell who in the latter part of 1935 was instructed by William Weinstone and other functionaries of the Michigan District of Respondent to proceed to set up certain organizations in accordance with the united front policy and conforming to the new type of reorientation, as set forth in the resolutions of the Comintern. The witness shows that he carried out these instructions by forming fractions in various organizations for the purpose of influencing the policies of the organizations and to guide them along the lines of the Communist Party in setting up the "united front" movement.

In 1936, Respondent's Central Committee issued a statement which was printed in Respondent's magazine, *The Communist*, issue for May 1936, calling upon all workers to unite to defeat fascism and on May Day to pledge to defend the Soviet Union. *The Communist*

[35] The speech of Dimitrov and the Resolutions adopted by the Comintern were printed in pamphlet form in the United States by Workers Library Publishers and have been widely used by Respondent.

for May 1940 carries an article by "Gene Dennis" which points out the danger to the Soviet Union from the imperialist war and states that the united front can only be achieved successfully if consistently directed against the imperialist war and capitalist reaction.

Some aspects of Respondent's line during the period of the second world war shifted back and forth to follow the position of the Soviet Union. The pertinent facts in this respect are covered in our findings under the section of this report on the issue of nondeviation; we have taken them into consideration as part of the pertinent evidence involving Respondent's following of foreign directions concerning the use of the united front tactic. The record shows that after World War II, the use of the united front tactic received a different emphasis in the form of the united front for "peace." The testimony of Petitioner's witness Lautner, which is corroborated by other evidence of record, furnishes a clear understanding of this aspect of the issues and is therefore pertinent for review in some detail. The witness testified in part as follows, which we find to be an accurate statement of the facts:

> The United Front tactics of the Communist Party were part of the subject matter of Marxism-Leninism, and in class [referring to Party classes in 1948] we tried to convey the idea that the Seventh World Congress decisions pertaining to the United Front tactics and Dimitrov's report in no way eliminated or negated the decisions of the Sixth World Congress but implemented the desisions of the Sixth World Congress in a way to enable the Party to develop a wider base on specific issues. Before the Seventh World Congress we had United Fronts that were based on a narrow concept popularly known as United Front from Below, United Fronts on specific issues, but were elements that were ready and willing to work on specific issues with the Communist movement. In the main it was an effort to increase and to advance the influence of the Communist Parties. This policy, based on the strategy and tactics of the Sixth World Congress, was a failure of the Party in Germany to make headway, the defeat suffered by the German Party, based on the strategy and tactics and the program of the Sixth World Congress, the failure in China, the failure to build the Red International Trade Union movement, the failure to gain a way or win a way to working classes, the organized section of the working classes from the influence of social democracy, with the result that reaction gained power in a number of countries. Hitler came to power in Germany. The Seventh World Congress devised a new tactical approach in order to achieve the main strategic objectives by developing a program of United Front from below and from above, and also the program of the people's fronts and coalitions around a specific issue in the struggle against fascism and in the struggle against war, because fascism was the main danger of war at that time.
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> * * * * * * *
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> So The United Front is not a repudiation of the basis [sic] strategic aims of the Communist movement, but as step that will bring closer the realization of that strategic aim.
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> * * * * * * *
>
> After 1945 there came a re-evaluation of the world situation. Now the problem was to find that link in the chain again with which a new coalition could be developed on a united front basis, on a minimum program, on a partial program of the Communist International, with which coalition we could go forward to a new milestone, to a new point and gain new adherents to the Communist movement, and when we reached that milestone there would be a new situation, a new realinement of forces; and we would find that new link with which we could go forward again. *This link after the second world war was the struggle for peace.* The question of peace was the new link. At the reconstitution convention Foster in his report already indicated the direction in which the Party will travel in this postwar period, and Zhdanov's report later on precisely sets the two world camps and the main issue in the coming period, the issue of peace. That is the new link today around which the Party develops its activities to broaden out and to bring about an alinement of forces on the basis on which it can extend its

influence and exert its influence among a broader section of the population of this country (Tr. 9543–46). [Italic added.]

The record clearly shows that the Communist Parties throughout the world, including the Respondent in the United States, are now actively and strongly presenting the line of "peace," particularly the united front in the "struggle for peace." The very name of the official organ of the Communist Information Bureau, which is *For a Lasting Peace, for a People's Democracy*, is indicative thereof. Key material used by Respondent in forming its "peace" line is the Zhdanov report, previously mentioned (see p. 49 and footnote 3), from which a typical quotation is as follows:

> All the forces of the anti-imperialist and anti-fascist camp are united in the effort to secure a just and democratic peace. * * * These countries, and in the first place the new democracies * * * have proved themselves in the postwar period staunch defenders of peace, democracy and their own liberty and independence against all attempts on the part of the United States and Great Britain to turn them back in their course and to bring them again under the imperialist yoke (Pet. Ex. 214–A, p. 2).

The position or line of the Soviet Union in this matter is evidenced by a report delivered by G. M. Malenkov at the meeting of the Moscow Soviet in November 1949 and printed in the November 11, 1949 issue of *For a Lasting Peace, for a People's Democracy*. In this report, Malenkov devoted a substantial portion to the heading "The Soviet Union Stands for Peace and Defends the Cause of Peace" (Pet. Ex. 231, p. 1). He points out that there is not a single country in which the movement uniting the supporters of peace does not possess a "base" (p. 2) and that the successes of "the camp of peace" drives the "enemies of peace," "by means of violence and new wars," to attempt the creation of an American world empire designed to turn the whole world into a "colony of the American imperialists, of reducing sovereign peoples to a state of slavery."

The December 1951 issue of *Political Affairs* contains a condensed translation from the Soviet philosophical journal *Voprosi Filosofie* which is entitled: "Stalin on the War Danger and the Possibility of Averting It." This Soviet statement, which by its publication in *Political Affairs* and in view of the entire record, makes it reasonable to conclude that it was adopted by Respondent and thus becomes the line of Respondent and is very similar in content to the above-mentioned Zhdanov and Malenkov reports. The statement outlines various forms which "the struggle for peace" has taken, such as fighting for an end to the war in Korea, against rearming West Germany and Japan, and a ban on atomic weapons. It also quotes with approval a declaration by Joseph Stalin in 1946 to the effect that "the peoples" are taking the fate of their states in their own hands and establishing "democratic regimes" and "carrying on an active struggle against the forces of reaction, against the incendiaries of a new war" (Pet. Ex. 488, p. 20).

Respondent's following of the line of the united front, and particularly the united front for peace, is evidenced by a quantity of documentary material probative of Respondent's policies and doctrines. Typical recent expressions of this line by Respondent appear in the *Daily Worker* issues of March 3, 1949, June 9, 1950, July 13, 1950, September 18, 1950, February 19, 1951, April 1, 1951, October 19,

1951, November 7, 1951, and June 9, 1952. The issue of November 7, 1950, contains the following as part of an editorial:

> Today the Soviet Union is indestructible. The work of Lenin and Stalin is immortal. The Socialist State has become the leader of a new force in modern history—the great camp of peace. This new alliance of hundreds of millions of people in China and the People's Democracies, together with the vast millions in the colonial and capitalist countries, can prevent war. This is the new achievement of the Soviet Union, the glorious vision that the people can make a reality (Pet. Ex. 468).

Recent indications of Respondent's following of this united front for peace line also appear in *Political Affairs* for November 1950, February 1951, April 1951, December 1951, and January 1952. The issue of February 1951 (Pet. Ex. 376) contains "greetings" from Communist Parties of some thirty countries sent to Respondent on the occasion of its 15th National Convention. These greetings condemn American imperialism and support the struggle for peace. The "greetings" from the Soviet Union says in part: "May the international solidarity of the toilers in the struggle for peace, democracy, and Socialism gather strength." The People's Democratic Republic of China advised Respondent: "As a result of common struggle of the people of the world and awakened people in the United States, American imperialism has met with huge defeats and will continue to meet with even bigger defeats." The French Party pointed out that Respondent's decisions "taken in the light of the teachings of Marx, Engels, Lenin, and Stalin, will enable you to advance forward on the road of unity of action of the working class." The Italian Party stated Respondent's struggle in defense of peace was greeted as its struggle. The German Democratic Republic said Respondent's fight is their fight "just as the struggle of the German friends of democracy and peace is your struggle." The Party of Great Britain expressed its "solidarity" with Respondent in the common struggle against Anglo-American imperialism. The Canadian Party expressed certainty that "Headed by the Mighty Socialist Soviet Union * * * the world camp of peace is going forward to win" and that Respondent "will not be found wanting."

Respondent's teaching materials used in its training schools and for self-study by the members furnish, among other things, still further evidence on the following of the united front for peace line. The "Discussion Outline" on "The Marxist Position Toward War" (*supra*, p. 49 of this report) put out in 1949 devotes considerable space to "Peace" and lists works by Lenin and Stalin and the *History of the CPSU (B)* as reading material. The "Outline For Nine-Day School," issued in 1948 (Pet. Ex. 346), has as the topic for the third lesson "Imperialism-War-Fascism-Struggle For Peace" and lists Lenin's *Imperialism* and the *United Front Against Fascism* as the reading material. Part II of the Study Outline for the Marxist Institute, issued in 1949 (Pet. Ex. 427), includes the study of the tactics of the Seventh World Congress of the Communist International and teaches that in the present period the strategic objective remains the same but the tactical line of the united front and peoples coalition developed still further, citing Dimitrov's report to the *Seventh World Congress* as required reading and the *History of the CPSU (B)* as supplemental reading (Session 9, pp. 1–3).

We find based on the foregoing and upon the entire record, that "the struggle for peace" including the tactic of the united front for

peace, is presently a main line of Respondent, the Soviet Union, and the Communist Information Bureau, and that this line is based upon the tactics set forth in Marxism-Leninism. It is therefore important to consider what the Communists mean by "peace," as an aid in determining whether the "peace" line is a link or tactic in seeking to advance the objectives of the world Communist movement. The testimony of Petitioner's witness Lautner regarding the united front tactic as heretofore set forth is relevant to this matter. Also, the *History of the CPSU (B)* teaches:

> The Bolsheviks were not mere pacifists who sighed for peace and confined themselves to the propaganda of peace, as the majority of the Left Social-Democrats did. The Bolsheviks advocated an active revolutionary struggle for peace, to the point of overthrowing the rule of the bellicose imperialist bourgeoisie. The Bolsheviks linked up the cause of peace with the cause of the victory of the proletarian revolution, holding that the surest way of ending the war and securing a just peace, a peace without annexations and indemnities, was to overthrow the rule of the imperialist bourgeoisie (Pet. Ex. 330, p. 167).

The *History* further teaches that to achieve "peace" the Communist Parties should convert imperialist war into civil war and defeat one's own government in an imperialist war (*ibid.*, p. 167).

The understanding of the "struggle for peace" as an active, revolutionary struggle is further evidenced from a resolution adopted in 1935 by the Comintern, which resolution reads in part as follows:

> At the present historical juncture, when on one-sixth part of the globe the Soviet Union defends socialism and peace for all humanity, the most vital interests of the workers and toilers of all countries demand that in pursuing the policy of the working class, in waging the struggle for peace, the struggle against imperialist war before and after the outbreak of hostilities, the defense of the Soviet Union must be considered paramount (Pet. Ex. 137, p. 48).

These tactics are also revealed in Dimitroff's *The United Front*, a part of the body of Marxism-Leninism, which says, *inter alia:*

> * * * You cannot carry on a real struggle against fascism if you do not render all possible assistance in strengthening the *most important buttress* of this struggle, the Soviet Union. You cannot carry on a serious struggle against fascist instigators of a new world blood bath, if you do not render undivided support to the U. S. S. R., a *most important factor* in the maintenance of international peace * * * (Pet. Ex. 149, p. 279, emphasized in text).

Additional insight into Respondent's use of the "struggle for peace" is furnished by the aforementioned "greeting" sent to Respondent by the Soviet Union on the occasion of Respondent's 15th National Convention in late 1950. This "greeting" is later herein discussed in more detail with respect to the issue of Respondent's reporting to the Soviet Union. Petitioner's witness Lautner, based on his experiences as a member of Respondent including what he taught and was taught, considers the greeting "a political document of the highest importance" (Tr. 10068), which raises all the basic questions that Respondent is confronted with at the present time and "gives leadership to the American Party" (Tr. 10069). Lautner interprets "struggle for peace, democracy and socialism" as "the new tactical approach since the end of the war, the link with which this tactical united front is to be built." (Tr. 10070); and so we conclude.

In view of the foregoing and upon the entire record, we find and conclude that the "struggle for peace" as used and practiced by respondent, sometimes called the "struggle against reaction", represents the present emphasis of the "struggle against imperialism" which is and has been a basic, active, revolutionary doctrine taught

and advocated by respondent for the purpose of overthrowing "imperialist" governments (by force and violence if necessary) and substituting the dictatorship of the proletariat. We further conclude and find that respondent's "struggle for peace," "struggle against imperialism" and united-front tactics followed in connection therewith, represent a continued following of directives of the Soviet Union as contained in Marxism-Leninism, in specific instructions of the Soviet Union and in the program of the Communist International; and are designed to advance the objectives of the world Communist movement.

*4. Democratic Centralism and Self-Criticism.*

Respondent's use of the organizational principle known as democratic centralism, hereinbefore referred to under "Marxism-Leninism", is one of the many facts indicative of its operation pursuant to directives from the Soviet Union through which the policies of the Soviet Union are effectuated.

The *Programme of the Communist International* covers democratic centralism as follows:

> The Communist International and its Sections are built up on the basis of democratic centralism, the fundamental principles of which are: (*a*) Election of all leading committees of the Party * * *; (*b*) periodical reports by leading Party committees to their constituents; (*c*) decisions of superior Party committees to be obligatory for subordinate committees, strict Party discipline and prompt execution of the decisions of the Communist International, of its leading committees and of the leading Party centres.
>
> Party questions may be discussed by the members of the Party and by Party organizations until such time as a decision is taken upon them by the competent Party committees. After a decision has been taken by the Congress of the Communist International, by the Congress of the respective Sections, or by leading committees of the Comintern, and of its various Sections; these decisions must be unreservedly carried out even if a Section of the Party membership or of the local Party organizations are in disagreement with it (Pet. Ex. 125, p. 86).

Respondent admittedly follows and applies the principle of democratic centralism.[36] It has done so substantially throughout most of its existence. In 1945, when Respondent was reconstituted as the Communist Party, its leader, William Z. Foster, proclaimed:

> * * * Only by applying the sound principles of Leninist democratic-centralism can our Party keep its mistakes to a minimum and develop the clear-thinking unity of action and resolute discipline that are the great strength of Communist parties all over the world (Pet. Ex. 372, p. 793).

Respondent's position with respect to the issue of democratic centralism is as expressed by its counsel in arguing before us: "What has all that got to do with domination and control by Moscow?" (Tr. Jan. 7, 1953, p. 51). Respondent's evidence is to the effect that the principle of democratic centralism is the ultimate in democracy in that the rank-and-file members elect the next higher officers and so on up to the highest authority of the Party—the national convention. Respondent states that once a decision is reached by the majority, that decision is binding on the whole body.

Witnesses for the Petitioner testify to a different understanding of democratic centralism.

Gitlow stated: "The Communist Party in the United States was a centralized organization, ruled from the top down, and not from the bottom up;" and when he, Lovestone, and Wolf were deposed in the schism of 1929, arrangements were made in Moscow that control of

[36] Respondent's witness Gates says democratic centralism is the principle which governs the party organization and function. He does not, however, indicate its origin.

the United States party was to be vested in a representative of the Communist International who was given specific power to nullify any decision that any committee or any branch of the CPUSA made. He was also given power to expel any member of the party as well as other powers over the party.

Kornfeder likened the party structure to a military one, with power coming from above.

Nowell testified that, during his membership (between 1929 and 1936), in actual practice authority descends upon the membership from the top.

We find that the materiality and relevancy of the issue of democratic centralism lies in its source as concerns Respondent's acceptance and practice of it, and in its use as a means of bringing Respondent within the authority of the Soviet Union. The record leaves no real doubt that, at least until 1940, Respondent followed democratic centralism as a requirement of membership in the Communist Interternational, [37] and that on the basis of democratic centralism all decisions of the Communist International had to be fulfilled by Respondent. From this it follows, based on the evidence elsewhere herein set forth, that for the period covering over twenty years of Respondent's existence, the principle of democratic centralism was one of the means whereby Respondent came within the authority of the Soviet Union.[38] Upon consideration of all of the evidence concerning Respondent's policies, activities, and conduct over the subsequent period of its existence, particularly the evidence covering nondeviation and allegiance as elsewhere set forth in this report, it is reasonable to conclude, and we do so, that Respondent's continued following of the principle of democratic centralism keeps Respondent within the authority of the Soviet Union.

We further find that the principle of democratic centralism is one of the policies established by the government and Communist Party of the Soviet Union, through adaptations of Marxism-Leninism, as an organizational policy of the world Communist movement, and that Respondent's operations based upon the following of the principle evidences the purpose to effectuate the policies of the Soviet Union and of the world Communist movement.

In making our findings and conclusions concerning democratic centralism, we have taken into consideration the disciplinary aspect of the principle which is treated later in this report.[39] We have also taken into consideration the evidence concerning the collateral Marxist-Leninist concept or device called self-criticism, as followed and understood by Respondent. In arguing about self-criticism before us, Respondent's counsel stated as follows concerning self-criticism:

> Another instruction or directive that the recommended decision relies on is what the Marxists call self-criticism. What is self-criticism? You get it from the books that are in evidence here. You get it from testimony of the witnesses. It is the proposition that Marxists assert that any serious political party should be willing openly to admit its mistakes, should discuss its mistakes of the past openly, and in the course of such public and open discussion also decide how those mistakes should be corrected. That is all that this principle of self-criticism means (Tr. Jan. 7, 1953, p. 54).

[37] See pp. 9 to 14 concerning the Communist International and Respondent's membership therein.
[38] See pp. 27 to 28 herein.
[39] This includes the evidence furnished by Petitioner's witness Johnson and others which establishes that in the past Respondent's organization included a Central Control Commission—the national disciplinary body—which was the American section of the International Control Commission in Moscow that maintained the strictist, iron discipline in the Party and kept every Communist in line.

The record, however, shows that the source of the doctrine and its use by Respondent lies in Marxism-Leninism and has as its primary purpose keeping Communists in line with the policies of the Soviet Union. As elsewhere herein noted, Respondent in 1945 reemphasized the revolutionary line of Marxism-Leninism and expelled Earl Browder as a "revisionist." Those who had supported Browder engaged in "self-criticism" by saying that they were wrong in adhering to Browder's deemphasis of the revolutionary line of Marxism-Leninism and in committing the other errors pointed out by Jacques Duclos, a spokesman for the world Communist movement.

"Self-criticism" is a device for safeguarding the unity of the Party and the iron discipline required by the Soviet Union. Elsewhere herein we discuss the evidence on these points in more detail. It is pertinent here to set forth a few illustrations from the record. Respondent's *Manual on Organization* contains the following: [40]

> It is clear, however, that basic principles and decisions, such, as for example, the Program of the Communist International, cannot be questioned in the Party (Pet. Ex. 145, p. 26).
>
> * * * * * * *
>
> We do not question the correctness of the revolutionary theory of the class struggle laid down by Marx, Engels, Lenin, and Stalin (*ibid*, pp. 26 and 27).
>
> * * * * * * *
>
> Self-criticism is a natural part of the life of the Party * * *. Without self-criticism, there can be no Communist Party. But this criticism must never depart from the line of the Party, from the principles of Marxism-Leninism. * * * destructive criticism * * * if tolerated * * * leads to factionalism (*ibid*, pp. 32 and 33).

In short, the policies of the Soviet Union cannot be questioned.

An "Outline On Fundamentals of Marxism For Class Use or Self Study," issued by Respondent's National Educational Commission, cites Stalin's *Foundations of Leninism* as the "source of unity and discipline in the Communist Party" and quotes from Lenin, *Selected Works*, on the practice of self-criticism (Pet. Ex. 370, p. 31), which is indicative of the source of Respondent's use of the doctrine. Further, an article in *Political Affairs* for January 1951 covering the main resolutions of Respondent's 15th National Convention, treats with the practice of criticism and self-criticism as "the inner law of Party development" (Pet. Ex. 378, p. 33) and includes the following:

> Thus the whole Party does not often enough participate in evaluating major developments and struggles; does not sufficiently learn from mistakes committed. This in turn leads to many "independent" estimates which are not resolved into one single Party estimate. This tends to weaken Party discipline and the carrying out of Party decisions (pp. 33 and 34).
>
> * * * * * * *
>
> The 15th National Convention of the Communist Party, U. S. A., demonstrates the firm political unity of our Party. It calls upon the whole membership to guard the monolithic character and unity of our Party, based on democratic centralism. We must strive for the highest discipline arising out of conscious understanding of the Party's theory and political line. Tendencies toward factionalism are totally impermissible and must be sharply dealt with because they weaken the Party and make it possible for the enemy more easily to penetrate its ranks (pp. 34 and 35).

In view of the foregoing and upon consideration of the evidence concerning discipline and allegiance as later in this report reviewed, and upon the record as a whole, we find and conclude that Respondent

[40] According to Respondent's witnesses, the *Manual* is obsolete in Party circles. On the other hand, the evidence furnished by witnesses Nowell, Crouch, Lautner, and Budenz, and the fact that the author of the *Manual*, J. Peters, a high officer of Respondent, only left the United States and Party work in 1949, preponderates to establish the continued use of the *Manual* until at least 1949.

practices the doctrine of self-criticism in compliance with the requirements of the Soviet Union and for the purpose of keeping its members in line with the policies and directives laid down by the Soviet Union.

*5. Foreign Representatives in the United States*

The foregoing facts concerning Respondent's organizational structure and the changes therein, the true meaning and use of Marxism-Leninism, and Respondent's policies and activities in "the struggle against imperialism" demonstrate and confirm the international character of the world Communist movement; that Respondent is the United States section or part of that movement; and, that the movement is dominated and controlled by the Soviet Union. Further confirmation and demonstration are found in the evidence concerning other activities or programs which the record establishes are the subjects of Respondent's major attention and efforts. These are hereinafter covered under the headings "Major Programs" and "The Communist Press."

We find that from time to time throughout Respondent's existence, the formulation and carrying out of its policies, programs, and activities as aforesaid have been directed or supervised by foreign representatives in the United States from the Soviet Union; this serves to illuminate and explain the basis and source of the policies and activities, and further illustrates the international aspects of Respondent's operations, as well as the foreign control thereover. A condition of the Communist International which was accepted and followed by Respondent was that:

> The E. C. C. I. and its Presidium have the right to send their representatives to the various Sections of the Communist International. Such representatives receive their instructions from the E. C. C. I. or from its Presidium, and are responsible to them for their activities. Representatives of the E. C. C. I. have the right to participate in meetings of the central Party bodies as well as of the local organizations of the Sections to which they are sent. * * * Representatives of the E. C. C. I. are especially obliged to supervise the carrying out of the decisions of the World Congresses and of the Executive Committee of the Communist International (Pet. Ex. 125, pp. 89 and 90).

It would unduly burden this report to trace the many instances of record where such foreign representatives have been in the United States and active in the affairs of Respondent. Among such representatives identified in the record are Gerhardt Eisler (sometimes known as Edwards and Hans Berger), J. Peters, Pogany (John Pepper), Golos, Peterson, Frank Miller, P. Green (Gussev), Yusefovich, Merker (Wagner), Walettsky, and Allen. Limiting this report to a few examples, the record supports the testimony of Petitioner's witness Johnson who testified, based on what he was taught in Respondent's training school in 1932, that a representative of the Comintern had power superseding that of any leader in the American Party and was the complete boss over Respondent's policy. Similarly, Petitioner's witness Lautner shows that when a Comintern representative spoke at Party meetings, no one questioned his decisions and they were accepted as the Party line.

In the light of the record, we find that many of the policies and activities presently being carried out by Respondent were originally formulated under the supervision of representatives of the Communist International, and that this fact is indicative of foreign domination and control of Respondent. This, however, is not the entire state

of the record as to activities of foreign representatives. When viewed in the light of the facts that Respondent announced its disaffiliation from the Comintern in 1940 to avoid identification as a foreign agent in the United States, and that the dissolution of the Comintern was announced in 1943 as a tactical move for unity in World War II and to eliminate that manifestation of foreign direction over the member Communist Parties, the less apparent but yet identifiable subsequent activities of foreign representatives in the United States becomes significant.

We have previously found that Manuilsky, while a Soviet Union representative to the United Nations in 1945, sent word to Respondent to the effect that it should heed Duclos' statement concerning the reconstitution of the Communist Party.[41] Other individuals who had previously been here as Communist International representatives are identified on the record as active in the United States after 1940. J. Peters and Gerhardt Eisler[42] are the subjects of considerable testimony.

Respondent's witness Flynn states on direct examination that since she assumed her duties as a member of the National Committee in 1938, Respondent has not received any directives or instructions from any representative of the CPSU and that to her knowledge no Communist International representative has been in the United States since 1946. She knows Gerhard Eisler but did not meet him until after his arrest. She states that neither he nor any of her fellow officers in the CPUSA ever told her that he (Eisler) was a representative of the Communist International. The testimony of Respondent's witness Gates is to the same effect.

Of the reputed Communist International representatives in the United States, Eisler was the most conspicuous and most noteworthy. Eisler was in this country for many years and fled the United States while on bail, pending the appeal of his conviction in 1949 for false swearing. Witness Kornfeder shows that in 1933 Eisler, whom he had originally met in Moscow, was a Comintern representative in the United States and discussed with him the infiltration of the American Federation of Labor and the Railroad Brotherhoods. Eisler warned him of serious consequences if he spoke against a new trade-union policy at a national convention of the Communist Party in 1934. Kornfeder disregarded Eisler's warning and was told to repudiate in the Party press within sixty days what he had said. He was expelled from the Party. Witness Johnson stated that Eisler's word was law in the CPUSA. Witness Meyer knew Eisler as a Comintern representative, as did witness Lautner. Lautner testified that after 1945 he knew that Eisler undertook to influence Party activities in the United States. Witness Budenz said that Stachel, a high Party leader, received orders from Eisler in 1943 and 1944, and that there was talk of Eisler as a Comintern representative in 1945. During this period Stachel consulted with Eisler frequently.

Another person conspicuously active in the activities of the CPUSA was J. Peters, author of Respondent's *Manual On Organization*. Witness Nowell identifies him as a Comintern representative. Witness

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[41] See *supra* p. 16.

[42] The record shows that both Peters and Eisler as well as other Comintern representatives have used various other names and aliases. Eisler has been known as "Edwards" and "Berger," and on one occasion he asked witness Nowell to call him "Brown." J. Peters was also known as William Peters, Alexander Stevens, and Clarence Miller. Also as Joe Peters, Alexander, or Goldberg.

Crouch said he took orders from Peters between 1934 and 1940, and witnesses Johnson and Lautner testified that Peters provided them with secret codes.

Peters was deported in 1949. Subsequently, an official actively engaged in Respondent's youth activities met Peters in Hungary while the former was attending the World Youth Festival there.

We find that the testimony of Petitioner's witnesses is credible and that the testimony of Respondent's witnesses is not in accord with the facts in this matter. A preponderance of the evidence clearly shows that representatives of the CPSU were in the United States and that through them Respondent received directives and instructions.

*6. The Communist Press*

In addition to the foregoing, further indication that the Respondent operates pursuant to directives of the Soviet Union, and is controlled by the Soviet Union in its views and policies, is furnished by the evidence hereinafter summarized concerning the Communist press and its use for the exchange of information. In the United States the *Daily Worker* and *Political Affairs* operate as guides for the membership of Respondent as to the correct views and policies. In the Soviet Union, the organ of the Communist Party of the Soviet Union is a paper called *Pravda*. On an international scale, *For a Lasting Peace, for a People's Democracy* is the organ of the Information Bureau of the Communist and Workers' Parties (Cominform).

We find that one significant aspect of the issue of domination and control lies in the formation, nature, and character of the *Daily Worker*. The record shows that the Communist International required the member parties to "create a new type of periodical press * * * in which the Communists * * * learn to utilize the slightest liberty allowed by the laws * * *" and without which "the preparation for the dictatorship of the proletariat is impossible" (Pet. Ex. 8, p. 20). The International also required that such a Party press carry on a policy fully corresponding to the policy of the Party; edited by reliable Communists; and subject to the control of the governing body of the Party (*ibid.*, p. 27). We find that the policy, content, and advocacy of the *Daily Worker* is and has been under the complete supervision and control of Respondent's leaders and top committees; that officers of Respondent have been the principal officers of the paper; that the paper's policies correspond to the policies of the Party and the paper is considered a necessity for the effectuation of the Party's aims and purposes. In its early years, the *Daily Worker* was aided by financial subsidies from Moscow and until about 1944 was furnished free information or dispatches at nominal cost, from Moscow through a Soviet Union news service. The record shows various directives issued by the Communist International concerning the *Daily Worker*, which were followed. Upon consideration of the foregoing and upon the whole record, we find and conclude that the *Daily Worker* was established pursuant to directives of the Communist International and presently fulfills the function it has always had.

We further find, on the basis of the evidence hereinafter summarized, that the *Daily Worker* is the counterpart in the United States of the Soviet Union organ, *Pravda*, translated issues of which are part of the record in this proceeding. While Petitioner's witness Budenz was managing editor of the *Daily Worker* (1941–45), staff

meetings were held for political education—"to keep the staff on their toes regarding Party theory and thinking"—at which meetings the *History of the Communist Party of the Soviet Union (Bolsheviks)* was used. We have heretofore found that the *History* constitutes one of the principal sets of rules and guides followed by Respondent. It is stated in the *History* that, "A powerful instrument used by the Bolshevik Party to strengthen its organizations and to spread its influence among the masses was the Bolshevik daily newspaper *Pravda* * * * founded, according to Lenin's instructions, on the initiative of Stalin, Olminsky, and Poletayev" (Pet. Ex. 330, p. 149). The *History* also states that *Pravda* "directed the working class movement toward one definite aim—preparation for revolution" (*ibid*, p. 153) and that a legally published newspaper "could not call openly for the overthrow of tsardom" and "had to resort to hints, which, however, the class-conscious workers understood very well * * *" (*ibid*, p. 150). Examples are given of "modest" sounding words which were understood by the workers as a "call" (*ibid*, p. 151). Respondent's official concept of the *Daily Worker* in the 1930's, which the record shows still persists, is that the paper is "One of the main and most important instruments of agitation and propaganda * * * for reaching and winning the masses" (Pet. Ex. 145, pp. 78–79). This is pertinent for comparison with the aforequoted concept of *Pravda* as "A powerful instrument used by the Bolshevik Party to * * * spread its influence among the masses."

We treat now with the issue as to whether the foreign Communist press contains articles or statements that constitute directives or instructions to Respondent. Respondent's witness Gates is a member of the National Committee, and is editor of the *Daily Worker*.[43] He denies that any foreign publication contains directives to the Respondent. The testimony of Respondent's other two witnesses is to the same effect. On the other hand, while petitioner's witness Budenz was managing editor of the *Daily Worker*, "the Communists looked in these articles from Moscow for the directives and the line that was to be pursued, the attitude that should be taken."

The direct oral testimony, however, is not the full state of the record in the premises. In resolving this issue, we have taken into consideration the facts elsewhere herein set forth concerning "nondeviation," and particularly, as established by a review of the pertinent documents of record, the fact that the *Daily Worker* does not deviate from or disagree with the Soviet press.[44] We have also taken into consideration the background of the Communist press in this country and in the Soviet Union as heretofore set forth, and the aforementioned principle that the press resorts to "hints" or "modest" language but which the "workers" understand. Further, it is not seriously disputed on the record that the *Daily Worker* receives political news from abroad, particularly from Moscow, which includes translations from the Soviet press, and that a correspondent of the *Daily Worker* is stationed in Moscow.

Additional evidence on this issue consists of the fact that the Communist publication *For a Lasting Peace, for a People's Democracy* is

[43] He held these positions prior to starting to serve a prison sentence for conviction in 1950 for violation of the Smith Act, and, as far as he knows, still retains the positions.

[44] Respondent's witness Gates says the similarity between Respondent's views and those of the Soviet Union is only the coincidence of the common application of Marxist-Leninist principles.

distributed in the United States to functionaries of Respondent, and copies have been made available by Respondent to meetings of various of Respondent's committees and groups. Petitioner's witness, Matusow, furnishes an example of the effect of an article in *For a Lasting Peace, for a People's Democracy*. In the summer of 1948, the director of the Jefferson School gave a lecture at the school's summer camp to the effect that the Communists agreed with Tito and Yugoslavia and all the things they were trying to do. A few weeks later, the news was published in *For a Lasting Peace, for a People's Democracy* that Marshal Tito and the Yugoslav Communist Party had been denounced by the Cominform. The same school director then took the reverse position in his lectures although his only source of information was the Cominform journal.

Other parts of this report present our findings concerning the well-established requirement of the Soviet Union that vigilance be maintained against "reformists," "opportunists," "stool pigeons," etc.; and the application in this respect of the Communist doctrine of self-criticism. An article by Gilbert Green, high officer of Respondent, entitled "For Communist Vigilance" appears in the May 1950 issue of *Political Affairs*. The article refers to the way in which the Polish and Bulgarian Communist Parties dealt with lack of vigilance—"the reflection of opportunism in the thinking and work of the Party"—and quotes articles from *Pravda* and *For a Lasting Peace, for a People's Democracy* on the need for Bolshevik criticism and self-criticism. It is reasonable to conclude from the article that the author considered the foreign articles as authoritative instructions.

Some of the articles which are in evidence from *Pravda* contain specific reference to the United States. The March 11, 1950, issue (Pet. Ex. 217) contains a speech by Molotov on the international situation in which the following appears:

> The democratic camp, which unites the USSR and the countries of the people's democracy, is opposed by the camp of the imperialist powers headed by the ruling circles of the United States of America (*ibid*, p. 6).
>
> * * * * * * *
>
> It is our permanent task and important duty to watch everything that is going on in the camp of imperialism (*ibid*, p. 6).
>
> * * * * * * *
>
> We fully stand for the Leninist-Stalinist principles of peaceful coexistence of the two systems and their peaceful economic competition. But we know it to be true that while imperialism exists, there also exists the danger of new aggression and that in the presence of imperialism and its predatory plans wars are unavoidable. Therefore, the advocates of a durable peace among the peoples must not be passive and become empty pacifists who are charmed by phrases, but they must every day conduct a stubborn and still more effective struggle for peace, drawing into it the masses of the people and not stopping before appropriate measures when the imperialists attempt to unleash new aggression (*ibid*, p. 11).

When read in the light of the considerable evidence of record respecting Respondent's position concerning the United States as an aggressive, imperialist power, and Respondent's policies and activities in the struggle for peace, all of which is set forth in detail elsewhere in this report, it is reasonable to conclude that the foregoing article in *Pravda* demonstrates that the so-called struggle for peace is used in order "to sweep imperialism and aggression from the face of the earth forever" (Pet. Ex. 217, p. 11).

Upon the whole record, we find and conclude that articles published in *Pravda* and *For a Lasting Peace, for a People's Democracy* are understood by Respondent and treated as authoritative instructions or directives as to the line to be taken or the policy to be pursued.

*7. Major programs*

We have hereinbefore referred to the fact that Marxism-Leninism, through the so-called Classics, sets forth certain programs and policies as the means of forwarding the world revolution. Particular emphasis as to programs (as distinguished from organization and discipline in the world Communist movement and from the strategies and tactics for the overthrow of imperialism), is placed upon work in and with labor unions, youth, and minority groups (see pp. 33 to 37, *supra*).

We also find that such programs were basic requirements of the Communist International and have been and are constantly advanced by the Soviet Union. We find further that Respondent early formulated and has consistently carried out such programs in the United States in conformance with Marxism-Leninism and pursuant to other directives of the Communist International and of the Soviet Union, and that the formulation and carrying out of such programs have as their aims and purposes the advancement of the objectives of the world Communist movement. The evidence as to Respondent's activities in and with labor unions, youth, and minority groups, particularly the Negroes, is voluminous. It would unduly burden this report to set forth the many detailed facts from which the foregoing findings are established. We limit ourselves to what we consider the more significant—those in the past which determine the source and illuminate the present, and those of more or less current use and application which determine the continuity and consistency.

It is clear, and as we read the record not disputed, that major attention is given by Respondent to trade-union work, to youth and to "the struggle for national liberation of the Negro people." At issue are the reasons for this attention—why and for what purposes. In other words, this proceeding is concerned with whether these policies and activities were formulated and are being carried out on Respondent's initiative or whether they come within Section 13 (a) (1) of the Act.

The preceding section of this report which establishes the meaning of Marxism-Leninism as understood and used by Respondent shows that trade-union work, youth work, and work among the minorities, are given importance in the world Communist movement. Trade unions and youth under Marxism-Leninism are the "belts" and "levers" without whose aid the dictatorship of the proletariat cannot be realized, while the directing force is the Party. Trade unions are "a school of Communism"; youth are "young reserves"; and national minorities have "latent revolutionary capacities." Under the Classics, Communists are taught the necessity of "winning over and "utilizing" trade unions in order to carry on the struggle against the government; the necessity of "organizing the Marxist-Leninist training of youth"; and, the necessity of "utilizing" the latent revolutionary capacities of the minority groups for "the overthrow of imperialism."

Additional evidence as to the importance of trade unions, youth, and national minorities in the world Communist movement is furnished by the consistent requirements of the Communist International. The *Theses and Statutes* required that the component member parties carry on Communist work in labor unions and form Communist groups within the organizations to "win over labor unions to Communism" and "to subordinate the unions to the practical leadership of the Party, as the advance guard of the workers' revolution" (Pet. Ex. 8, pp. 29–57); that organizational relations between youth and the Communist Party be basically defined in every country after the same system (p. 8) and, that a policy be carried out for the closest union between all national and colonial liberation movements and Soviet Russia—"to support the revolutionary movement among the subject nations (for example, Ireland, *American Negroes*, etc.) and in the colonies" (p. 69, emphasis added). In discussing preparation for the dictatorship of the proletariat, the *Theses and Statutes* says in part:

> In every organization, union, association—beginning with the proletarian ones at first, and afterwards in all those of the nonproletarian workers and exploited masses (political, professional, military, cooperative, educational, sporting, etc.) must be formed groups or nuclei of Communists—mostly open ones, but also secret ones which become necessary in each case when the arrest or exile of their members or the dispersal of their organization is threatened; and these nuclei, in close contact with one another and with the central Party, exchanging experiences, carrying on the work of propaganda, campaign, organization, adapting themselves to all the branches of social life, to all the various forms and subdivisions of the working masses, must systematically train themselves, the Party, the class, and the masses by such multiform work (p. 16).

The *Programme of the Communist International* further emphasizes these policies and activities. Concerning trade unions, the *Programme* says:

> * * * It is particularly important for the purpose of winning over the majority of the proletariat, to capture the *trade unions* (emphasized in text), which are genuine mass working class organizations closely bound up with the every day struggles of the working class. To work in reactionary trade unions and skillfully to capture them, to win the confidence of the broad masses of the industrially organized workers, to change and "remove from their posts" the reformist leaders, represent important tasks in the preparatory period (Pet. Ex. 125, p. 76).

With respect to youth, the *Programme*, in what we find to be adherence to the principles of Lenin and Stalin, points out that the Party relies directly on the mass organizations which include youth, and that systematic work must be carried on among the proletarian and peasant youth (p. 82).

Concerning minorities, the *Programme* points out the necessity to support every movement "against imperialist violence in the colonies, semicolonies, and dependencies themselves"; to carry on propaganda against all forms of chauvinism and against the "imperialist maltreatment of enslaved peoples and races, big and small (treatment of Negroes yellow labor, anti-Semitism, etc.)."

Still further evidence concerning the role to be given trade unions, youth, and national minorities in the world Communist movement lies in the official organ of the Communist Information Bureau. The December 2, 1949, issue of *For a Lasting Peace, for a People's Democracy* contains a report submitted to the Cominform by M. Suslov, representative of the Communist Party of the Soviet Union, entitled "Defense of Peace And The Struggle Against The Warmongers,"

which emphasizes the necessity of drawing trade unions into the "camp of the fighters for peace, against the warmongers"; it points out the help that can be furnished by youth; and says that the duty of the Communist and working class parties in the capitalist countries is to merge the struggle for the national independence with the struggle for peace (Pet. Ex. 249, p. 3). The Zhdanov report, previously herein referred to, includes the following statement:

> Imperialist countries like the United States, Britain and countries near to them become dangerous foes of the national independence and self-determination of nations, while the Soviet Union and the countries of the new democracy are a secure bulwark in the defense of the equality and national self-determination of nations (Pet. Ex. 214, p. 22).

Upon consideration of the foregoing and upon the entire record, we find and conclude that trade union work, the training and organization of youth, and national liberation movements, all under the guidance of the Communist Party, are essential elements in carrying out the world Communist movement and that these policies were formulated and have been from time to time implemented by Lenin and Stalin, the Communist International, and the Communist Information Bureau. We proceed to examine the record concerning Respondent's use and application of these elements. Evidence as to Respondent's direction in its trade union and national liberation programs is furnished from an article by "Alex Bittelman" which was printed in the March 1934 issue of Respondent's magazine *The Communist* (Pet. Ex. 126). The author, Bittelman, is presently a high official of Respondent. The theme of the article was to seek to make it appear that the Communist International did not "interfere" in American affairs or "dictate" to Respondent, but that Respondent heeded the Comintern in the exercise of Respondent's own conviction and will.[45]

With respect to trade union work, Bittelman wrote in part as follows:

> The next milestone in the Comintern leadership for the American party we find on the question of trade union work. * * * The Comintern brought the American militants and lefts closer to the world labor movement and to the basic problems of the American labor movement. The trade union question was one of them. * * * Even the best and most experienced among the left and militant leaders of the American workers * * *, such as the late Charles E. Ruthenberg, as well as the present leader of our Party, William Z. Foster, were able to rid themselves and our movement of the old ballast of opportunism only by coming closer to Leninism and into the Comintern * * * (p. 239).
>
> It was Comintern advice and guidance that helped the American Communists to turn full face to the building of a left wing in the reformist unions beginning with 1920; it was the advice of the Comintern that helped formulate a correct solution to one of the basic problems of the American proletariat—the organization of the unorganized into trade unions; it was advice of the Comintern on independent leadership of the economic struggles by the revolutionary elements that helped formulate strike policies and tactics; * * * (p. 240).
>
> Comintern influence on the development of revolutionary trade union policies in the United States has especial significance. * * * It is significant, therefore, that the first question which Comrade Stalin put to the American trade union delegates was: "How do you account for the small percentage of American workers organized in trade unions?" * * * the intent of Stalin's question is clear: Why don't you organize the workers in trade unions? Why don't you strengthen them

[45] Bittelman's attempt to explain away control by the Comintern is not in accord with the facts. From the record as a whole, it is apparent that the Comintern in fact dominated and controlled Respondent under conditions whereby Respondent could not exercise its own volition in any major respect. An example is furnished, among many, by Kornfeder's expulsion from the Party for failure to follow the instructions of a Comintern representative. See p. 60 herein. Cf. Nowell's trial by the Comintern for opposing the Negro policy of the Comintern, pp. 75–76.

against the capitalists? (pp. 240–241). And it was in this direction that the Comintern threw the full weight of its influence and advice in the American labor movement. * * * Tactics and methods of work might vary, depending upon the state of the class struggle. * * * But the strategic aim always remained the same, and for this aim the Communist Party fights bravely and persistently and with increasing effectiveness. * * * So, we ask again: can any American worker, who is alive to the needs of his class and is willing to fight for them, find anything to object to in this "interference" of the Communist International in American affairs? And will he object to the Communist Party of the U. S. accepting and taking deep satisfaction in such "interference"? No, he will not * * * (p. 241).

And concerning the matter of national liberation, the article includes:

Once more came the "outside" influence of the Comintern, and what did it say? It said that the struggle against discrimination and for Negro rights is a revolutionary struggle for the national liberation of the Negroes, that we must fight for complete Negro equality, and that in the Black Belt the full realization of this demand requires the fight for the national self-determination of the Negroes, including the right to separation from the United States and the organization of an independent state. Furthermore, it was the interpretation of Leninism and its application to the United States as made by the Comintern that showed the American Communists that the agrarian revolution in the Black Belt, * * * is the basis of the national-liberation movement and that this movement is one of the allies of the American proletariat in the struggle for the dictatorship of the proletariat. * * * Will the Negro workers, farmers, and city poor consider the Comintern advice on the Negro question 'outside dictation'? No. They will, as they actually do, receive this advice with outstretched arms and will continue in every-larger masses to rally around the Communist Party as the leader of the liberation fight * * * (ibid., p. 244).

A review of Respondent's early documents and the testimony of witnesses who were officials of Respondent during its formative years, establish that Respondent gave to trade unions, youth, and minorities as prominent a place in its structure as did the founders of the dictatorship of the proletariat in the Soviet Union. Respondent's articles, publications and other documents, together with the testimony of witnesses, show that throughout its existence and up to the time of this proceeding, Respondent has continued to give importance to trade union work, the mass organization and training of youth, and the struggle for national liberation of the Negroes. It is not necessary to review herein the considerable quantity of evidence that shows the extent of Respondent's policies and activities in furtherance of the world Communist trade union, youth, and national liberation movements; nor to review the large quantity of evidence from which we find that these policies and activities of Respondent represent to a substantial degree the continued following and adherence by Respondent to unrepudiated directives given by the Soviet Union. We limit this report to some of the more significant indications. For clarity, we treat the subjects separately. The evidence hereinafter set forth is in addition to the fact, which we find, that Respondent's policies and activities with trade unions, with youth, and in the struggle for national liberation are based upon and adhere to Marxism-Leninism.

### (*a*) Trade-Union Work

In 1927, Benjamin Gitlow, at the time a member of the Politburo of Respondent and its Central Committee, was sent by Respondent to the Soviet Union at the special request of the Communist International to attend the Plenary sessions of the Executive Committee of the Communist International. While there, Gitlow, and other

leaders of Respondent, met with Joseph Stalin at Stalin's office at the Headquarters of the Central Committee of the Communist Party of the Soviet Union. Stalin directed the Communist Party to make a very serious effort, among other things, to get a foothold in the trade-union movement of the United States, in order to attract to the Communist Party a much larger membership, and to await a sharpening of the economic and social situation in the United States for future revolutionary action.

It will be noted that Stalin's statement is in line with the policies of Marxism-Leninism and of the Comintern, to which we have previously referred. The record shows that Respondent has continuously and consistently placed major emphasis on trade-union work to build up the Party and to aid in what Respondent sometimes calls the "class struggle."

Petitioner's witness Nowell in 1929 received instructions from the Central Committee of Respondent concerning an elaborate program, later adopted at the founding convention (which Nowell attended as a representative) of a national parent organization—Trade Union Unity League—affiliated with the Red International of Labor Unions in Moscow, for organizing industrial workers in basic industries as well as to foster Communism in unions and for facilitating the proletarian revolution. In 1935, Nowell was instructed as an official of Respondent to gain control of local unions for the purpose of gaining hegemony of the C. I. O. After certain strikes in 1936, Respondent counted on the C. I. O. as part of the People's Front movement to influence United States home and foreign policy in conformity with the International People's Front movement outlined by Dimitroff in his Seventh World Congress speech and resolutions in August 1935.

The official minutes of the proceedings of Respondent's governing committees for a number of meetings during the period from late in 1925 to late in 1928 were put in evidence by Petitioner. Many of these minutes show action by Respondent concerning trade-union work pursuant to specific instructions and directives from the Communist International. (Examples are Petitioner's Exhibits Nos. 53, 63, 65, 77, 80, 87, and 91.)

The record shows that Respondent's tactics in its trade-union work have been changed at least three times pursuant to directives of the Communist International and to effectuate the policies of the Communist International. Originally, the policy was to operate in existing unions. This was changed in 1928 to a policy of concentrating on forming new unions. In 1934, the policy reverted to one of operating in existing unions. This policy is still in existence as established by the evidence herein reviewed. Respondent's united-front program in the trade-union field which presently receives considerable attention from Respondent, originated with the Communist International. As expressed in the aforementioned article by Alexander Bittelman:

> * * * In short, at every stage in the development of the revolutionary trade-union movement in the United States (TUEL, class struggle unions of the TUUL, the application of the united front on the trade-union field, the fight for trade-union unity, etc.), it was with the help of the Comintern that the American revolutionary workers were able to find the correct way, to correct their errors, and, through manifold changes in tactics, to press on to the goal of building a revolutionary trade-union movement in the United States (Pet. Ex. 126, p. 240).

Petitioner's witness Kornfeder taught a course at one of Respondent's schools at the national headquarters in New York in 1932

which covered Communist labor-union tactics and strategy, including the organization of secret groups inside of labor unions for the purpose of gaining control of such unions, and the preparation and conduct of strikes.[46]

At its national convention in 1950, respondent resolved:

> We must face the fact that the overwhelming bulk of the organized workers in the country are in the A. F. of L., C. I. O., and independent Right-led unions. It is this which must determine the main direction of all of the Party's work, and especially its trade-union and industrial concentration policy (Pet. Ex. 378, p. 13).

In May 1940, Respondent published in its magazine, *The Communist*, an article by Dennis, then and now a high official of Respondent, entitled "The Bolshevization of the Communist Party In The Struggle Against The Imperialist War," which states it is particularly urgent, in accordance with certain conditions outlined by Stalin in *Pravda* in 1925, to conduct more consistent and effective activity among the A. F. of L. Workers.

An article by Henry Winston appearing in *Political Affairs* for September 1948 (Pet. Ex. 418), entitled "For a Fighting Party Rooted Among the Industrial Workers," was used in discussions at Party Club meetings in October and November 1948, attended by witness Matusow. The article concerns the necessity for mobilizing the workers in the factories as a main base for a successful fight against war and fascism. In a subsequent discussion of the article with witness Matusow, the writer, Winston, said that the question of industrial concentration and the movement of young people, members of the Communist Party youth movement, to basic industries was important at this time because in the event of any "imperialist war" it would be necessary to have people in basic industries to mobilize the workers against such war in an effort to slow down production and to do anything possible to see that such an "unjust war" should not be successful. The writer, Winston, is a member of Respondent's National Committee and was the National Organizational Secretary.

The February 1951 issue of *Political Affairs* (Pet. Ex. 376) "devoted to reports, speeches, and greetings of the 15th national convention of the Communist Party, USA, held in New York City on December 28–31, 1950," contains an article by John Williamson entitled "The Main Direction of the Party's Trade-Union Work" (pp. 54–73), which direction, the author says, must be "among the members of the reformist-led unions" (primarily the A. F. of L. and C. I. O.) (p. 66). The article refers to the role of the Party through its thirty-one years existence and concludes that "in general, the trade-union policies adopted by our Party were correct" (*ibid*, p. 72). According to Williamson:

> The present situation demands from all Party trade unionists, especially in positions of leadership, closer ties with the Party, better understanding of policies, and a more vigorous fight for Party policies among the masses (*ibid.* pp. 72–73).
>
> * * * * * * * *
>
> We know * * * our Party, headed by its helmsmen Foster and Dennis, will lead the working class safely to the port of Socialism (*ibid*, p. 73).

Petitioner's witness Janowitz was a member of Respondent both during the period it was called the Communist Political Association and after it reverted to the name Communist Party. He joined in

[46] His course also included one in Leninism, including the main doctrine calling for the total and complete overthrow of all existing social institutions, the government, and organizations which support the government, as well as the complete elimination of the present state structure and the substitution of a dictatorship led by the Communist Party.

1943 and was still a member at the time he testified in this proceeding. He held minor official positions and was active in Respondent's trade-union work in Ohio. He and one Fred Haug, at a meeting of Communist labor members in 1950, were assigned the duty of getting new members for the Party. Also in 1950, at a meeting of a Communist Party group at the plant where Janowitz was employed, a state official of Respondent handed out copies of *New Times*, published by the newspaper *Trud* in Moscow, and of *For a Lasting Peace, for a People's Democracy*, official organ of the Cominform. The official told the labor members to read and study the documents and pass them on. These documents contain articles which strongly condemn the United States while praising the Soviet Union (Pet. Exs. 412 and 413). On the basis of his experience in the Party, Janowitz learned that the Communists are to take advantage of every opportunity that arises to lead the masses, whether it be through depression or strikes or anything else, and are to be the leaders in any movement that unites the masses for the purposes of "getting rid of the capitalist system in America," and substituting Communism.

Petitioner's witness Evans attended a regional convention of Respondent in 1951 where a talk was made concerning the policy of industrial concentration and Communist work in trade unions. The witness describes the talk as including reference to the necessity of infiltrating the different unions, especially the key unions. His best recollection is that the speaker actually used the word "infiltrating." Similar evidence is furnished by Petitioner's witness Cummings who was taught in Respondent's schools in 1945 that to infiltrate trade-union movements was one of the primary objectives of Respondent.

We have previously referred to the supervision of Respondent's activities by foreign representatives in the United States. In trade-union work, the record shows that Petitioner's witness Kornfeder, while an official of Respondent, disagreed with the change in trade-union policy in 1934 and was expelled for failure to heed Gerhardt Eisler, a foreign representative, who told him not to voice his disagreement. Witness Honig in the early 1930's was given instructions by a Communist International representative in the United States concerning his Party assignment as editor of a publication called *Labor Unity*.

Members of Respondent have in the past been sent to the Soviet Union where they received schooling and instructions regarding trade-union policies and activities. Four of the witnesses in this proceeding had this experience. Witness Nowell was taught trade-union and strike strategy at the Lenin School in Moscow in 1931. Witness Honig was sent by Respondent to Moscow in 1932 where he remained until 1935. While there, he studied the operations of the Soviet trade unions and helped the Communist International to formulate policies to be carried out by Respondent in the trade-union field. Honig sent back to Respondent reports on decisions made by the Communist International or its affiliated Red International of Labor Unions with headquarters in Moscow, on such things as where the Respondent was to step up its activities and try to produce strikes and try to capture control of unions. The Respondent reported back to Moscow commenting on the instructions it received to the effect that the Party had been attempting and believed it was succeeding in carrying out these directives.

The record shows that under Marxism-Leninism, as well as the Communist International and the Soviet Union, the incitement to strike is a tactic of labor union policy and activity. In the late 1920's, a special committee was created by Respondent in an attempt to gain control of the United Mine Workers by utilizing anthracite strikes to Respondent's advantage. In 1934, the Comintern and the Red International of Labor Unions at joint meetings in Moscow, instructed Respondent to press the current situation among the longshoremen and dockworkers in San Francisco to the point of a general strike. These instructions were communicated to Respondent by coded message and were carried out. Manuilsky, then secretary-general of the Communist International,[47] expressed himself as anxious to have the strike since a cardinal principle of Leninism was that a general strike is a rehearsal for revolution or for a seizure of power by the Communist Party.

A strike meeting was called at the Fisher Body Plant in Cleveland in the 1930's at the direction of the Communist International representative, Gerhardt Eisler. In 1940, Respondent instigated a strike at Allis-Chalmers in order to slow down the production of war materials for Great Britain, then at war with the Soviet Union's then ally, Germany. In 1941, Respondent instigated and led a strike conducted by the aircraft division of the United Auto Workers at the North American Aviation Co. in California.

### (*b*) Youth Work

As in the case of Respondent's other policies, activities, and programs, we have taken into consideration in arriving at our determinations regarding Respondent's youth work, the fact that Respondent has republished in the United States and uses as textbooks and guides to action, many of the documents, publications, and writings of leading officials of the Soviet Union and organs under its control, such as the Communist International. We have also taken into consideration the fact that various members of Respondent have been trained in the Soviet Union and that some of its present top officials were intimately connected with the Communist International.

The evidence clearly preponderates to establish that while it was a part of the Communist International, Respondent's youth policies were formulated and carried out and its activities performed pursuant to directives of the Communist International. A decision of the Comintern in 1926, contained in the "Resolution on the American Question" and requiring greater attention to the building of a mass Young Communist League and pioneer movement was distributed by Respondent's general secretary to all District, City, Section Committees, and Language Bureaus of the Party.

A resolution of Respondent's Central Committee wholeheartedly approved the decisions of the Seventh World Congress of the Comintern in 1935 "to build the widest anti-fascist youth front through the world." The Central Committee in its resolution called upon the Party to do all in its power to help the Young Communist League accomplish a change in its character indicated by the Sixth World Congress of the Young Communist International and which had subsequently been approved by the Communist International.

[47] Manuilsky in 1945 was Soviet representative to the initial United Nations conference on international organization held in San Francisco.

The minutes of various top committees of Respondent for the period from October 1925 through November 1938 disclose guidance by Respondent of the Young Communist League in the United States on the basis of directives from the Communist International (examples are Pet. Exs. 58, 71, 72, 73).

Additional evidence as to foreign direction of Respondent's youth policies and activities is furnished by Alexander Bittelman's pamphlet issued in 1932 entitled, *"The Communist Party in Action"* (Pet. Ex. 144) and by Respondent's *Manual on Organization of the Communist Party* (Pet. Ex. 145). In the pamphlet entitled *"The Way Out,"*[48] issued by Respondent in 1934, the Young Communist League is defined as the mass political organization of young workers which leads them in the struggles for their demands and acts as a training school for Communism. It is organizationally independent of the Communist Party, but acknowledges its political leadership and is affiliated with the Young Communist International.

The record establishes that the Young Communist League in the United States was dissolved in 1943 (when the Communist International ceased to exist) and that in its place the American Youth for Democracy was formed as what is known by Communists as a coalition group, being composed of both members and nonmembers of the Communist Party. It was technically a non-Communist organization, formed as a win-the-war organization designed to recruit and influence as many young people as possible for the Respondent Party. Witness Philbrick, a member of Respondent, was State Treasurer of the American Youth for Democracy and one of its leaders. Witness Matusow joined the American Youth for Democracy in 1946 and through his associations therein became a member of Respondent in 1947. He continued to be active in Respondent's youth work and in 1949 assisted in the formation of a new Marxist-Leninist youth organization in the United States—the Labor Youth League. The plan of Respondent which was carried out was to disband all Communist youth clubs and to transfer their leadership to the Labor Youth League under Respondent's leadership. Among the books used by the educational committee of the Labor Youth League for training its members are: *Twilight of World Capitalism*, by William Z. Foster; *The Tasks of Youth*, by Stalin; and *The Young Generation*, by Lenin.

In view of the policy of the world Communist movement for the mass organization of youth organizationally independent of the Party, and in view of the various directives issued to Respondent, all as heretofore set forth, the following quotation from an article in *Political Affairs* for February 1951 (Pet. Ex. 376) is relevant to the issues herein:

> This Convention [15th Natl. Convention, Dec. 1950] reflects real progress in our youth work and better undertanding of our Party policy in this field.
>
> * * * * * * *
>
> The 1948 Convention of our Party gave important emphasis to the need of establishing a non-Party working-class youth organization dedicated to the training of the youth in the spirit of socialism.
>
> * * * * * * *
>
> The recent founding Convention of the Labor Youth League * * * has made a deep impression on our whole Party. In this short time the League has proven

[48] Manifesto and Principal Resolutions adopted by the Eighth Convention of the Communist Party of the USA, held in Cleveland, Ohio April 2-8, 1934 (Pet. Ex. 136).

itself to be a worthy heir of all the best traditions of the Young Communist League, its 25-year record of struggle and its training of many of the outstanding leaders of our Party today * * * (p. 175).

* * * * * * *

Experience has borne out fully the correctness of establishing L. Y. L. as an independent non-Party mass youth organization. The best answer to those comrades who two years ago thought Party youth clubs filled the need for youth work are the thousands of non-Party members of L. Y. L. who are today participating in its activities and learning in a Marxist spirit (p. 180).

Other contents of this article are pertinent for comparison with the principles of Stalin and of the Communist International, as previously herein set forth, that a matter of decisive importance in the proletariat's fight against imperialist wars is the work among the youth. This 1951 article says:

There can be no fully effective fight for peace without waging a struggle against the militarization of youth * * * (p. 176).

* * * * * * *

It follows that these are some of the most immediate issues around which our Party must develop an energetic struggle.

1. No extension of the draft to 18-year olds, veterans and married men. No lengthening of the draft service term. No universal military service and training (p. 178).

Particularly significant for comparison with the foregoing evidence as to respondent's present policy concerning work among the youth as part of the fight against imperialism, is the resolution passed by the Communist International in 1928 entitled "The Struggle Against Imperialist War and the Tasks of the Communists" (Pet. Ex. 148), which says the greatest efforts must be exerted—not only by the youth organizations, but by all Communists—in combating bourgeois sport organizations, fascist organizations, military schools, etc., through which the bourgeoisie are training the youth for imperialist wars. Also, it is stated that bourgeois military training of the youth must be combated.

The obligation which the Sixth Congress of the Communist International (1928) placed upon all Communist Parties to assist in setting up Youth Leagues was approved by Respondent's publication as late as 1950, of an article in *Political Affairs*, entitled "A Generation of Soviet Youth," which refers to such obligation as still authoritative on Party members (Pet. Ex. 477, pp. 85–95). In this article, the author holds up Lenin and Stalin as models for youth and, after reviewing the role which youth played in bringing about the establishment and consolidation of the dictatorship of the proletariat in Russia, pictures the lot of the Soviet youth under such dictatorship as one of security, free from unemployment, and with the right to leisure, whereas in sharp contrast the American youth must face the constant fear of unemployment under the scourge of American capitalism. In conclusion, the author declares that solidarity with the Soviet Union and appreciation of its leading role in the struggle for peace, democracy, and socialism, become the touchstones of true internationism among young people of all countries; and that it is particularly important in the United States—the center of world imperialism—to bring this wonderful understanding to the young people who are studying Marxism-Leninism and to the Party which helps to guide their youth.

The experiences and careers of various witnesses in this proceeding while engaged in youth work as members of Respondent furnish still

further relevant evidence. While in Moscow in 1927 and 1928, witness Crouch as a member of Respondent and a representative of the youth organization, was directed to form in the United States joint units of the Party and the Young Communist League to work together in the Navy yards. He followed this and other directives upon his return to the United States and upon reporting to William Z. Foster and the national officers of the Young Communist League. In 1929, Crouch was a member of the National Young Communist League Secretariat and National Educational Director of the Young Communist League but upon orders given to the National Convention of the Young Communist League in 1929 by a representative from Moscow, Crouch was not elected National Secretary because of his previous support of Lovestone in the factional dispute of the Party.

Witness Meyer before coming to the United States was a member of the Communist Party in Great Britain, where he was active in work for the Young Communist League and was associated with the secretariat of the Central Committee of the British Young Communist League. In 1934, he went to Paris, France, in connection with setting up a world student and youth congress with counterparts in America and Great Britain. This work, while Meyer was in Paris, was under the direction of Walter Ulbricht, who at the time Meyer testified herein was Vice Prime Minister of Eastern Germany. Upon arrival in the United States in 1934, Meyer was assigned by "Gil Green" to youth work in the United States and during the summer of 1934 attended the convention of the Young Communist League of Canada together with "Gil Green" and a Max Weiss from the Young Communist League of the United States.

Witness Philbrick was a member of the Young Communist League for a couple of years before joining Respondent in 1944, of which he remained a member until 1949, continuing his duties in the Young Communist League and later the American Youth for Democracy. The meetings of the American Youth for Democracy which he regularly attended were conducted along the same lines as those held by the Young Communist League, which included training in organization, discussion of current activities on the part of young Communists in the group, and educational sessions on Marxism-Leninism.

Respondent's witness Gates joined the Young Communist League in 1931 to attain what he thought to be the answer to the "personal tragedy" of the depression (Tr. 12595–12603). His activities in the Young Communist League led to his attaining a position of leadership in Respondent, which he joined in 1933. He participated in League agitation for the Unemployment Insurance Act and about the Scottsboro affair (Tr. 12609–10). He says his duties and activities as head of the League in New York State were almost identical with the general activities of Communists during the period—activities by the young people of New York State on behalf of the economic welfare, democratic rights and peace. Later herein we deal with the evidence as to the ideological aspects of Respondent's trade-union, youth, and minorities work.

*(c) National Liberation*

We have previously herein referred to the fact that Marxism-Leninism, the Communist International, the Soviet Union, and the Communist Information Bureau give importance to what they call

the national problem—the "world problem of emancipating the oppressed peoples in the dependent countries and colonies from the yoke of imperialism" (*Foundations of Leninism*, Pet. Ex. 121, p. 77). We have also noted that under Marxism-Leninism, the Comintern, the Soviet Union, and the Cominform, the "national problem" is applied to the Negroes in the United States on the theory that the Negro people in the Black Belt of the South constitute an oppressed nation within the territorial borders of the United States.

The record clearly establishes that a main "line" of Respondent is and has been what it calls the struggle for national liberation of the Negro people. This proceeding is concerned with whether or not the concept and application by Respondent of the theory as to the right of the Negro people in the Black Belt to self-determination is a program which Respondent arrived at independently.

Respondent's position in this respect is summed up by its witness, Dr. Aptheker, as follows:

> * * * I would stick to my answer that the Negro question is a national question, it is certainly not something dictated from abroad or by the Communist International. The Negro question is a national question, is a reflection of objective reality. If it is dictated, it is dictated by life (Tr. 14149).

Dr. Aptheker concedes that, although certain Negro leaders after the Civil War thought in terms of the concept of Negro nationalism, that was not known to the leaders of Respondent and was not used by Respondent in evolving its position on the Negro question. Also, that at the time the policy of self-determination of the Negro people and the Black Belt was enunciated by the Party, it was not the policy advocated, in the developed sense at least, by the majority of the Negro people or a majority of their leaders.

In the early 1930's, the Executive Committee of the Communist International drew up and passed certain resolutions concerning the Negro question in the United States which were sent to Respondent to be carried out. These resolutions established the line of the Communist International to be a demand for self-determination of the Negroes in the United States in the form of unconditional autonomy-separation, or secession from the United States and the establishment of a separate Negro government in the Black Belt of the South. As explained by witness Nowell and corroborated by the copy of the resolution in evidence, if no proletarian revolution has occurred, Respondent is to support the rebellious government of the Negro republic in its opposition to the Government of the United States, in order to weaken the Government of the United States and aid Respondent in precipitating and executing the proletarian revolution. During Nowell's membership in the Party, definite steps were taken to execute this program.

As a member of Respondent, witness Nowell attended the Lenin School in Moscow in 1931, where he was taught that the Negro question in the United States was a part of the colonial question; that the foundation of the colonial problem was imperialist exploitation by the mother countries; that the Communists were to help colonial countries break themselves away from their mother countries, thereby weakening the mother countries and thus aiding the proletariat and the Communist Parties in those countries to precipitate and carry through a proletarian revolution and the establishment of a communist dictatorship. Witness Nowell was disciplined while in the Soviet

Union for voicing disagreement with the theory and demand for separation and secession by the Negroes from the government of the United States and the establishment of a separate government.

Witness Johnson was active in Respondent's Negro work during his membership from 1930 to 1940. In 1932, he attended respondent's National Training School in New York City, where his instructors included William Z. Foster, Gilbert Green, Jack Stachel, Max Bedacht, and others who are presently leaders of the CPUSA. At the school he was taught by a member of Respondent's Central Committee that members of the Party were to work for equal rights for Negroes, which included specifically the right in the Black Belt to rebel and wage civil war to form an independent autonomous Soviet Republic; that the movement toward the establishment of this autonomous Negro Republic should be guided and steered in such a way by the Negro Communists that it would take place simultaneously with the general proletarian or Communist revolution in America. Johnson, who became a Negro member of Respondent's Central Committee, subsequently lectured in the school and before Party meetings and study groups on this program.

In its "*Manual On Organization*," first issued in the 1930's, Respondent said the Negro people are "the other important ally" in speaking of those that the proletariat must win to its cause, and "without whom there cannot be a successful revolution." (Pet. Ex. 145, pp. 14 and 15). The *Manual* quotes the following from an "Open Letter" adopted by Respondent's Central Committee in 1933:

> The Party must mobilize the masses for the struggle for equal rights of the Negroes and for the right of self-determination for the Negroes in the Black Belt. It must ruthlessly combat any form of white chauvinism and Jim-Crow practices. It must not only in words, but in deeds overcome all obstacles to the drawing in of the best elements of the Negro proletariat, who in the recent years have shown themselves to be self-sacrificing fighters in the struggle against capital * * * (*ibid.* pp. 15 and 16).

Witness Cummings was a member of Respondent from 1942 to 1949. He attended one of Respondent's training schools and many of Respondent's meetings. He also read Party literature. He was taught that the primary objective of Respondent was "to infiltrate trade-union movements, Negro organizations, and any organizations that we were able to get into and take control of, to eventually change the system of American Government."

Benjamin Davis, National Committee member, in his report to Respondent's 15th Convention, held on December 28–31, 1950, in New York City, said an important feature of the Negro liberation movement is "the international significance of this question" (Pet. Ex. 379, p. 12); that the "Party's line on the Negro question is a Leninist-Stalinist principle and method of work" (*ibid.*, p. 19); and that—

> Tendencies to treat the Negro people as mere victims of oppression, without seeing their unique positive and revolutionary role in the struggle against capitalist reaction, are a patronizing form of white chauvinism (*ibid*, p. 19).

John Williamson, in a report to the 15th National Convention of Respondent in December 1950, pointed out that "the cause of the working class as a whole cannot advance unless a firm alliance is established with the Negro people and unless the working class assumes its full responsibility in support of the struggle of the oppressed Negro

nation for freedom" (Pet. Ex. 376, p. 69). Jim Jackson, another of Respondent's leaders, puts it as follows:

> The development of higher levels of the Negro national revolutionary struggle in the Black Belt, and the broad mass movement for democratic rights in the South as a whole, is an indispensable prerequisite for insuring the victory of the working class and the American people over the menacing challenge of the ruling-class forces of fascism and war *presently*; and for working-class victory over capitalism *ultimately*. This is a basic fundamental in the strategy for working-class victory, and a special feature of the path to the triumph of Socialism in our country (Pet. Ex. 376, p. 119).

An article in *Political Affairs* for January 1951, entitled "Working Class and People's Unity for Peace! (Main Resolution of the 15th National Convention, CPUSA)," characterizes the Negro people as a "tremendous reservoir of strength for the whole democratic movement" (Pet. Ex. 378, p. 11) and states:

> Because U. S. imperialism is compelled to cloak with demagogic phrases about democracy and equality its drive for world conquest, particularly its military assault against the colonial liberation movement in Asia, the Negro question tears the mask off Wall Street's real face and assumes the greatest international significance (*ibid*, p. 17).

### (*d*) Ideological Versus Political Aims

The foreign-evolved policies, activities, and programs for the carrying out of the world Communist movement, as set forth by the Soviet Union through Marxism-Leninism, the Communist International and otherwise, teach and sanction activities calculated to achieve reforms. The record shows that Respondent has campaigned for and championed reforms such as shorter working hours, nonmilitarization of youth and Negro rights. However, the record shows that such activities are political and only incidentally ideological; that the campaigns are primarily carried out not for the ostensible objective of the campaigns but to aid in the accomplishment of the objectives of the world Communist movement.

In addition to the evidence hereinbefore set forth concerning the true purposes of Respondent's trade union work, youth work, and national liberation activities, the following is pertinent.

Petitioner's witness Evans, chairman of a Party club, delegate to a Party regional convention in 1951, and section educational director in 1951, states, on cross-examination as to recent Negro rights activities of his Party club, that a study of Communist tactics and of Communist strategy will refute the declaration that the interest of the Party in the fight for Negroes is focused upon the individual; he shows that, in effect, the fight for Negro rights is an effort by the Party to make the Negro a useful means of helping the Party obtain the victory of socialism.

*Foundations of Leninism* points out that the necessity for the proletariat to support the national liberation movement of the oppressed and dependent countries does not mean everywhere and always, in every single concrete case, but only where the national movement tends to weaken, to overthrow imperialism, and not to strengthen and preserve it (Pet. Ex. 121, p. 79).

Respondent's publication *The Communist Party In Action*, written by one of Respondent's present leaders, Bittelman, in 1934, says the importance of the daily struggles concerning "small" grievances must

not be underestimated, and quotes the Communist International as stating in effect that only by conducting everyday struggles can the Party achieve a united front and lead the working class to a victorious dictatorship of the proletariat (Pet. Ex. 144, pp. 43–44).

In 1924, Stalin wrote in *Foundations of Leninism:*

> Some think that Leninism is opposed to reforms, opposed to compromise and to agreements in general. This is absolutely wrong. Bolsheviks know as well as anybody else that in a certain sense "every little bit helps," that under certain conditions reforms in general, and compromises and agreements in particular are useful * * *.
>
> Obviously, therefore, it is not a matter of reforms or of compromises and agreements but of the use people make of reforms and compromises * * *.
>
> To a revolutionary, * * * the main thing is revolutionary work and not reforms: to him reforms are byproducts of the revolution * * *.
>
> The revolutionary will accept a reform in order to use it as an aid in combining legal work with illegal work, to intensify, under its cover, the illegal work for the revolutionary preparation of the masses for the overthrow of the bourgeoisie (Pet. Ex. 121, pp. 103–4).

### (e) Conclusion As To Major Programs

Our summary of the evidence concerning trade-union work, youth work, and work among the Negroes, does not include all of the evidence relevant to these subjects. On the basis of the foregoing and upon the entire record, we find and conclude that early in its existence Respondent accepted these policies and programs and has continued to follow them and has not repudiated them; that Respondent's trade-union work, youth work, and national minorities work could only have as their aim the effectuation of the policies of the Soviet Union with respect to the world Communist movement; and that Respondent's policies and activities in these fields are substantially formulated, carried out, and performed, pursuant to directives of the Soviet Union.

*8. Conclusions as to Foreign Policies and Directives*

In view of the findings and conclusions hereinbefore set forth in this section of our report, we find and conclude that:

1. Respondent's organizational form is based upon instructions and directives issued by the Soviet Union;

2. Respondent's organizational policies are formulated and carried out to effectuate the policies of the Soviet Union and the world Communist movement;

3. A substantial number of Respondent's leaders have accepted the views and policies of the Soviet Union concerning the advancement of the objectives of the world Communist movement, and have made such views and policies the views and policies of Respondent;

4. Marxism-Leninism, as understood, used, and followed by Respondent, consists of a body of doctrine, policies, strategies, and tactics intended to bring about the end of capitalism and to substitute for it a dictatorship of the proletariat; it has been promulgated and issued by the Soviet Union as the overall philosophy, authoritative rules, directives, and instructions governing the world Communist movement;

5. Among other things, by the acceptance and following of the organizational devices of democratic-centralism and self-criticism,

as these devices are defined and explained by the Soviet Union, and by the acceptance of and adherence to Marxism-Leninism, Respondent subjects itself to the authority of the Soviet Union;

6. Respondent throughout its existence has and does at the present time teach, advocate, and carry out activities having for their objective the overthrow of the United States Government and other governments which are designated as "imperialist" by the Soviet Union, pursuant to directives of the Soviet Union and to effectuate the policies of the Soviet Union, all for the purposes of defending and protecting the Soviet Union and of establishing in the United States (and other countries) a dictatorship of the proletariat patterned after that in the Soviet Union;

7. Respondent has established a press in the United States patterned after that in the Soviet Union which operates as a means of setting forth for Respondent's members the correct line as laid down by the Soviet Union;

8. The press in the Soviet Union and the journal of the Communist Information Bureau are major communication means whereby directives and instructions of the Soviet Union are issued to Respondent;

9. Representatives of the Soviet Union who were sent by it to the United States have been instrumental in putting or keeping in power leaders of Respondent, devotedly loyal and subservient to the Soviet Union, who have continued to be and still are Respondent's leaders; that such representatives have on behalf of the Soviet Union directed the adoption and use of a number of the Respondent's present policies and activities;

10. Among the major programs set forth by the Soviet Union for the accomplishment of the objectives of the world Communist movement are trade union work, youth work, and work with national minorities; and, pursuant to requirements of the Soviet Union, Respondent has made these its major programs in the United States and carries out such programs pursuant to directives issued by the Soviet Union, for the purposes of effectuating the policies of the Soviet Union and advancing the objectives of the world Communist movement;

11. Respondent's policies are formulated and carried out and its activities are performed pursuant to directives of, and to effectuate the policies of, the Soviet Union, which directs and controls the world Communist movement.

### C. NONDEVIATION

Section 13 (e) (2) of the Act provides that the Board shall take into consideration "the extent to which its [Respondent's] views and policies do not deviate from those of such foreign government or foreign organization."

The petition alleges, in part, on this subject:

> Throughout its existence the Communist Party never knowingly has deviated from the views and policies of the government and Communist Party of the Soviet Union, the Communist International, the Communist Information Bureau and other leaders of the world Communist movement. Whenever such views and policies have conflicted with the position taken by the Government of the United States, the Communist Party has opposed the position of the United States.

Dr. Philip E. Mosely, Professor of International Relations at Columbia University and Director of the University's Russian Institute, was Petitioner's principal witness for the purpose of establishing that Respondent's views and policies do not deviate from those of the Soviet Union. Dr. Mosely has had a distinguished and active career in the field of international relations and for more than 20 years has devoted his research primarily to Russian political and diplomatic history. While so doing, he has had occasion to analyze carefully the publications and other documents issued by Respondent and the Soviet Union. He is eminently qualified to testify as an expert on evidence relative to the "nondeviation" criterion of the Act.

Dr. Mosely's testimony traced the continuing stream of international questions, upon which both the Soviet Union and the CPUSA have announced a position. He enumerated some 45 international questions of major import,[49] extending over the past 30 years, with respect to which there was, as revealed by his testimony, no substantial difference between the position announced on each by the Soviet Union or its official and controlled organs and that announced by the CPUSA or its official and controlled organs.

On each specific topic, several exhibits illustrating the views or policies of the Soviet Union and the CPUSA, respectively, were introduced contemporaneously with Dr. Mosely's oral testimony.

At the hearing, Respondent moved to strike Dr. Mosely's testimony and objected to the admission into evidence of the exhibits offered through this witness on the grounds that: (1) basing a registration order thereon would violate the First Amendment; (2) to base a finding of domination and control thereon would violate the Fifth Amendment; (3) it was not proved that the Soviet Union adopted its views first; (4) Respondent was not allowed proper cross-examination; (5) Dr. Mosely was disqualified as an expert; and (6) exhibits purporting to be translations from the Russian language were not properly authenticated.

Additional objections also raised at the hearing were that specific documents (a) predated the Act;[50] (b) pertained to subjects not covered in the petition; (c) were not shown to express authoritative views; (d) did not establish a parallel view; (e) did not support allegations of the petition; and (f) did not support Dr. Mosely's testimony.

We have reviewed the entire record relative to all of the aforementioned contentions of Respondent. Those pertaining expressly to Constitutional issues will be treated later in this Report under "Legal Discussion." [51] Viewing the record in a light most favorable to Respondent, we find no error in the Panel's acceptance of this particular evidence or in its rulings with respect thereto.

Passing to its exceptions, Respondent took issue in the manner described heretofore (pp. 2–3, *supra*) with every statement in the Panel's decision concerning nondeviation. These exceptions are gen-

[49] Among these are the following: the League of Nations; Soviet Union purge trials, 1937; Russo-Finnish War, 1939; Russian invasion of Poland, 1939; Hitler-Stalin nonaggression pact, 1939; attitude toward World War II before and after German attack on Soviet Union; incorporation of Latvia, Estonia, and Lithuania into the Soviet Union, 1940; second front in Europe; dissolution of Communist International, 1943; revision of Montreux Convention, 1946; Communist movements in Bulgaria, Roumania, Hungary, Albania, China, Czechoslovakia and Yugoslavia; Berlin Blockade, 1948; West Germany; Italian election, 1948; North Atlantic Pact; control of atomic energy; election of Yugoslavia to United Nations Security Council, 1949; Cardinal Mindszenty case, 1949; United Nations police action in Korea; Communist China's intervention in Korea, 1950; seating Communist China in United Nations; Peace Treaty with Japan, 1951; and peace in Korea.

[50] We discuss the question of pre-Act evidence later in this Report under the caption "Legal Discussion," pp. 128 to 132, *infra*.

[51] See pp. 131 and 132, *infra*.

erally, contentious, lacking in specificity and without merit; and, except to the extent that they pertain to matters discussed below or are incorporated in our findings, they do not warrant further comment.

In its brief accompanying its exceptions, Respondent contends that the Panel's concept of the nondeviation criterion is (a) irrational, erroneous, and based on incompetent evidence, and (b) involves conclusions which Dr. Mosely admitted he could not draw. Respondent further asserts that the Panel's misconception in this regard is reflected by rulings which prevented it from showing on cross-examination of Dr. Mosely and in its affirmative case that its views preceded those of the Soviet Union, were correct and reasonable, were arrived at independently by Respondent, and coincided with universal opinion and the best interests of the American people.

With regard to these contentions, we find no material error or irrationality in the Panel's conception of this criterion. We likewise find no merit to the contention that the Panel reached a conclusion which the witness Dr. Mosely admitted he could not make. Dr. Mosely stated in effect that his expert testimony was directed toward analyzing the basic line of thinking, analysis and advocacy of views and policies of the Soviet Union and Respondent and not at the process by which Respondent arrived at a given position on an international question, i. e., whether independently of the Soviet view or as a result of Soviet domination and control of Respondent. We do not understand this to conflict with, or detract from, the purport of his testimony. Whether the oral and documentary evidence adduced through Dr. Mosely tends to establish domination and control of Respondent when viewed with the evidence of record in the light of the other criteria of Section 13 (c) of the Act is for the Board's determination.

With respect to the remaining contentions related above, we conclude that Respondent was permitted reasonable opportunity to cross-examine Dr. Mosely and to establish its affirmative case. It is noted in passing that Dr. Mosely was cross-examined for 15 days. Respondent was not permitted, and rightly so, to put in issue the merits of the views or policies of Respondent, which views and policies were placed in evidence by Petitioner to establish "nondeviation." For in applying the "nondeviation" criterion, the Board is required to view cumulatively the spread of the evidence relating to the nondeviation of views and policies without deciding the merits of any views or policies of Respondent.

Respondent has contended throughout that the term "nondeviation" as used in the Act should be interpreted to mean "following a course already established" and that since a substantial number of Petitioner's exhibits illustrating the view or policy of Respondent predated the exhibits expressing the Soviet view or policy, these exhibits did not show that Respondent adopted a previously established view of the Soviet Union but the contrary. Assertedly, this consideration was reinforced by the absence of proof by Dr. Mosely to establish that the announcement of the Soviet view had preceded the Respondent's expression on the same topic.

Petitioner, on the other hand, took the position at the outset of Dr. Mosely's testimony, and in advance of the raising of this objection by Respondent, that the exhibits under discussion were offered in evidence merely to illustrate the oral testimony of Dr. Mosely on the respective

international questions, in order to show a documentary basis for his testimony; and that the documentary evidence was not intended to establish the date of the first announcement thereon by either the Soviet Union or the CPUSA. Petitioner further argued that in many instances the Soviet view or policy must necessarily have come first, particularly since the first announcement of the Soviet Union's position may have taken the form of a fait accompli, as for example, its unexpected signing of the Hitler-Stalin nonaggression pact.

As stated by Petitioner, these exhibits were placed in evidence to afford a documentary basis for the testimony of Dr. Mosely and not to establish the first announcements of views and policies. Moreover, we have considered Dr. Mosely's testimony with other evidence of record,[52] all of which establishes that Respondent invariably follows the views and policies of the Soviet Union. We do not believe, therefore, that the date sequence of the exhibits placed in evidence through Dr. Mosely is dispositive of whether Respondent's views and policies have deviated from those of the Soviet Union.

We now proceed to set forth our findings on the evidence established by Dr. Mosely and other witnesses relative to this criterion.

The nature of the evidence adduced through Dr. Mosely is illustrated by his testimony, and documents submitted through him, concerning the nonaggression Pact entered into by Hitler and Stalin, known as the Hitler-Stalin Pact of August 23, 1939. He established the identity of views between the CPUSA and the Soviet Union prior to the making of this Pact; the parallel attitude of the Soviet Union and the CPUSA toward World War II while this Pact was in effect; and the simultaneous change of policy on the part of the Soviet Union and the CPUSA after June 22, 1941, the date on which the Pact was abrogated by the German attack on the Soviet Union.

To further illustrate the evidence, it is established that prior to the making of the Hitler-Stalin Pact, Respondent, conforming to the position taken by the Soviet Union, had denounced Fascism in Nazi Germany as the main threat of aggression in the world and as the foremost danger to peace and democracy notwithstanding that the signing of the Pact by the Soviet Union on August 23, 1939, constituted a reversal of the anti-Fascist line and caused considerable consternation and defection among Respondent's leaders and members, Respondent immediately switched to the Soviet Union's position and hailed the nonaggression agreement as an important contribution to peace; when Germany invaded Poland, Respondent echoed the Soviet assertion that the Pact continued to be an important contribution to peace as it would limit the spread of war; and, further, that opposition to this territorial expansion was the work of warmongers; after the defeat of Poland, the Soviet Union and Respondent both took the position that England and France were guilty of prolonging the war; that the war was an "unjust" [53] and imperialistic war and that no country which hoped for peace should assist England and France. Respondent, like the Soviet Union, strongly opposed lend-lease aid by the United States to Great Britain. Immediately after the German attack on the Soviet Union on June 22, 1941, the latter reversed its position, and, almost simultaneously, Respondent did the same; both suddenly concluded that the character of the war had changed; World War II

[52] This consists of documentary evidence, and oral testimony of witnesses Gitlow, Kornfeder, Markward, Matusow, Budenz and others, as illustrated later in this finding.

[53] See discussion of "just" and "unjust" wars, pp. 126 to 127, *infra*.

became in the eyes of both a "just" war; they urged that the "Allies" should have the support of the United States and of all freedom-loving people; they advocated aid by the United States to Great Britain and to the Soviet Union, and Respondent branded those in the United States who opposed such aid as agents of Hitler. Soon after the German attack on the Soviet Union, Respondent joined with the Soviet Union in demanding the opening of a second front "now," with the United States participating therein.

The views of the Soviet Union and Respondent likewise coincided on the trials and executions in the Soviet Union in 1937; Respondent echoed the statements of the Soviet Union concerning the Russo-Finnish War; the same situation prevailed in regard to the absorption of Latvia, Estonia, and Lithuania by the Soviet Union. The Soviet Union and Respondent assumed the same position in 1947-1949 with regard to the internal crisis in Greece in that they both favored the actions of the Greek guerrillas; and they coincided in their views on the change in the Czech government in February 1948.

The evidence relative to this criterion further established that, prior to the Cominform resolution which attacked the Tito government, Respondent paralleled the Soviet Union in giving approval of the course of post-World War II developments in Yugoslavia and of the Tito government. On June 28, 1948, however, the Cominform issued a resolution, initiated assertedly through an exposure by the Soviet Union, which attacked Tito and his regime in bitter terms; among other charges, Tito and his leaders were derided for having entertained the hope that Yugoslavia could build "socialism" without "the support of the Soviet Union." One day later, on June 29, 1948, Respondent also reversed its position on the Tito government and issued a statement lauding this Cominform resolution and criticizing the Tito regime for showing hostility to the Soviet Union and for attempting to "curry favor with Anglo-American imperialism."

The views and policies of the Soviet Union and the CPUSA were identical on the question of the Berlin Blockade in 1948; they have likewise coincided on the course of events in post-World War II Germany.

The views and policies of the Soviet Union and the CPUSA have been substantially the same with regard to the Truman Doctrine, the Marshall Plan, ECA, and the North Atlantic Pact, namely, that the United States participation and leadership in these measures are for the aggressive purpose of domination of the world; whereas, the views and policies of the Soviet Union and Respondent, on the other hand, allegedly support peace and democracy.

The Soviet Union and Respondent took the same position in regard to the Stockholm Peace Petition in 1950 [54] in asserting that all true proponents of peace should support the petition, which was issued by a committee of the World Peace Congress. Respondent supports the Soviet Union's position, as opposed to that of the United States, concerning control and inspection of atomic energy. The same situation prevails regarding the seating of Yugoslavia in the United Nations Security Council, with Respondent supporting the Soviet Union's opposition to the United States on this question. The Soviet Union and the United States Government have taken opposite positions with

[54] Respondent again expressed this view regarding the Stockholm Peace Petition in December, 1951 (Pet. Ex. 488, p. 28).

respect to the representation of China in the United Nations; Respondent maintains the Soviet position which favors the seating of the respresentatives of the Chinese Democratic Peoples Republic and the exclusion of representatives of the Chinese Nationalist Government. Respondent concurred with the views of the Soviet Union in opposition to the United States peace treaty with Japan.

The CPUSA's position in support of the conduct of the Czechoslovakian government in the William Oatis case (American correspondent) coincides with the Soviet Union's position thereon.

The testimony and documentary evidence also established that the CPUSA and the Soviet Union express the same views regarding Korea; both maintain that the Syngman Rhee government is a reactionary "puppet regime"; both vigorously condemn the hostilities in Korea as the direct result of American imperialism and aggression; both insist the United Nations police action is illegal and aggressive toward North Korea; both maintain that this war constitutes a threat to the Chinese Peoples Republic which justifies the Chinese Communist intervention in the conflict; both assert that the Chinese intervention in support of North Korea aids the struggle of "peace-loving" peoples of the world, which are led by the Soviet Union, against the program of the American imperialist aggressors; both charge that the United States desires continuation and expansion of the Korean War; both insist that the United States has disrupted and delayed cease-fire negotiations and blocked peace in Korea; and both demand acceptance of the proposals for cease-fire and "peace" made on behalf of the North Korea Peoples Republic. In short, Respondent and the Soviet Union, regarding Korea and the Korean conflict, coincide completely in their condemnation of the policies of the United States Government in its support of the United Nations in Korea.

In addition, other witnesses established that, during the existence of the Communist International, Respondent did not deviate from Comintern instructions in a single instance; further, that a CPUSA member could not disagree with a position taken by the Cominform and continue to remain a Party member;[55] that in those instances in which the policies of the United States and the Soviet Union appeared to be in conflict, Respondent at no time expressed sympathy with the policy of the United States Government; that the Soviet Union was never criticized in Party circles, but, on the contrary, it was a cardinal rule to praise the Soviet Union at all times; that in 1941 and prior thereto, a Moscow news agency supplied Respondent with political and other news dispatches which were distributed to Respondent's leaders so that they could keep informed of the "party line" and its interpretations; and that the aforementioned dispatches were regarded by Respondent as being directives from the Soviet Union on positions to be taken, and were implemented accordingly. It was stated in Respondent's 1942 Constitution (Pet. Ex. 328, Art. VI, Sec. 15) that no CPUSA member was permitted to have a personal or a political relationship with "Trotskyites," a term used in CPUSA and Soviet Union circles in an odious sense to signify persons sympathetic to a system of deviation from the official "line" of the Soviet Union.

[55] There have been instances of internal deviation within the CPUSA. Such instances usually resulted in dismissal from the Party, as in the cases of Gitlow and Browder. This, of course, in no wise detracts from these findings. In fact, these instances lend even greater weight to the findings, in that they highlight the intolerability with which any deviation is regarded by both Respondent and the Soviet Union.

It is also shown by evidence, in addition to that adduced through Dr. Mosely, that throughout the entire existence of Respondent; including the present, it has agreed with the view of the Soviet Union to the effect that the United States is an imperialistic nation which seeks world domination and whose government should be overthrown, whereas the Soviet Union is a true democracy in search of peace and its aims should be fostered.[56] When the United States was a potential or actual ally of the Soviet Union this chant was not sung by either the Soviet Union or the CPUSA.

Respondent made no effort to rebut the condition clearly shown to exist by Petitioner's evidence. It offered no evidence to establish a conflict between the policies of the Soviet Union and the CPUSA at any time or on any occasion. Nor is there any evidence to show that, where the views or policies of the United States as officially announced conflicted with the views of the Soviet Union, the CPUSA in any instance took a position thereon in harmony with the views of the United States; though its witnesses were repeatedly invited on cross-examination to show such an occasion. Each of Respondent's witnesses evaded a direct answer to the question and, curiously enough, each gave a similar circuitous and equivocal answer stating that Respondent's policies reflect what it conceives to be the true national interest of the American people; that if the views or policies of Respondent and the Soviet Union are similar or identical, this proves only that the national interests of the people of the two nations are the same; that Respondent takes the view that the true national interests of all people are identical; and that Respondent arrives at its views independently.

These platitudes do not negate Petitioner's evidence. Respondent's witnesses were unable to cite a single instance throughout its history where, in taking a position on a question which found the views or policies of the Soviet Union and the United States Government in conflict, the CPUSA had agreed with the announced position of the United States; nor could they show a single instance when the CPUSA had disagreed with the Soviet Union on any policy question where both Respondent and the Soviet Union have announced a position.

The testimony of Dr. Mosely and documents submitted through him embraced a tremendous area of international problems on which the positions of Respondent and the Soviet Union coincide. We have pointed out a representative portion of them. The uniformity is constant and on a wide variety of questions, and is corroborated by other evidence of record.

In evaluating the foregoing evidence we have taken into consideration that during the early history of Respondent, when it was openly a member of the Communist International and less secretive about its objectives, it accepted and effectuated the principles and tactics of the Comintern pursuant to an express condition of membership in the Communist International which required Respondent so to do (Pet. Exs. 8, 6 (c)). Moreover, in weighing the evidence set forth herein we have considered Respondent's adherence to Marxism-Leninism,[57] which in its essence requires acceptance by it of any position that the Soviet Union determines will advance the world Communist movement.

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[56] See "Imperialism," pp. 44 to 54, *supra*; and "Allegiance," pp. 118 to 128, *infra*.
[57] See "Marxism-Leninism," pp. 21–44, *supra*.

The record precludes the conclusion which Respondent would have us draw, i. e., that the uniformity of views results from "sharing a common scientific outlook" and independent application of principles by it and the Soviet Union. The great weight of the evidence is to the contrary.

We find on the entire record that the views and policies of Respondent throughout its history invariably coincide with the views and policies of the Soviet Union. Moreover, Respondent conforms immediately to each reversal in the Soviet Union's views and policies.

We conclude and find that Respondent's views and policies do not deviate from those of the Soviet Union.

### D. FINANCIAL AID

We are directed by the Act to consider "the extent to which it [Respondent] receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization" (Section 13 (e) (3)).

The petition alleges:

> The Communist Party now receives and from time to time in the past has received financial aid, from or at the direction of the government and Communist Party of the Soviet Union, the Communist International and the Communist Information Bureau * * *.

The CPUSA sent members to the Soviet Union to attend schools located there, notably the Lenin Institute in Moscow. The expense for their travel and subsistence was borne by the Communist International.

In the 1920's and 1930's the Communist International financed the travel of CPUSA officials and members to and from the Soviet Union and on missions to other countries for the purpose of orientation and the conduct of official business on behalf of international Communism, such as fulfilling representative functions in the Communist International; in addition to their subsistence, salaries were paid them in some instances by the Communist International for the duration of their stay in the Soviet Union.

During the period from 1920 to 1934, the CPUSA received financial assistanee from the Soviet Union, often in the form of subsidies, which are described more fully in subsequent findings under this heading.

The Communist International contributed the sum of $50,000 to Respondent for the purpose of financing the 1924 campaigns of William Z. Foster and Benjamin Gitlow, the Communist Party candidates for President and Vice President of the United States, respectively; and the Communist International likewise contributed a substantial sum to Respondent to finance the campaigns of these candidates on the same ticket in 1928.

The Communist International directed the establishment of the *Daily Worker* and contributed the sum of $35,000 to Respondent in 1924 for this purpose. During the period of 1936 to 1938 the expenses of the *Daily Worker* were reduced because international news was received from the International Press Correspondence, an organ of the Communist International.

In 1929, a delegation of ten CPUSA officials went to Moscow to appeal a decision of Stalin on a factional dispute within the Respond-

ent organization. The Communist International paid the travel expenses of the members of this delegation.

The Communist International in Moscow announced the decision on the 1929 factional dispute within the CPUSA. Thereupon, the Communist International gave a substantial sum of money to the Chairman of the new Secretariat of the CPUSA, which had been formed by the Communist International. These funds were to be used to establish a new newspaper, loyal to the Communist International, in the event that the CPUSA lost control of the *Daily Worker* because of the factional dispute; further, the Chairman of the newly formed Secretariat was given a substantial additional sum to finance enforcement among the members of the CPUSA of the decision reached in the Soviet Union regarding the leadership of the CPUSA.

The Trade Union Educational League (TUEL) was formed in the early 1920's pursuant to instructions from the Communist International; the latter also furnished a subsidy for the initial financing of this newly formed organization.

In 1928, a Trade Union Delegation was organized in this country by the CPUSA at the direction of the Communist International, to visit the Soviet Union. A member of this delegation's technical staff, who was a secret member of Respondent, eventually wrote the delegation report. The Communist International partially financed the organization and expenses of the delegation's visit to the Soviet Union.

About 1928, the Communist International subsidized, by grants of substantial sums of money, a campaign by the CPUSA among the members of the United Mine Workers to defeat John L. Lewis for the union presidency.

During the early period of Respondent's existence in the United States, paid functionaries of the CPUSA were permitted to purchase books at ⅓ discount from the International Publishers, the latter being a Soviet Union publishing organization in the United States.

In 1929, or shortly thereafter, the Communist International directed that Respondent form Port Bureaus at leading ports in this country. The purpose was to facilitate recruiting and organizational work on the waterfront on behalf of the CPUSA. The establishment of these bureaus was facilitated by funds furnished by the Communist International.

In 1927, a representative of the Communist International requested that the CPUSA send a delegate to the International Miners Conference at Moscow. Respondent's Political Committee voted unanimously to reply that it would send a delegate but that funds for the delegate's fare should be cabled to the Respondent organization.

Amtorg is a trading corporation of the Soviet Union which was organized in the United States in 1924. From its inception until 1929, Amtorg rendered financial assistance to Respondent by: (a) paying excessive rates to Respondent publications for placing advertisements therein, and (b) making it possible for the Communist Party School of Business Relations to realize money from insurance and other activities.

During the period from 1919 to 1934, members of the CPUSA were sent to other countries to assist in Communist Party activities there, in many instances under specific instructions from the Communist International; the Communist International financed these missions.

A member of Respondent organization, who was specializing in labor activities in the United States, was sent to the Soviet Union in 1934 to serve as a representative of the Trade Union Unity League at the Red International of Labor Unions at Moscow; the latter was a section of the Communist International. Funds for the trip were furnished by Jacob Golos, a representative of the Soviet Union in the United States. Subsistence while in Moscow was borne by the Red International of Labor Unions.

In 1927, the International Red Aid sent Russian films to the United States, free of any charge. The films were delivered to the International Workers Aid. The CPUSA determined the distribution of profits realized from the showing of the films in the United States.

In the 1920's, the Communist International sent a show troupe to the United States called the "Blue Blouses." This troupe operated under the auspices of the Workers International Relief. The funds realized from their tour in this country were distributed to various organizations by Respondent, including itself and the *Daily Worker*.

During the years 1930 to 1934 the Communist International provided subsidies for *Labor Unity*, a labor magazine operated under the direction of the CPUSA.

In 1939, the Treasurer of the CPUSA stated that it was impossible to put additional CPUSA funds into the *Midwest Daily Record*, a CPUSA controlled paper, because at that time communications to their sources of funds abroad, i. e., the Soviet Union, had been disrupted.

During the late 1930's, the *Daily Worker* received political news dispatches free from the Runag news service in Moscow. These dispatches were used by the editorial staff of the *Daily Worker* and, also, were distributed to the Party leadership for scrutiny and study. After the passage of the Foreign Agents Registration Act in 1938, these dispatches were sent to *The Intercontinent News*, a corporation which had been formed by the CPUSA in New York City to handle the service in a manner that to all appearances would be independent of the *Daily Worker*. This medium in turn relayed the dispatches to the *Daily Worker* at a nominal cost.[58]

In or about 1949, Respondent, through International Publishers, received from the Soviet Union book plates and English translations of books, such as an edition of *The Selected Works of Lenin*, as well as actual page proofs for books, with no charge.

After the passage of the Voorhis Act in 1940, with the consequent nominal disaffiliation of Respondent from the Communist International,[59] evidence of such financial aid does not appear in the record with one exception, this being the above instance of financial aid to Respondent in or about 1949.

Respondent denies that it receives financial aid from or at the direction of the Soviet Union or the Communist International; and denies the relevancy of the above findings to any issue in this proceeding.

We find a preponderance of the evidence in the record establishes numerous instances of substantial financial aid which flowed to

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[58] This news service from Moscow ceased in 1944 when the Department of Justice ordered *The Intercontinent News* either to label its news material as propaganda or to discontinue its service. Thereafter, the *Bulletin* of the Soviet Embassy was used as a news source. We have reviewed Respondent's Exhibits 70–75, incl., but we do not credit them for the purpose offered in view of the testimony of Petitioner's witness Budenz concerning them, which we accept.

[59] This is discussed fully hereinbefore.

Respondent from and at the direction of the Soviet Union and the Communist International; and we conclude that the above findings are relevant to the ultimate issue in this proceeding in the light of the whole record.

E. TRAINING AND REPORTING

Sections 13 (e) (4) and (5) of the Act provide that in determining whether or not an organization is a "Communist-action organization," the Board shall take into consideration:

(4) the extent to which it [Respondent] sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movement; and

(5) the extent to which it [Respondent] reports to such foreign government or foreign organization or to its representatives; * * *.

The petition alleges inter alia:

The Communist Party regularly reports and has reported to the government and Communist Party of the Soviet Union and to the Communist International and the Communist Information Bureau, and has sent members and representatives to the Soviet Union and other foreign countries for instruction and training in the principles, policies, strategy, and tactics of the world Communist movement * * *.

Respondent denies the foregoing allegations of the petition, but states in its amended answer that during the period of its affiliation with the Communist International, members and representatives of Respondent attended and participated in Communist International Congresses and certain of its committees; that members of Respondent have from time to time visited foreign countries, including the Soviet Union; and that, in the past, certain members of Respondent studied in the Soviet Union.

In its amended answer and again in its exceptions, Respondent denies the relevancy of any of these conceded facts to any issue in this proceeding. Upon consideration of the record, we do not agree with this contention.

The evidence pertaining to "training" and "reporting" is somewhat interwoven and we have, therefore, consolidated these subjects in this section of our report.

Since Respondent admits that its members have studied in the Soviet Union, that it has participated in meetings of the Communist International, and that it has sent representatives to the Soviet Union, it is unnecessary to set forth in this part of our report the considerable amount of detailed evidence establishing these points, except to the extent it may be necessary for an understanding of the findings under these criteria.

An elaborate world-embracing school system was established in Moscow for training Communists and preparing them for leadership roles in the world Communist movement. The Western University taught trainees from the semi-agrarian areas, such as the Balkan and Baltic countries; the Eastern University schooled trainees from the Asiatic countries, such as China, Siam, and Korea; the Academy of Red Professors was a training school for theoreticians for the world Communist movement; a special section of the Fronze Military Academy was devoted to training students sent from foreign countries; and the Lenin School took in trainees from the "more advanced" countries, such as Germany, France, England and the United States. Petitioner's witness Honig was an American instructor at the Lenin

School in 1934–35 where he taught labor subjects to a select group of Respondent's members. In the main, however, the school's instructors were Russians.

To qualify for training in Moscow a CPUSA member had to be recommended by Respondent and approved by the Communist International, which had established as qualifications for selection that the student be less than 36 years of age, have 5 years of active Party work, and be above average in ability.

Petitioner's witness Crouch, during the period 1928–30, studied material at the Fronze Academy pertaining to civil war, guerrilla tactics, and sabotage.

From 1928 to 1936, many of Respondent's outstanding members were sent to the Lenin School for varying periods where they received training and instructions in the strategy and tactics of the world Communist movement. Among them were Gus Hall, [60] Steve Nelson, Irving Potash, [60] Charles Krumbein, Joseph Kornfeder, George Siskind, Morris Childs, Ray Hansborough, Roddie Lester, Admiral Kilpatrick, Abraham Lewis, Margaret Unjus, Rudolph Baker, Sclar, Harry Haywood, Odel Nowell, Charles White, Leonard Patterson, Timothy Holmes, William Patterson, Hutch Hutchinson; George Hewitt, Sam Nessin, Beatrice Siskin, Philip Raymond, John Marr, William Brown, Claude Lightfoot, William Taylor, Bill Kruse, and Bell. Many of the aforementioned persons held high positions in Respondent, [61] including Nowell and Kornfeder who testified for Petitioner in this proceeding.

The evidence establishes that in the early 1930's Respondent's students in the Lenin School were taught such subjects as Marxism, Leninism, the history of the labor movement, trade-union and strike strategy, history of the Communist Party of the Soviet Union, history and organizational structure of the Communist International, the national and colonial problem, including the concept of a Negro nation in the "black belt" of the United States; [62] the history of the CPUSA; international propaganda, the theory and practice of Soviet economy, revolutionary tactics and the science of civil warfare. These subjects at the school were adapted to the peculiar conditions in the countries of the students, including the United States. For instance, the course given Respondent's members on civil warfare included political and economic conditions in the United States, the culture of the people, the terrain, the histories of the United States and the CPUSA, and the degree of political maturity in the United States. Students in the course were taught also how to convert economic strikes into political strikes, and then into general strikes that might precipitate revolution. They also were taught how to disassemble and reassemble the guns and small arms of the major nations.

For the actual carrying out of the revolution, Red Army officers taught military details in both legal and guerrilla warfare, how to erect barricades, snipe, throw grenades, use gas masks, sabotage, take over the system of transportation, seize food supplies and persuade army units to fight with the insurgents and guerrillas. They were taught how to capture and hold hostages, capture arsenals, arm Communist supporters, utilize and destroy food and water supplies, and, in general, how to carry on a total revolution for the seizure of power.

[60] Convicted in 1949 of conspiring to teach and advocate the overthrow of the United States Government.
[61] Gus Hall signed Respondent's amended answer in this proceeding as National Secretary of the CPUSA. Claude Lightfoot was an alternate member of Respondent's National Committee in 1950.
[62] See pp. 74–77, *supra*, for a full discussion of this subject.

All this was taught with the object of destroying the economic system in the United States, and establishing a dictatorship of the proletariat here.

Concerning strategy and tactics, students at the Lenin School were taught, among other things, that "partial demands," i. e., demands within the framework of democratic procedure dealing with limited grievances on everyday problems, served as a tactical means, "a cutting edge," for the Party in mobilizing for the long range objective of the general strategy, this being the overthrow of capitalist governments everywhere through proletarian revolution. This tactic has been utilized constantly by Respondent in this country.

On the subject of "just" and "unjust" wars, the students were taught that any war in which the Soviet Union becomes involved is a "just" war for the Soviet Union, regardless of whether the Soviet Union is the aggressor or defender; that any war between a colony and its mother country is a "just" war for the colony; and conversely, any war against the Soviet Union, regardless of who is the aggressor, is "unjust" for the Soviet Union's adversary. In the event of war between two "imperialist powers" the students were taught to work for the destruction of both and thus leave to the Soviet Union a clear field for future conquest.[63]

Concerning the ultimate aim of the Party regarding capitalist-imperialist nations, students were taught that the class struggle prevailed throughout the capitalist world; that internal contradictions within these states were becoming sharper; and that their international imperialist policies toward colonial peoples were becoming more oppressive. They were further taught that, in view of these political and economic conditions, it was the duty of the CPUSA, as a part of world Communism, to cultivate revolutionary movements in colonial countries; and, in striving for world socialism, to work for the overthrow and complete abolition of capitalist states and imperialism.

In conformance with the foregoing, students from the United States were taught that the proletarian revolution was necessary and that it was their major duty to work under the leadership of the Communist International and Respondent for the overthrow of the United States Government.

The texts used by Respondent's members at the Lenin School included Lenin's *State and Revolution* (Pet. Ex. 139); *Left Wing Communism; Military Revolution; Imperialistic War; What Is To Be Done* (Pet. Ex. 417); *How It Is To Be Done; Imperialism* (Pet. Ex. 140); *Infantile Leftism;* a modern treatment of Lenin's works by Leontov entitled *Leninism by Leontov;* Stalin's *Foundations of Leninism* (Pet. Ex. 121); and *Problems of Leninism* (Pet Ex. 138); Marx's *Capital;* the *Communist Manifesto* (Pet. Ex. 31); Engel's *Scientific Socialism;* the *Programme of The Communist International* (Pet. Ex. 125); the *Theses and Statutes of the Third (Communist) International,* including the 21 conditions for membership therein (Pet. Ex. 8); a number of writings by Soviet authors concerning political policies and the economy of the Soviet Union; and other works.

The purpose of Lenin School instruction as explained by Earl Browder, then leader of Respondent, was to develop Party leaders and through them to raise the political and ideological level of the

[63] An illustration of adherence by the Soviet Union and Respondent to this principle is found in the portion of this report dealing with their policies regarding World War II (see p. 83, *supra*).

Party membership as required by the development and intensification of revolutionary situations developing in countries throughout the world, including the United States.

In addition to the formal institutionalized schooling in the Soviet Union, many of Respondent's highest functionaries have received training through serving abroad in various positions of the international Communist organization. Honig, while functioning as CPUSA representative to the Red International of Labor Unions, was sent to various places in the Soviet Union to study Soviet operations and the activities of Soviet trade unions. William Z. Foster,[64] Earl Browder,[65] Gilbert Green,[66] Charles Ruthenberg, and Alexander Bittelman,[66] functioned for various periods during the 1920's and early 1930's in Moscow as members of the Soviet-controlled Executive Committee of the Communist International. In addition to the aforementioned position, Foster also served on the Presidium of the Communist International and Green was a member of its Young Communist League Secretariat. William F. Dunne served as an alternate member of the Executive Committee of the Communist International in the 1920's. Bosse functioned in the Information Department of the Communist International in 1926 and 1927. In the early 1930's, Clarence Hathaway functioned as representative of Respondent to the Communist International and also served as a member of the Anglo-American Secretariat of the Communist International in Moscow. Robert Minor succeeded Hathaway as Respondent's representative to the Communist International. Other members who served as the Party's representatives in Moscow include Louis Farina, John Reed, Nicholas Horawich, Israel Amter, Louis Engdahl, Max Bedacht, Harrison George, and H. M. Wicks. Morris Childs was a member of the Lander Secretariat of the Comintern. Harry Heywood served on the International Negro Bureau of the Communist International.

The record establishes that following their return to the United States, members of Respondent who had been trained and indoctrinated in the Soviet Union taught in Respondent's schools, and put into practice, where circumstances permitted, that which they had learned in the Soviet Union.

There is no substantial evidence of record showing training of Respondent's members in the Soviet Union subsequent to the outbreak of World War II. However, it is established that the extensive foreign training set forth above is still being effectuated in this country by Respondent. This training was clearly a program initiated by the Soviet Union to indoctrinate while there outstanding workers and leaders of Respondent so as to have a cadre for imparting such training to Respondent's membership in the United States.

It is apparent that World War II, and what Respondent has termed the "political situation" in this country subsequent to the war, have made travel to Moscow to obtain such training inexpedient or impossible. It is reasonable to conclude that this foreign training is no longer imperative to the functioning of Respondent as a Marxist-Leninist Party because its outstanding members and leaders, having received Soviet indoctrination, are able to educate, similarly, students

[64] Presently leader of Respondent.
[65] Leader of Respondent 1929–45.
[66] Recently convicted of conspiring to teach and advocate the overthrow of the United States Government.

at Party schools in this country and to dispense their previous training through Respondent's publications and activities.

We find that Respondent has sent its members and representatives to the Soviet Union, at the latter's insistence and with its financial assistance,[67] for instruction and training in the principles, policies, strategy and tactics of the world Communist movement, as determined by the Soviet Union, for the purpose of adopting and effectuating such principles, policies, strategy and tactics in the United States, which it does.

There is considerable evidence of record that Respondent reports to the leadership of the world Communist movement, as we now establish.

In 1926, William Z. Foster and Alexander Bittelman were in Moscow and made a written report to the Communist International covering Respondent's activities during the year 1925 with reference to the economic and political situation in the United States, trade unions, Socialist Parties, Bolshevization of Respondent, Leninist education, United Front campaigns, Negroes, farmers, women, anti-imperialism and internal Party developments.[68] The witness Gitlow went to Moscow in 1927, 1928 and 1929 to discuss similar matters with the Comintern officials. In 1929, Gitlow and other members of Respondent traveled to the Soviet Union to participate in a hearing held in Moscow by the Communist International to resolve the factional dispute then raging within Respondent. (The details of the settlement of this factional dispute are discussed *infra*, pp. 101–102, *supra*, pp. 13–14.)

Respondent's youth organization, the Young Workers League, was in continuous communication with the Young Communist International. The witness Crouch visited Moscow in 1928, where he met with general staff officers of the Red Army and reported to them concerning activities designed to increase Communist infiltration in the American armed forces. He presented a tentative draft for future work, posed questions, and received answers and detailed directives. Reports of Respondent's work on the Negro question, including the work of the Party-controlled American Negro Labor Congress, were sent in the 1920's to the Eastern Department of the Communist International, which then had jurisdiction over this phase of Respondent's activities. The witness Nowell reported on behalf of Respondent in Moscow in 1930, on matters concerning the Trade Union Unity League (TUUL) in the United States. During his stay in Moscow, Nowell received instructions in various aspects of the world Communist movement including the Negro question in the United States.

The witness Honig went to Moscow in June 1934, and remained there until November 1935 as "referent" and official representative of the Trade Union Unity League and Respondent to the Red International of Labor Unions, a creature of the Communist International. Honig, representing Respondent, attended meetings of representatives from various Communist parties throughout the world that were held in Moscow not less than once a week. At these meetings, the representatives reported on the activities in which their parties were

[67] See findings under "Financial Aid," pp. 86–89, *supra*.

[68] Their report also contains various statements as to Respondent's activities in carrying out "decisions" and "main lines of policy" dictated by the Communist International and, therefore, constitutes additional evidence to that reviewed in support of our finding and conclusion that Respondent acts pursuant to directives and to effectuate policies of the Soviet Union as covered *supra* at pp. 78–79.

engaged among trade unions in their respective countries, and discussions based on their reports followed. Leaders of the Comintern were always present at these meetings and registered approval or disapproval of the work being carried out in the various countries; they also determined whether such work was being carried out according to the instructions of the Comintern and gave directions as to how it should be conducted. Honig, while functioning in the Communist International's labor organization (RILU) in Moscow, received reports from Jack Stachel,[69] then acting head of the Trade Union Unity League, and Earl Browder, then head of Respondent, concerning the failure of the San Francisco general strike of 1934. Reports which Honig received at the Red International of Labor Unions were generally mimeographed or typed when not of a confidential nature and were sometimes sent through the mails. Confidential reports were taken to Moscow by American Party leaders and by Respondent's students going to the Soviet Union for training.

Minutes of meetings of Respondent's Central Executive Committee and its Political Committee were sent to Moscow during the 1920's and 1930's. Reports also were sent by various departments of Respondent's national headquarters and by individual CPUSA leaders. As positions of leadership in Respondent could not be held without the approval of the Soviet Union, advancement in the Party depended in part upon the reflection of a member's work in these minutes and reports. In addition to the foregoing, the minutes of Respondent's Political Committee covering official actions of Respondent during the years 1925 to 1928 reflect many instances of reporting to the Communist International through representatives sent to Moscow and through other channels of communication.

The Information Department of the Communist International collected and digested for the Comintern's Executive Committee, all information sent from the American Party. The Anglo-American Secretariat of the Communist International received reports from the English speaking Communist Parties, including Respondent; and during witness Kornfeder's membership on this Secretariat in the period 1927 to 1930, he received reports and recommendations from Respondent concerning the situation then existing in the United Mine Workers Union.

In 1932, Earl Browder reported to the Communist International on behalf of Respondent's Central Committee concerning economic developments in the United States as they related to the world situation at that time.

It is reasonable to conclude that Respondent has reported more recently to the Soviet Union through representatives of the World Communist movement from evidence furnished by the witness Matusow. While he was state literature director of the New York State Labor Youth League, Matusow attended a meeting in the fall of 1949 at which Lou Diskin (a member of the CPUSA) gave a report on a recent trip that he (Diskin) had taken to Budapest, Hungary, where he met with J. Peters [70] at a World Youth Festival. Diskin remained to report on and discuss the American youth movement of Respondent, and the American Communist Party movement generally, with officials of the World Federation of Democratic Youth, and with

[69] Convicted in 1949 of conspiring to teach and advocate the overthrow of the United States Government.
[70] See pp. 60–61, *supra* re Peters.

representatives of the Communist Information Bureau (Cominform). Elizabeth Gurley Flynn, a member of Respondent's highest governing body and a witness for Respondent herein, visited France in 1945, 1949, and again in 1950, where she met with Communist Party leaders of other countries, including, in 1945, the Soviet Union. At the 1949 meeting, there was discussed the question of the "imperialist war" which the conferees claimed was being fomented by the United States, and they considered the steps to be taken and the role of Respondent with reference to this question.

The record discloses an instance where, by means unknown, the contents of an important letter written by William Z. Foster concerning Respondent's affairs were communicated to Jacques Duclos, General Secretary of the Communist Party of France and a former member of the Executive Committee of the Communist International. The letter in question played a decisive part in Respondent's reconstitution in 1945, as elsewhere herein covered.[71] The record further shows that Respondent has reported its program and activities to the Soviet Union through representatives of the Communist International and other agents of the Soviet Union in the United States,[72] who exerted influence and control over the leadership and programs of Respondent.

In addition to Respondent's reporting in the aforementioned ways, the record establishes the existence of another form of reporting through the issuance and exchange of significant, detailed and timely information in the form of "greeting," which are generally reprinted in Communist publications.

This exchange of messages contained in "greetings" commenced early in Respondent's history. We will cite typical examples of the numerous "greetings" so exchanged. The following "resolutions were adopted at Respondent's convention in 1921 and sent to the Soviet Union:

* * *

2. Greetings to the Third World Congress of the Communist International.

The delegates of the Communist Party of America and the United Communist Party of America, in joint Unity Convention, send ffaternal greetings to the Third World Congress of the Communist International. In the name of the revolutionary proletariat of America, we affirm our determination to fight under the banner of the Communist International for the overthrow of the American imperialism and for the establishment of the proletarian dictatorship. Hail to the International Soviet Republic! Long live the Communist International! (Pet. Ex. 13 (a)).

3. Greetings to the Soviet Republic.

* * *

The unified party, the Communist Party of America, declares that it will render all possible assistance to the Russian Soviet Republic in its struggle against the counter-revolutionary bands of the world imperialism. The Communist Party of America declares that only by the overthrow of world imperialism will the safety and mastery of the Soviet Republic over its enemies be definitely assured. The Communist Party of America pledges itself to rally the revolutionary proletariat of America for the annihilation of the most formidable stronghold of world imperialism: the American capitalist state, and to struggle for the establishment of the proletarian dictatorship. Down with world imperialism! Hail to the universal Soviet Republic! Long live the international solidarity of the workers! (Pet. Ex. 13 (a)).

4. To the Third World Congress of the Communist International.

[71] See pp. 15–16, *supra*.

[72] See pp. 59 to 61, *supra*, re activities of these representatives in this country.

The Unity Convention of the Communist (sic) of America and the United Communist Party of America fully upholds and endorses the firm and uncompromising stand of the Executive Committee of the Communist International against the opportunistic and centrist elements in various countries—in Italy (Serrati), and in Germany (Levi). The convention instructs its delegates to the third world congress to uphold and defend the stand of the Executive Committee of the Communist International * * * (Pet. Ex. 13 (a)).

* * *

In September 1927, on the occasion of its Fifth Convention, Respondent received "greetings" from the Comintern that were read to the Convention by acting chairman Gitlow, after which the governing body of Respondent was instructed to draw up a reply. The Comintern "greetings," in part, follow:

In the country of the most powerful imperialism and a most brutal capitalist class the Communist Party can fulfill its duty and can become the leader of the working class against imperialism and capitalist aggression only if it is united and if it is not torn to pieces by factional struggle.

The Comintern considers as one of the central tasks of the Party the *extermination of all factionalism* and the *unification* organizationally as well as ideologically. It will be the duty of the newly elected Central Executive Committee to lead the Party in a nonfactional spirit and it will be the duty of the whole Party membership to rally around the Central Executive Committee which it itself shall have chosen. * * * [Italic supplied.] (Pet. Ex. 23.)

This "greeting" elicited a response which Respondent openly declared to be a "reply" and in which it gave assurances to the Communist International that it would comply with what were, in effect, the directions contained in the Comintern "greeting." This reply is as follows:

The Fifth Convention of the Workers (Communist) Party greets the International leader of the working class, the Communist International. Under its leadership and with our own firm and unanimous determination to unify our Party, we will overcome the tremendous difficulties in the path of building a mass Communist Party in America. The Convention recognizes fully as Party's task the winning of the American proletariat for the revolutionary struggle against American imperialism.

In the execution of this task we are inspired and guided by the principles of Marxism and Leninism, by the experiences of the victorious struggles of the Russian proletariat and the heroic battles of the exploited and oppressed masses of Europe and Asia. The Convention and the incoming Central Executive Committee pledge themselves speedily *to eliminate all remnants of factionalism* and to unify the Party as a prerequisite for the further success of our work. [Italics supplied.]

We pledge *the unification of our Party* and to fight more effectively for the defense of the Soviet Union and the Chinese revolution and against the war danger as well as to resist more effectively the offensive of the capitalist reaction and the reactionary trade union bureaucracy against our Party and the militant section of the American working class. [Italics supplied.]

The Convention is spurred by a full consciousness of its duty to recruit the toiling masses of America for relentless struggle against American imperialism.

Long live the Soviet Union!

Long Live the Communist International!

Fifth National Convention.
Workers (Communist) Party.
(Pet. Ex. 24.)

On the occasion of the Sixth Convention of Respondent, in 1929, a "greeting" was sent to the Communist International in Moscow which contained the following:

We greet our Communist International leadership and pledge our Convention and our Party to prepare itself, to strengthen itself, to clarify itself, for its share of this task. It will close its ranks, it will cleanse its ideology from the poison of opportunism, it will defeat Trotskyism, it will mobilize against and lead the Ameri-

can proletariat for the struggle against the imperialist war; *it will mobilize the American workers for the defense of our Soviet Union and for the final defeat of American imperialism by the revolutionary overthrow of American capitalist rule.* [Emphasis supplied.]

Long Live Leninism!

Long Live the Communist International! (Pet. Ex. 28).

On December 21, 1949, the *Daily Worker* reprinted a telegram "greeting" sent by Respondent to Joseph Stalin on his 70th birthday which states, among other things:

Like the Communists and other true partisans of peace, democracy and progress in all lands, we hail your more than 50 years of sterling leadership in the interest of the international working class and humanity.

* * * * * * *

Under a Hitler-like anti-Soviet and anti-Communist smokescreen, the American imperialists launched their predatory and aggressive Truman Doctrine, Marshall Plan, and North Atlantic Pact.

* * * * * * *

Undaunted by the threats of the war instigators, the USSR steadfastly pursues its Stalinist peace policy and promotes cooperation with all who strive for peace. And the mighty world camp of peace, democracy and socialism headed by the Soviet Union, daily becomes more powerful and is destined to triumph.

* * * * * * *

In our country, too, the organized peace forces, among the workers, the Negro people, men and women of science and culture, are growing and will continue to grow in unison with the peace forces of the world.

After stating that the American people "favor acceptance" of Stalin's proposals for a "Pact of Peace, for demilitarizing and democratizing Germany and Japan, * * * outlawing the atom bomb", the telegram declares that the American people envy and admire the Soviet Union's peaceful harnessing of atomic energy and that they rejoice at the victory of the Chinese Communists and their bond with the Soviet Union. The so-called telegram "greeting" closes by stating:

With full confidence in the American working class and people, the Communist Party of the USA exerts every effort to assure that by their united action they will check and help defeat the fascist-minded monopolists and warmongers. As this united action grows in influence and scope, it will bring its full weight to bear for the achievement of an American-Soviet pact of peace and friendship—the cornerstone for world peace.

Long life to you, Comrade Stalin, and to your great and enduring contributions to world peace, democracy and Socialism (Pet. Ex. 375).

Petitioner's witness Lautner establishes that the primary significance of this "greeting" lies in Respondent's reaffirmation of loyalty to Stalin as the acknowledged leader of the world Communist movement.

That such "greetings" actually convey significant messages between members of the world Communist movement when the wording appears comparatively innocuous to the uninitiated is made clear by both testimonial and documentary evidence of record. The following quotation from the August 1, 1948, issue of *For a Lasting Peace, for a People's Democracy,* official organ of the Communist Information Bureau, demonstrates the significance given to a simple statement of solicitude by Stalin:

Comrade Stalin's telegram to the Central Committee of the Communist Party of Italy said: "The Central Committees of the Communist Party of the Soviet Union (Bolsheviks) is grieved that Comrade Togliatti's friends failed to protect him from this foul and cowardly attack."

The reply sent by the Central Committee of the Italian Communist Party to Comrade Stalin is worthy of this well-tested Party. *In their answer the Italian comrades assure Comrade Stalin that the solidarity of the heroic Soviet people and*

*Stalin's warning about vigilance will be for the Italian Communists "a spur to strengthen and develop the struggle of the united international front of peace, democracy and socialism."*

*All* the Communist Parties took Comrade Stalin's *message to* the Italian Communist Party *as the expression of his great solicitude for the international working class movement and its leaders.*

*Increased struggle against remnants and revivals of fascism, the welding of all supporters of democracy and progress into a single socialist camp will be the best answer of the Communists of all countries to Comrade Stalin's solicitude.* [Emphasis supplied.] (Pet. Ex. 264.)

To show further the significance attached by the initiated to these "greetings", Lautner explains in this light the import of "greetings" received by Respondent at its 15th Convention in December 1950 from the Communist Party of the Soviet Union (CPSU), which follow:

The Central Committee of the Communist Party of the Soviet Union extends fraternal greetings to the 15th Convention of the Communist Party of the U. S. A. We wish the Communist Party of the U. S. A. successes in its *struggle against reaction*, for the vital interests and rights of the working class and all toilers of the United States of America, for the *ideological strengthening of the Party ranks*, for lasting peace between the peoples.

May the international solidarity of the toilers in the *struggle for peace, democracy and Socialism* gather strength. [Italic supplied.]

Long live the friendship between the peoples of the United States and of the Soviet Union!

Long live the Communist Party of the United States!

CENTRAL COMMITTEE
*Communist Party of the Soviet Union*
(Pet. Ex. 376, p. 229.)

Lautner, from his experience as a former high official of Respondent (until January 1950) and as a student of Marxism-Leninism, establishes that this greeting from the CPSU was a political document of the highest importance to Party members since in a concise way it raised all the key problems confronting Respondent. Specifically he interpreted some of the various terms used by the CPSU as follows: "struggle against reaction" as basic Marxist-Leninist opposition to imperialism and monopoly capitalizm, i. e., the basic line of the Party; "struggle for peace, democracy, and socialism" as the new tactical approach since the end of World War II on which a new tactical united front is to be built; "ideological strengthening of the Party ranks" as a reference which the Soviet Party used to call the attention of the rank and file Party members to the "Browderite" disaffection and other opportunist deviations.

It is reasonable to conclude, and we do so, that the language used by Respondent in its "greetings" to the Soviet Union is likewise possessed of veiled content through which Respondent reports in this manner to the Soviet Union.

Respondent's witnesses deny categorically that Respondent reports or has reported to the Soviet Union or its representatives. The clear weight of the evidence is to the contrary.

Upon the basis of the foregoing and the entire record, we conclude and find that Respondent reports to the Soviet Union and its representatives.

### F. DISCIPLINARY POWER

Section 13 (c) (6) of the Act provides that the Board shall take into consideration:

the extent to which its [Respondent's] principal leaders or a substantial number of its [Respondent's] members are subject to or recognize the disciplinary power of such foreign government or foreign organization or its representatives;

The petition alleges:

From the inception of the organization to the date of the filing of this petition, the principal leaders of the Communist Party have been and are subject to and recognize the disciplinary power of the Soviet Government, the Communist Party of the Soviet Union, the Communist International and the Communist Information Bureau and other spokesmen of the world Communist movement. This power has been exercised principally through the Communist doctrine of "democratic centralism" which binds all Communists to execute the decisions of the leaders of the world Communist movement.

Respondent's witness Gates says the leaders of the Party do not recognize and do not consider themselves subject to the disciplinary power of the Soviet government, the CPSU, the Comintern, the Cominform or any agencies of these organizations. He stresses that Respondent's leaders are subject only to the discipline of the Party. He maintains the leaders of Respondent do not recognize any disciplinary power over them by the Soviet Union any more than the fact that he loves his wife indicates that she has disciplinary power over him.

On the other hand, the record shows that under the rules and conditions governing the world Communist movement as promulgated by the Soviet Union and accepted and followed by Respondent there is prescribed a party of iron discipline on an international as well as a national scale.[73] This "iron discipline" borders on "military discipline" and implies "the establishment of authority, the transformation of the power of ideas into the power of authority, the subordination of lower Party bodies to higher Party bodies" (Pet. Ex. 121, pp. 113 and 114; 120).

The requirements of discipline in the world Communist movement as formulated by the Soviet Union are, as previously noted, twofold. First, on an international scale the decisions of the leadership of the movement—the Soviet Union—are made binding and obligatory upon the various Communist Parties and their members through the concept of democratic-centralism and through policies and rules issued by organizational instrumentalities such as the Communist International; and the various Parties as well as their members are prohibited from any deviation from the line laid down by the Soviet Union. Secondly, the individual parties are required to maintain similar discipline within their own organizations and to guard against factionalism or division of authority in the Party—to purge themselves of dissident elements.[74]

The record shows that the principle of strict international discipline in the world Communist movement is basic and has for its purpose unity in the struggle against imperialism, in order that the "revolutionary work and revolutionary action may be coordinated" and "guided most successfully" (Pet. Ex. 125, p. 84). In other words, it is a fundamental of the world Communist movement that in order to accomplish the establishment of dictatorships of the proletariat and the defense of the Soviet Union there must exist in every country a "compact Communist Party, hardened in the struggle, disciplined,

[73] See the section of this report under the heading "Marxism-Leninism" and the sections covering the Communist International and the Communist Information Bureau.

[74] See, for example, Pet. Exs. 8 and 125.

centralized, and closely linked up with the masses" (Pet. Ex. 125, p. 75).[75]

We proceed, in the light of the foregoing, to examine the evidence concerning Respondent's recognition and acceptance of the disciplinary requirements of the world Communist movement as laid down by the Soviet Union.

One of Respondent's present top leaders, Bittelman, in his pamphlet "The Communist Party In Action," published in 1932, says:

> * * * But our World Communist movement always presented an iron front against any such weakening of international discipline, fighting for the Leninist principle that the Communist Party is a monolithic and homogeneous body of revolutionary workers functioning as the vanguard of the working class (Pet. Ex. 144, pp. 34–35).

Speaking of deviations from theory and policy as well as in the daily practical work, the article observes:

> * * * We observe, however, among certain Party members, a tendency to be easygoing, tolerant and conciliatory towards opportunist deviations. This is a dangerous attitude which is very harmful to the interests of the working class and to the growth of our Party. It is this attitude that Comrade Stalin attacked so sharply, branding it as "rotten liberalism" and calling upon every communist to demonstrate in practice in his everyday revolutionary work true Bolshevik intolerance of an irreconcilability with all opportunist deviations from the Leninist line (*ibid*, p. 48).

In 1934, Respondent defined the executive committee of the Communist International as "the general staff of the world revolutionary movement giving unity and leadership to the Communist Parties of the world" (Pet. Ex. 136, p. 18). Respondent's *Manual On Organization*, issued in 1935, notes that Communists attach "so much importance" to discipline because "without discipline there is no unity of will, no unity of action" (Pet. Ex. 145, p. 28). Henry Winston, a present top leader of Respondent, told the 14th National Convention of the Party in 1948 that:

> * * * We do not shrink from the hammer blows of reaction. Under them we will steel our Party in Communist discipline, loyalty and unity, develop its Marxist-Leninist understanding, and temper our cadres and leadership * * * (Pet. Ex. 418, p. 856).

The foregoing is indicative of a continued recognition and acceptance by Respondent of iron discipline in the world Communist movement, particularly when viewed in the light of the facts set forth in the section of this report covering Respondent's operation pursuant to directives of the Soviet Union and to effectuate the policies of the Soviet Union in the world Communist movement.

Particularly significant of the operation and enforcement of discipline by the Soviet Union in the world Communist movement and of Respondent's recognition of this discipline and subjection to it, is the evidence concerning the requirement that the Communist Parties and their members "follow the line" laid down by the Soviet Union. Those who do not follow the line are branded as "opportunists," "revisionists," "factionalists," "renegades," "stool-pigeons," etc., and are purged from the Party.

We have previously herein noted Respondent's present use of such Marxist-Leninist material as the *History of the Communist Party of*

[75] This principle was a requirement of the Communist International and is also stated in *Strategy and Tactics of the Proletarian Revolution* (Pet. Ex. 343, p. 62), which was used and referred to many times by Respondent during the seven years ending in 1949 that Petitioner's witness Philbrick was a member and held official position in Respondent.

*the Soviet Union (Bolsheviks)* and a pamphlet entitled: "Resolutions—Seventh Congress of the Communist International [76]—Including The Closing Speech of G. Dimitroff." The following excerpts from these documents show what Respondent is teaching its members and is practicing as well, concerning the necessity to "follow the line."

In the *History* it is stated:

> The History of the Party further teaches us that unless the Party of the working class wages an uncompromising struggle against the opportunitists within it own ranks, unless it smashes the capitulators in its own midst, it cannot preserve unity and discipline within its ranks, it cannot perform its role of organizer and leader of the proletarian revolution, nor its role as the builder of the new Socialist Society (Pet. Ex. 330, p. 359).

And Dimitroff's speech as contained in the aforementioned document says in part:

> Championing, as we do, working class unity, we shall with so much the more energy and irreconcilability fight for *unity within our Parties.* There can be no room in our Parties for factions, or for attempts at factionalism. Whoever will try to break up the iron unity of our ranks by any kind of factionalism will get to feel what is meant by the Bolshevik discipline that Lenin and Stalin have always taught us. [Applause.] Let this be a warning to those few elements in individual Parties who think that they can take advantage of the difficulties of their Party, the wounds of defeat or the blows of the raging enemy, to carry out their factional plans, to further their own group interests. [Applause.] *The Party is above every thing else!* [Loud applause.] *To guard the Bolshevik unity of the Party as the apple of one's eye is the first and highest law of Bolshevism!* [Emphasized in text.] (Pet. Ex. 137, p. 13.)

Respondent's *Manual On Organization*, to which we have referred in various places in this report, points out that basic principles and decisions, such as the necessity for the proletarian dictatorship, the correctness of the line "laid down" by Marx, Engels, Lenin, and Stalin, and the necessity for the forceful overthrow of capitalism, cannot be questioned (Pet. Ex. 145, p. 26). Respondent's publication *The Way Out* covering its 8th Convention held in 1934, says "Renegades are those who were formerly members of the Communist Party but were expelled from it for failure to follow the correct revolutionary line and who now fight against the revolutionary movement and against the Soviet Union" (Pet. Ex. 136, p. 17). John Gates, one of Respondent's present leaders and a witness for Respondent in this proceeding, told the 15th Convention held in 1950 that the struggle of "the renegades from Marxism against the Communist Party inevitably and logically leads to struggle against the Soviet Union and to becoming outright agents of the imperialist bourgeoisie," and that the Party needs "to be alert to the danger of factionalism" (Pet. Ex. 376, pp. 79 and 86). Also pertinent are Respondent's *Discussion Outline for Lenin Campaign*, issued in 1929 (Pet. Ex. 108), of which a considerable portion is devoted to discipline; and Respondent's publication *Why Every Worker Should Join The Communist Party*, issued in the mid-1930's (Pet. Ex. 143).

We treat now with specific incidents of record related to the purging of those who have not "followed the line." The record shows that from the beginning of Respondent's existence in the United States, the Soviet Union has exercised disciplinary power to enforce adherence to the revolutionary line. We have hereinbefore noted the foreign direction concerning the settlement of the factional dispute in Respondent

[76] William Foster and others were present and represented Respondent at the 7th Congress of the Comintern. See *supra*, p. 20 of this report.

in 1929 whereby, under Comintern "authority and wisdom," [77] the Party was purged of factional elements and opportunists pursuant to Stalin's solution, in which he said:

> * * * And when a revolutionary crisis develops in America, that will be the beginning of the end of world capitalism as a whole * * *. For that end the American Communist Party must be improved and bolshevized. For that end we must work for the complete liquidation of factionalism and deviations in the Party * * *.[78]

Stalin's speeches before the Comintern on the settlement of the aforementioned factional dispute, which speeches were subsequently published in Respondent's official organ,[79] refer to the conduct of Respondent's members who questioned the decisions of the Executive Committee of the Communist International as "insubordination" and apply the term "enemies of the working class" to the factional group. We find on the record that this expression covers so-called renegades, revisionists, reformers, opportunists, etc., and that the expression and words it covers are current in Communist use to denote one who deviates or does not follow the correct revolutionary line.

The record shows that Trotsky, who was expelled from the Communist Party of the Soviet Union, and Lovestone, who was expelled from the CPUSA,[80] became descriptive of "enemies of the working class" who must be purged. We consider it significant, therefore, that Respondent's consitution as amended in 1942 provided: [81]

> No Party member shall have personal or political relationship with confirmed Trotskyites, Lovestoneites, or other known enemies of the Party and of the working class (Pet. Ex. 328).

And that the present constitution provides:

> Personal or political relations with enemies of the working class and nation are incompatible with membership in the Communist Party (Pet. Ex. 374).

We have noted in other sections of this report that Paul Crouch, an early official of Respondent, was denied election in 1929 to the position of national secretary of the Young Communist League because of his previous support of Lovestone and upon instructions from Moscow. We have also noted that Nowell, while a student from Respondent to the Lenin School in Moscow, was disciplined by the Communist International for disagreeing with the policy on the "Negro question," and that Kornfeder was expelled in 1934 for failure to heed the instructions of a Soviet Union representative in the United States. Petitioner's witness Johnson was expelled by Respondent in 1940 for having exhibited opportunistic tendencies, and all members were warned not to have anything to do with him.

In many respects the reconstitution of Respondent under the name Communist Party in 1945, after having existed for about 13 months as the Communist Political Association, is similar to the 1929 settlement of the factional dispute which existed at that time. We have previously herein noted the foreign participation in the 1945 reconstitution and in the 1929 factional settlement. With respect

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[77] Pet. Ex. 126, p. 246.
[78] Ibid.
[79] Pet. Ex. 109.
[80] Respondent's official declaration on the expulsion of Lovestone, Gitlow, and others who had refused to be bound by certain demands of the Comintern in 1929 calls their conduct "unprecedented warfare against the Party," and states that "any association with the expelled, any support given them is incompatible with the duties of membership in the Party" (Pet. Ex. 117, p. 2).
[81] We note that although Respondent had previously announced "disaffiliation" from the Comintern, its constitution as amended in 1942 included the Comintern, together with Marx, Engels, Lenin, and Stalin as the enunciators of the principles according to which Respondent seeks to establish "socialism."

to the 1945 episode, William Foster reported to the convention that the only way he could have gotten his letter to the membership, which letter opposed the formation of Respondent under the name Communist Political Association, was by facing expulsion, and that since his letter would have caused disunity, anyone who attempted to discuss it would have been denounced as a Trotskyite by Browder. Following the reconstitution in 1945, Earl Browder was expelled as a "revisionist" for seeking to abandon basic Marxism-Leninism principles and for opposing the re-emphasis thereof which was part of the 1945 reconstitution following the Duclos and Manuilsky pronouncements.

In 1950, Lautner, without advance warning, was subjected to a severe inquisition by officials of Respondent and forced to sign a statement that he was a spy and agent in the ranks of the Communist Party and had received a fair hearing. He was not, and had not been, a spy or agent. His efforts to get a hearing or review by Respondent's National Review Commission were ignored. His only notice or information about his expulsion came from an article in the *Daily Worker* stating that he was expelled as a "traitor and enemy of the working class." Indicative of the disciplinary program in the world Communist movement is the fact that the notice of Lautner's expulsion from the CPUSA was printed in the Cominform journal *For a Lasting Peace, for a People's Democracy*, and that the same issue contained a similar notice as to the expulsion of a member from the Communist Party of Italy, both under the heading "Rooting Out Traitors from the Ranks of the Communist Parties" (Pet. Ex. 362). Also in this connection, the record shows that in 1948 the Communist Information Bureau adopted a resolution that the leaders of the Communist Party of Yugoslavia were pursuing an unfriendly policy toward the Soviet Union and the CPSU (B), that this anti-Soviet attitude was incompatible with Marxism-Leninism, and that the Yugoslavia Party had failed to accept the criticism and measures set forth by the Central Committee of the Communist Party of the Soviet Union. The resolution suggests the Yugoslavia Party leaders be replaced if they did not "recognize their mistakes" and rectify them. This resolution was printed in the August 1948 issue of *Political Affairs* (Pet. Ex. 344) and was discussed in meetings of Respondent's groups. It was praised by Foster and Dennis. In 1949, the Cominform adopted another resolution concerning Tito and other leaders of the Yugoslav Party which brands them as "enemies of the working class" for becoming agents of "Anglo-American imperialism," conducting a "campaign of slander and provocation against the Soviet Union," and being disloyal to the principles of Marxism-Leninism. This resolution states the struggle against the Tito clique is the international duty of all Communist and Workers' Parties.

Finally, with respect to specific instances of discipline, in 1951 one Warwick Thompkins was expelled by Respondent for trying to organize Communist members to support in the distribution of leaflets containing "slanderous" remarks about the Soviet Union.

In addition to the foregoing, we have also taken into consideration in connection with Respondent's recognition of and subjection to the disciplinary power of the Soviet Union, the facts elsewhere herein set forth concerning Respondent's following of the concept of democratic-

centralism, the nature of the *Daily Worker*, and the activities of foreign Communist representatives sent to supervise Respondent. Regarding this latter aspect, the record shows that some of the foreign representatives or agents sent to the United States have been members of the Soviet secret police who instructed Respondent on underground and espionage work. Petitioner's witnesses Gitlow, and later, Budenz, knew and dealt with Jacob Golos as a resident agent of the Soviet secret police. Elizabeth Bentley was designated by Golos as a trusted go-between in his relations with Budenz.

Further, the record shows that Communists who took the three-year training course in Moscow, and were considered qualified, were sent as representatives or instructors into other countries. Petitioner's witness Kornfeder after completing training in Moscow as a member of Respondent was sent in 1930 to South America to reorganize the badly functioning Party in Colombia and to organize an underground Party in Venezuela. Kornfeder identifies Charles Crumbein and Rudolph Baker as other United States Communists who were sent as representatives outside of the United States. While in Moscow before going to South America, Kornfeder had daily meetings with Palmiro Togliatti [82] who briefed him on South American policies.

Earl Browder, high official of Respondent until his purge following Respondent's reconstitution in 1945 as above noted, came back to the United States as an official of Respondent in 1929 as part of the settlement of the factional dispute. He was first summoned to Moscow from a position as Soviet representative in Shanghai, China, and after being instructed as to what was required of him, was assigned as General Secretary of Respondent. Other members of Respondent are identified in the record as receiving foreign assignments on instructions of the Communist International.

Summarizing, we find that the Soviet Union has established a requirement of iron discipline throughout the world Communist movement which imposes upon the Communist Parties and their members in the various countries the duty of following with unquestioned devotion the line laid down by the Soviet Union; that Respondent herein has recognized and accepted the requirement of iron discipline, has not repudiated it and has acted in accordance therewith; that officers and members of Respondent have been expelled by Respondent upon instructions from the Soviet Union; that Respondent has subjected itself to Soviet discipline by expelling officers and members for failure to follow the line laid down by the Soviet Union, or for conduct of the type proscribed by the Soviet Union such as so-called revisionism and opportunism; and that Respondent has followed policies and activities designed to carry out the disciplinary policies of the Soviet Union.

Upon consideration of the foregoing and of the entire record, we find and conclude that Respondent's principal leaders and a substantial number of its members are subject to and recognize the disciplinary power of the Soviet Union and its representatives, and that by its recognition and subjection to the disciplinary power of the Soviet Union, Respondent seeks to advance the objectives of the world Communist movement.

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[82] Presently leader of the Italian Communist Party and at the time he instructed Kornfeder, head of the Latin American Secretariat of the Communist International.

G. SECRET PRACTICES

Section 13 (e) (7) of the Act provides that the Board shall take into consideration:

the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it [Respondent] fails to disclose or resists efforts to obtain information as to, its membership (by keeping membership lists in code, by instructing members to refuse to aknowledge membership, or by any other method); (ii) its [Respondent's] members refuse to acknowledge membership therein; (iii) it [Respondent] fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its [Respondent's] meetings are secret; and (v) it [Respondent] otherwise operates on a secret basis;

The petition alleges:

For the purpose of expediting and promoting its objectives and concealing its foreign direction, domination and control, the Communist Party from its inception has adopted a multitude of clandestine practices. While the degree of secrecy has varied from time to time, there has been a strict adherence to the practice of secrecy during the period from July 1945, to the time of the filing of this petition. * * *

The petition further sets out 12 specific types of such practices allegedly engaged in by Respondent. For convenience, the evidence relating to these and other activities is set forth in this section under appropriate head notes which in the main correspond to the aforementioned alleged practices. Evidence relating specifically to the purpose for which the subject activities were undertaken, aside from that of the nature and character of the acts and practices themselves, is summarized under the heading *Purpose of Secret Practices* at the end of this section.

*1. Secret and Open Members*

It is conceded by Respondent and the evidence establishes that some portion of its membership was and is concealed. Party members active as labor union leaders, mass organization leaders, members of professions, and others have concealed their party membership from the general public or from the organizations in which they worked or in which they were members. The degree of concealment varies with Respondent's current policy regarding its activities.

A higher degree of secrecy generally applied to members of the Respondent who were important civil servants, members of the armed forces, teachers, and those individuals engaged in espionage and other illegal and confidential activities for the CPUSA or the Soviet Union. Such members were known only to the leading officials of Respondent or to a limited number of the members thereof.

Open members of the CPUSA have been those who by reason of their position in the Party or because of the type of their operations need not be concealed. For the most part, these were the national, state and district officials of the CPUSA or candidates for public office on the Communist Party ballot.

New Members upon entering the CPUSA were instructed generally not to reveal their Party membership. In 1928, members of the staff of the Daily Worker were instructed to deny their CPUSA membership in the event of a police raid. Similar instructions were given to Party members attending CPUSA schools in 1932. Party members in trade unions were ordered in 1948 not to reveal their CPUSA membership.

It is thus that Respondent engages in the practice of maintaining a membership of both concealed and open members.

*2. Refusal to Reveal Information*

Respondent's organ, the *Daily Worker* for February 17, 1930, stated:

> It is the duty of Communists to throw every possible obstacle in the way of conviction of their fellow Party members in the courts, to defend these members by all possible means, and absolutely to refuse to give testimony for the state in any form. Testimony of Communists can only be given for the defense of Communists, not for the state, and then it must be based upon uncompromising defense of the Party and its program. And any one who trades his testimony to the State for personal immunity from prosecution, should be unhesitatingly kicked out of the movement (Pet. Ex. 496).

CPUSA members were taught in Respondent's schools and at meetings during the late 1930's and early 1940's that the moral basis of all acts by a Communist is the determination of whether such acts do or do not help in the achievement of the victory of the classless society; that no oath, or statement in court, or consideration of any kind can take precedence over the question of whether or not his act helps or harms the CPUSA. The record discloses a number of other instances, wherein CPUSA members, several of whom testified for Petitioner in this proceeding, were instructed while members to deny their Party membership in the courts and to government agencies, e. g., to the Federal Bureau of Investigation in connection with the Loyalty Program of the Federal Government. Respondent has instructed its members to refuse to talk to FBI agents. In answer to a question in this proceeding as to the whereabouts of certain members of the CPUSA National Committee, who are fugitives from justice, the Respondent's witness Gates stated, "if I knew, I wouldn't tell you in a million years."

The CPUSA, in the early 1940's caused documents to be filed with the Department of State which stated that the Intercontinent News Agency was an independent agent, when, in fact, it was formed by the Respondent for the purpose of circumventing the Foreign Agents Registration Act of 1938.

Plans were discussed by Party leaders together with agents of the Soviet Secret Police in 1928, whereby blank American passports might in some manner be obtained illegally from the Department of State. CPUSA members (Kornfeder, Honig and Arbona) have used detached visas which were issued by Soviet Union sources here and abroad in 1927 and 1934, as a device to conceal from agencies of the United States Government visits to the Soviet Union. In 1937, Respondent's witness Gates did not list Spain as one of the countries to be visited when he applied for an American passport, since the United States Government did not issue passports for travel to Spain at that time; actually, it was his purpose to go to Spain, and he did so. In 1949, Eugene Cubues Arbona, head of the Communist Party youth movement of Puerto Rico, in collaboration with members of Respondent, submitted to the Department of State an application for a passport which falsified the answers to questions concerning the countries to be visited abroad, and other matters. At that time, CPUSA members assisted this official in making arrangements to obtain a detached visa in France in order to visit Hungary, thereby concealing knowledge of the Hungarian destination from the United States Government.

Hence it is clear that members of Respondent are trained to and do refuse to reveal information to proper governmental agencies and

tribunals concerning Respondent and its membership as a matter of basic Party policy.

*3. Destruction and Secretion of Records.*

In periods of strict secrecy, the Party has issued directives to destroy records and such literature as would identify members with Respondent. Such orders were issued throughout the period of the Hitler-Stalin Pact from 1939–1941 and also during the period from 1946–1951. During the latter period, records in CPUSA headquarters were burned by Party leaders while the individual members were instructed to burn Party lists and literature kept in their homes. During the 1946 Congressional campaign, a CPUSA member, Herbert A. Philbrick, was instructed to destroy his Party membership card for security reasons while participating in the campaign of a non-Communist candidate for public office. Pursuant to the orders of CPUSA officials, Party membership books were destroyed in 1947 and membership cards were destroyed in 1948. In 1949, a system was estabished at New York county headquarters of Respondent whereby all messages containing names, addresses and phone numbers were to be burned as soon as read. This system was still in effect in January 1951.

In addition to the steps taken to destroy records and other material during the aforementioned periods, Respondent adopted the practice of keeping no records which would divulge information concerning its members and activities. In situations where it was thought absolutely necessary to keep records, however, secret devices such as charts and code systems have been used. Records have been kept at a minimum by such varied practices as engaging in cash financial transactions, issuing oral directives without ever reducing them to writing, and requiring club leaders of Respondent to memorize the names of members of their respective clubs. In 1949, instructions were given to a club official of Respondent, which he followed, that dues and "sustainers" were not to be collected from any member in the presence of other members.

CPUSA membership cards are not issued when the Party operates under conditions of strict secrecy. In this connection, no membership cards were issued to members for one of the years during the Hitler-Stalin Pact period from 1939–1941 because Respondent believed it would have to go underground, i. e., operate completely clandestinely. Membership cards have not been issued for the years 1949 to date as a security measure to conceal the identity of CPUSA members.

Records of the CPUSA pertaining to its membership and other affairs have been maintained secretly. The Party has selected carefully concealed places in which to hide its records. Such hiding places have consisted of homes and business offices of secret or concealed members of the Party or of other persons who would be least suspected of being identified with the CPUSA.

Thus, during periods of strict secrecy Respondent has engaged in the practice of destroying or secreting records, and of not maintaining membership records, or of maintaining them in code.

*4. Deceptive Language in Party Writings*

The CPUSA, as recommended by Lenin, has used deceptive language in its Constitution (Pet. Exs. 328, 329, 374) and other writings to conceal the real aims, purposes and objectives of the Party. A decisive clause in the preamble to the CPUSA Constitution of 1942,

viz., "* * * by the establishment of socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Communist International * * *" was taught in Party schools as equivalent to the statement, "in accordance with the principles of Marxism-Leninism," as defined hereinbefore. Notwithstanding any other language be found in other sections of the preamble, this clause controls the interpretation which CPUSA members place upon the Constitution. Similarly, statements in the preambles of the 1945 and 1948 Constitutions of the CPUSA to the effect that Respondent's functions are founded "upon the principles of scientific socialism, Marxism-Leninism" cannot be reconciled with subsequent statements which refer to the Constitution of the United States. These direct and implied references to Marxism-Leninism control the interpretation which Communists must place upon the subject matter found in the Party Constitution. Such reference to Marxism-Leninism is intended to override any other matter contained therein which may be conflicting in any manner. Marxism-Leninism is defined fully elsewhere in this report.[83]

Deceptive language has been used in other statements and documents of Respondent for the purpose of concealing its true aims, purposes, and objectives. Lenin explained the necessity for the use of such language in *Imperialism, the Highest Stage of Capitalism* (Pet. Ex. 140). During the period 1935-1945, the witness Budenz used such language in his writings as a staff member of the *Midwest Daily Record* and of the *Daily Worker*.

That Respondent uses deceptive language, even in the most basic Party documents, such as Constitutions, to conceal its real objectives is established in the record.

*5. Use of Party Names, Aliases, etc.*

By direction of Respondent, Party names or aliases were used by its members in 1927 and 1934 on American passports, which had been obtained illegally in order to conceal from the United States governmental agencies the knowledge that trips were being or had been made to the Soviet Union. By similar direction, CPUSA leaders have at other times, for the same reason, used false names in connection with their trips to the Soviet Union as have Respondent's students en route to the Lenin School at Moscow. Pursuant to instructions from CPUSA leaders, the students were not to use their real names while on board ship but were to conceal their identity and destination. Also, Respondent's leaders and members, acting on instructions, have used Party names or aliases to conceal their activities on behalf of the CPUSA in labor circles and in other organizations, as well as in the conduct of strikes and labor disputes. Concealment of Party membership from law enforcement agencies, by the use of Party names, has been practiced by Respondent's members throughout the existence of the Party. False or Party names have been used on CPUSA membership cards at various times. In the 1930's, Respondent's leaders were instructed to use Party names in order to conceal their identity in the event of police raids. In the years immediately following the conclusion of World War II, membership books were issued in blank. Party members were directed to enter

[83] See pp. 21 to 44, *supra*.

a false name or, in some instances, were given the option of entering a false name, of entering only their first name, or of entering no name at all on the books.

The rigidity of the concealment measures which commenced in the late 1940's, is indicated by the employment of certain practices in the Party whereby the names of Party members were not disclosed to each other, even at conventions and meetings, Party names or aliases being used by members as a substitute.

During the present period the payment of dues and other contributions to the Party is recorded by the use of a system whereby the members are designated by number at the club level. Also, numbers and symbols have been used by the Party in order to identify its members on mailing lists. Students at Respondent's Marxist-Leninist Institute in Oakland, California, during the period 1949–1950 were enrolled by numbers instead of names, and students at the former were directed to refer to each other by their enrollment numbers rather than by their correct or Party names.

The use of Party names or aliases for the purpose of concealing membership and activities in the CPUSA has been a widespread and continuous practice by the CPUSA leaders and the rank-and-file members throughout the existence of the Party. The record is replete with instances of such practices.

*6. Use of Codes, Couriers, etc.*

In the early history of the CPUSA, its leaders received training in the secret department of the Communist International in the use of codes for the transmittal of Party messages, as well as training in the operation of short wave communication. In the "Arcos" raids which took place in Great Britain during 1927, British authorities seized codes, documents, letters, and files which revealed the identity of certain CPUSA leaders who had received confidential letters, reports, cables, and sums of money in the United States from the Soviet Union. As a result, new codes for the CPUSA were delivered in Moscow by a Comintern official to a leader of Respondent who in turn brought them into the United States.

During the 1930's, the CPUSA established and used various code systems in transmitting confidential messages between its units and its leaders in the United States. Instructions were received by Respondent in code from the Comintern in connection with the 1934 general strike in San Francisco.

In the summer of 1949, instructions were given and steps were taken by Respondent's leaders to establish a national system of radio communication for use by the Party on a standby basis. The establishment of this system involved the acquisition of radio receivers, familiarization with the use of radio equipment, plans for the location of mobile transmitters and receiving equipment, and a search to find amateur radio operators among CPUSA members. In addition, leaders of Respondent sought to establish this system in such a manner as to avoid detection by the Federal Communications Commission of illegal transmissions.

At a secret meeting of the CPUSA held in Toledo, Ohio, in July 1947, Respondent's witness Elizabeth Gurley Flynn, then Chairman of the Women's Commission of the CPUSA, told Party members pursuant to instructions of the CPUSA National Committee that Party

leaders should not use the telephone for communicating with Party members; further, that Communist documents and directives should not be sent through the mails, that names of Communists should not be used over the telephone, and that lists of names of Communists should not be carried on one's person. The record shows that these instructions were carried out in general by Party members.

Secret devices for concealing the transfer of members from one Party unit to another have been used within the CPUSA, notably during the periods of strict secrecy, which includes the present. After the reconstitution of the CPUSA in 1945, transfer cards in certain units of the Party were sent to destination points by couriers instead of being forwarded through the mails as theretofore.

Prearranged code words or phrases have been used by CPUSA members in communicating with each other, particularly with respect to underground activities since 1947. A telephone code was devised in 1949 and used through 1950 to transmit information about meetings and other Party affairs in California.

Extensive use has been made of confidential mailing addresses by the CPUSA and its members through 1949. Such addresses have included those of members least suspected of being affiliated with the Party.

Couriers have been used extensively by Respondent as a concealment measure in the transmission of documents and other material over a period of many years. Until 1940, CPUSA members served as couriers for the transmission of documents between the United States and the Soviet Union and also on behalf of the Communist International in Moscow for the purpose of transferring funds and documents between the Soviet Union and other foreign countries. Communist International representatives to the CPUSA have acted as couriers in exchanging documents between the United States and the Soviet Union. One objective of the Red International of Labor Unions in carrying on Communist activities in the maritime industry was to create an unlimited courier service throughout the world.

In February 1952, a CPUSA member who testified in this proceeding for Petitioner was told by a Party official that the former was to receive instructions as to the performance of the Party's underground activities; and, further, that this member would act largely as a courier between certain Party units.

It is thus clearly shown that Respondent uses codes, couriers, confidential mailing addresses, and other secret devices to conceal its membership and activities.

*7. False Swearing*

On instructions from Respondent, a Party Leader, Joseph Kornfeder, swore falsely when he applied to the Department of State in 1927 for a passport.

Jack Stachel, a member of the CPUSA National Committee, instructed a member in the 1930's to testify falsely in an injunction suit brought against the Shoe and Leather Industrial Union, concerning the issue of whether this union was Communist-controlled.

A Party member, in early 1948, falsely denied his membership in the Party before a court in Virginia. At a meeting of a Party Committee held in Washington, D. C., following that occasion, his resignation from Respondent was so dated as to enable him to say that

he was not a CPUSA member on the date that he denied such membership.

In order to circumvent the non-Communist affidavit provisions of the Taft-Hartley Act, CPUSA members holding positions in labor unions were instructed by Respondent's officials in 1948 and 1949, to "resign" formally from the CPUSA, but nevertheless to continue functioning as members of the Party. In this connection, Gus Hall, a CPUSA official thereafter convicted under the provisions of the Smith Act, instructed a member in 1948, to sign a letter of resignation back-dated to a time prior to the effective date of the Taft-Hartley Act in order to protect the member from prosecution under the provisions of that Act. In 1949, a member was given Party instructions that a formal "resignation" from Respondent, but an actual continuation of his functions as a Communist, was the procedure to follow if he must sign a non-Communist affidavit as required under the Taft-Hartley Act.

Party members are impressed by Respondent with the necessity and desirability of making false statements to conceal Party information and to forward Party objectives.

*8. Secret Meetings of Trusted Members*

Throughout its history Respondent's meetings generally have been restricted to Party members, although on occasions authorized "public" meetings have been held. Election rallies held when Respondent supported candidates for public office have been open to the public, as have expressly authorized meetings of certain Party street units. At various periods important meetings of Party Committees have been held secretly in private homes instead of in Party offices. During periods of strict secrecy all Party meetings generally are held on a secret basis.

Meetings of national, state, and regional committees and commissions of Respondent, as well as other trusted Party units, such as the highly concealed professional clubs, have been held on a clandestine basis. Members of the Ohio State Committee were criticized in July 1947 by Gus Hall, a high Party official, for having violated rules promulgated by the National Committee pertaining to concealment in attending meetings. A CPUSA leader attended secret Party meetings held in Cleveland, Ohio, during 1948 and 1949. He was notified of the meetings by courier in Toledo, and upon arrival at Party headquarters in Cleveland he received final instructions as to the locations of the meetings. A district committee met in Baltimore in March of 1949 under conditions of extreme concealment. During 1949 and 1950, meetings of Party Commissions were held in places acquired in the names of nonexistent groups, in order to conceal and mislead as to the identity of the parties meeting therein.

Extraordinary care has been exercised during certain periods to conceal the actual meeting place and to restrict attendance at plenary sessions and executive board meetings of the CPUSA National Committee to only those selected members who had been given proper identification and credentials.

Respondent's schools have been conducted under varying degrees of secrecy. During periods of strict secrecy within the Party, including the periods of 1939 to 1941, and from 1948 to 1950, extraordinary precautions were taken to conceal the existence of these schools and

the names of the trusted Party members selected to attend them. Students at Party schools have carried out instructions to observe stringent concealment regulations in order to preserve the secrecy shrouding the operation of these schools. As an example, both the Marxist Institute in Los Angeles, California, and the Marxist-Leninist Institute in Oakland, California, were so conducted in the summer of 1950 as to conceal their existence and purpose. Students at the former school attended classes secretly at a changed location after the Korean hostilities had begun. The nature of the curriculum of these schools (see pp. 41–43, *supra*), clearly shows the illegal purpose behind the extensive measures adopted to conceal their existence.

Stringent concealment measures have accompanied the holding of conventions by the Respondent during periods of strict secrecy. Only the most trusted members of the Party have been permitted to attend such conventions. At the Massachusetts State Convention of the Communist Political Association held at Boston, Massachusetts, in 1945, and at the National Convention of the CPUSA at New York City in 1948, only those persons were admitted who could present proper credentials and, after elaborate security procedures, could establish their identity.

The location of the Ohio State Convention, held in December 1950, was not disclosed to the delegates for concealment reasons until shortly before the convention was held. Extensive precautions were taken to conceal the holding of a local convention in 1948 in Los Angeles. Like efforts surrounded the holding of the West Oakland (California) Section Convention in December 1950. Similar precautions surrounded a State Regional Convention of the CPUSA in California in January 1951. As at the other conventions held in California specified above, delegates to this January 1951 convention arrived at the convention hall in small groups after having been led there by a member who had been entrusted with knowledge of its location. The delegates remained at the hall during the entire session before being allowed to make their departure in small groups at intervals. Prior to departure the delegates were directed not to take a direct route home. On the following day, the second session of the convention was held at a different location under similar circumstances of secrecy.

Thus, it is clear that throughout its history, Respondent, for purposes of concealment and to promote its objectives, has held secret meetings restricted to trusted members.

*9. Reduction of Committee Membership for Security*

During the period of the Hitler-Stalin Pact, a period of strict secrecy, Respondent reduced the membership of its National Committee, state committees, and section committees for concealment purposes.

In 1948, the National Committee of Respondent issued a directive pursuant to which the size of all committees within the Party was reduced. In announcing this directive, Gus Hall, then Chairman of the Ohio Party, stated that the reduction of the State Committee of Ohio from approximately 50-odd members to about 11 members was being effected for "security" purposes. At the same time, the National Committee was reduced in number from about 55 to approxi-

mately a dozen members. At the National Convention of the CPUSA held in December 1950, the size of the National Committee was fixed at 13 members.

Respondent thus strives to conceal its activities through limiting the number of persons having access to vital information by reducing the size of its leading committees during the periods of strict secrecy.

*10. Assignment of Members in Small Groups*

During the mid-1930's, when less extensive concealment measures were in force within the Party, its clubs had memberships which generally averaged from 12 to 20 members. A number of these clubs joined together in neighborhood or industry branches, to form units of from 50 to 100 members. After the signing of the Hitler-Stalin Pact in 1939, Peters and Stachel, the former a Communist International representative and the latter a CPUSA leader, directed that a number of concealment measures be instituted, including the division of large branches of the Party into groups and the readying of the group system for functioning. Peters issued instructions to set up units of not more than five men with one man in charge, in preparation for the Party's going underground, and these instructions were substantially carried out. Units within the Party were enlarged after Hitler's attack on the Soviet Union in June 1941, in accord with the change which occurred on the political scene.

Beginning in 1948, the CPUSA operated under conditions of strict secrecy, dividing the membership in its basic clubs throughout the United States, including those of professional people, into groups of about five members. Greater precautions were taken to conceal the meetings of the professional groups than theretofore. Instructions were issued to all groups that members should not communicate with others outside their own particular group. Names of members in other groups were never to be mentioned at group meetings. Communication between the groups and other CPUSA units were to be made through group captains directly to section leaders. However, members have met in somewhat larger bodies on a few occasions since the establishment of the group system beginning in 1948, e. g., in connection with conventions within the Party, even though these conventions were themselves held under circumstances of great secrecy as discussed heretofore. A tightening up of the concealment system, including a more efficient operation of the group system, was announced at the West Oakland Section Convention in California during December 1950. The record shows clearly that the group system continued to function after this date in connection with the strict concealment measures which have been employed by Respondent. Respondent has thus formed members of its organization into smaller groups during periods of intense secrecy to conceal more effectively their identity and activities.

*11. Underground Plans and Operation*

Respondent has at all times maintained an underground or secret apparatus, even when the Party was operated on a comparatively open basis. The underground apparatus has been kept in readiness to assume leadership and to direct the functions of the Party during the periods when its leaders determine that underground operations are necessary in order to carry out Party activities. Extensive plans have been devised and great quantities of materials have been gathered

in preparation for underground operations. Reserve sums of money have been set aside. Hideouts and secret storage space have been acquired. Mimeograph and printing equipment and materials have been assembled in secret hiding places. Reserve officials have been designated to perform, if the situation so demands, as leading functionaries of the Party. As related above, the membership of Respondent at various times has been divided into groups of five or even fewer persons, and confidential mailing addresses, couriers, and other secret devices have been employed in connection with the preparations for underground activities. During periods when Respondent's activities have been conducted with greater secrecy, preparations for underground operations have been intensified correspondingly, along with a like increase in the employment of many of the secret practices described herein.

Respondent went underground for several years in the early 1920's, maintaining a secret headquarters, holding secret meetings, and otherwise conducting its affairs on a secret basis. As its "legal" expression, it organized and dominated the Workers Party, an "open" organization consisting of both Party and non-Party members. The underground party was referred to as the No. 1 party while the "open" party, which the former controlled and dominated, was known as the No. 2 party. Pursuant to instructions received from the Communist International, the underground party was liquidated as such but the underground apparatus still remained. The "open" party, or Workers Party, was merged with the underground party and thereafter adopted the name Communist Party of the United States of America.

During the remainder of the 1920's as well as in the 1930's, various steps were taken to maintain and to extend the underground appartus, including the establishment of code systems. J. Peters, a Comintern representative, directed the underground apparatus in the United States during much of this period. At a secret CPUSA school in 1932, Peters instructed the underground members on the subject of illegal apparatus and its operation. His lectures were based upon a document in which the author, Lazar Kaganovich,[84] made suggestions based upon the experiences of the Bolsheviks under the Czarist regime in Russia. Peters returned to Hungary in 1949 by agreement with the Federal Immigration Authorities after a prolonged hearing following his arrest on a deportation warrant.

When the Party entered a period of strict secrecy after the signing of the Hitler-Stalin Pact in 1939, which continued until the invasion of the Soviet Union by Germany in June 1941, it undertook to strengthen the underground apparatus in preparation for taking the entire Party underground. Eugene Dennis, a high Party official, declared at a meeting of Party functionaries in late 1939 or early 1940, while the Soviet Union was an ally of Germany, that the secret measures then being placed into effect must be completely established and adhered to so that, if the United States joined Great Britain in the war against Hitler, the Party would be prepared to turn such an "imperialist" war into a civil war, as Lenin advocated. These measures were intended to place the Party on a complete war basis when put into effect. Various degrees of secrecy prevailed, some

[84] Now a Deputy Premier of the Soviet Union.

national leaders going partially underground. After the attack by Germany on the Soviet Union, many of these measures were relaxed.

During the 1930's, the World Travel Agency, of which Jacob Golos was for a period purportedly the head, arranged for visits of CPUSA members to the Soviet Union. Golos procured the tickets and expense money for such trips. In addition, Golos and the World Travel Agency were connected with a Soviet espionage agency during the period of 1936–1943. He acted as the liaison for communication between Respondent's members and the Soviet Secret Police agents operating in this country.

Extensive preparations for taking the Party underground were commenced in 1948 and are being carried out. Various measures were taken by the Party to strengthen its underground apparatus. By January 1950, Respondent had placed in effect throughout New York State a plan for the integration of about 10 percent, or about 3,000, of its members into a seven-level, vertical underground organization, known in the Party as "a system of threes" and patterned after the three-system of organization in effect in most of the countries in Europe when Communist parties there were underground. Thompson, a high Party official who has been convicted under the Smith Act, stated that this organizational setup was intended to function even if the Party as such should be declared illegal. In addition, portions of the New York State Party budgets for 1948 and 1949 were assigned to underground work.

Since 1948 and continuing on into early 1952, a large number of Party members have been severed from regular Party units and were either transferred to underground organizations, in order to assist in underground planning and to receive instructions in underground activities, or placed in a reserve leadership status.

Hence the record shows that throughout Respondent's existence it has undertaken elaborate measures to maintain an underground apparatus which makes and executes plans and assembles materials for underground work as a means of effectuating Respondent's objectives.

*12. Infiltration of Other Organizations*

Respondent has sent its members into various organizations in the United States for the purpose of gaining control of such organizations and influencing the policies of these organizations to support the CPUSA program. This policy has been employed by Respondent throughout its history. Pursuant to Respondent's directives its members have pursued this infiltration policy with respect to professional organizations, cultural organizations, fraternal organizations, and trade and industrial unions.[85] Secret Communist factions were planned or formed in these organizations for the ultimate purpose of obtaining control and making the policies of the organization subservient to those of Respondent. Students at Respondent's schools were taught the importance of infiltrating mass organizations as a means of acquiring mass support for the Party program. Party members designated to carry out infiltration work in mass organizations were instructed to use care not to expose the Party in these organizations. Members in such organizations were instructed to, and did, conceal their Party membership while in these organizations. At a

[85] See 67–71, *supra*, for more detailed discussion of trade union activity.

regional party convention held in California in January 1951, speakers emphasized the need for Party members to infiltrate other organizations through which the purposes of the Party could be carried out.

*13. Purpose of Secret Practices*

Respondent in its amended answer and through its witnesses acknowledges that it engages in certain clandestine practices, but it contends that such activity is not for the purpose of concealing foreign direction, domination, or control. Respondent's witness Gates testified that such practices have "nothing whatsoever to do with concealing the views or the program of the Communist Party" and further that they are the response to repressive measures taken against the Party and its members and are intended merely to "protect the constitutional rights of members of the Communist Party."

It is patent that these secret practices are not adopted by Respondent for the purpose which it asserts. This conclusion is inevitable when the secret practices are examined in the light of the whole record and all the surrounding circumstances under which they were and are performed. A short recapitulation of pertinent evidence will demonstrate this.

The underlying philosophy of the Communist movement is contained in the doctrine of Marxism-Leninism, the real nature of which is described in other portions of these findings. Implicit therein are secrecy and concealment to effectuate attainment of its objectives. It is the aim of Respondent to bring about the dictatorship of the proletariat by violent means if necessary and to help the Soviet Union in the event of a war between that country and the United States. (See pp. 118–128, infra.) Members were taught in Party Schools that "there is no moral law for a Communist Party member except the success of that to which he has dedicated himself, that is to say, the classless society * * *, no oath, no statement in court, no consideration of any kind can come before the question of whether it helps or hurts the Party * * * they were to testify or to make affidavit or whatever it may be in accordance with the needs of the Party at that time and irrespective of the actual truth." Instances are shown wherein certain of Respondent's members swore falsely in court; false statements were made by CPUSA members in passport applications; and a high Communist official, J. Peters, was hidden by members of Respondent from Government authorities who were seeking him in a deportation case. It was basic in the *Theses and Statutes of the Third (Communist) International*, to which Respondent has adhered, that both open and secret nuclei be formed to carry on the work of propaganda and education under the control and discipline of the Central Committee of the Party; and that members were required to join in unlawful work and unlawful organizations if necessary for the Party's purposes. In addition, the conspiratorial nature of the Party must be considered. Stalin in the pamphlet, *Stalin's Speeches on the American Communist Party* (May 1929), in discussing the disruptive effect of factionalism, states: "as a result of which the whole internal life of our Party is robbed of its *conspirative* protection in the face of the class enemy," [italic supplied] (Pet. Ex. 109, p. 29). There is also evidence that in the 1939 to 1941 period "the whole organization was on a conspiratorial basis" and the schools were conducted "in accordance with the rules

of conspiracy." It was taught by Respondent in 1939 that "the purpose of this secrecy was to prevent the law-enforcement agencies" from getting information concerning the CPUSA "because it destroys the conspiratorial nature of the Party movement itself."

In 1940, in order to conceal its true status registration statements were filed by the *Daily Worker* under the Foreign Agents Registration Act which falsely made it appear that it did not come within the provisions of that Act.

Secrecy and concealment have been continuous and have not been limited to the period when Respondent felt it was under particular stress. There was, however, a fluctuation in the degree of secret activity. Thus, during the period of the Hitler-Stalin Pact, Eugene Dennis stressed the underground activity of the CPUSA and the necessity for attaining readiness for civil uprisings in the event the United States joined the Allies against Germany. After 1945, there was an intensification of secret practices. In July 1950, members were told that the world situation had created considerable alarm in Respondent and that consequently the Party was adopting stricter "security" measures. Shortly afterward, a reorganization took place for that reason; Respondent's clubs were divided into small groups and its members were identified by numbers instead of names. The Marxist Institute in Los Angeles, California, and the Marxist-Leninist Institute in Oakland, California, were conducted during late 1949 and part of 1950, with great secrecy. A regional convention was held in January 1951 in California, under conditions of extreme secrecy. At this convention there were speeches on the so-called peace campaign, on world conditions and on the necessity for stricter security measures.

Viewed against this background, it is established that such practices as secret memberships, hidden meetings of small groups, the acquisition of easily transported mimeograph machines, cryptically wording constitutions, the use of couriers and the restricted use of the mails and telephone, are not undertaken for the innocent purpose which Respondent seeks to ascribe to them. Nor can the infiltration of organizations, such as labor unions, be regarded as having a bona fide purpose. The evidence shows that the reason for such infiltration is to dominate such organizations for the Respondent's purposes. That this is basic can be seen from a book by Lenin entitled "*What Is To Be Done,*" which Respondent's members read and studied. In this book, Lenin declares that Trade Unions are "a very useful auxiliary to the political, agitational, and revolutionary organizations" and that they can be controlled by "a small compact core" of agents "connected by all the rules of strict secrecy with the organizations of revolutionists" (Pet. Ex. 417, pp. 109–112).

We conclude that the secret practices undertaken by Respondent are for the purpose of concealing the true nature of the Party and promoting its objectives. We cannot accept Respondent's contention that its secret practices are merely devices utilized to protect the rights and liberties of its members.

Upon the basis of the foregoing and on the whole record, we find that Respondent engages in extensive secret practices, within the meaning of the Act, for the purpose of promoting its objectives and thereby to advance those of the world Communist movement; and for concealing its direction, domination, and control by the Soviet Union.

## H. ALLEGIANCE

Section 13 (e) (8) of the Act requires that the Board consider:

> the extent to which its [Respondent's] principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization.

The petition alleges:

> From 1919 to the date of the filing of this petition, the leaders of the Communist Party and a substantial number of its members have considered the allegiance they owe the United States as being subordinate to their loyalty and obligations to the government of the Soviet Union.

The petition further contains six specific allegations [86] which, if true, would show that Respondent's principal leaders and members consider the allegiance they owe the Soviet Union to be paramount to that owed the United States. Since the evidence of record which pertains to allegiance is broader in scope than Petitioner's specific allegations, we will not confine our findings of fact to the form of these specific allegations.

The evidence shows that a basic aim of Marxism-Leninism is the establishment of dictatorships of the proletariat in all non-Socialist countries of the world, and that Respondent adheres to and works to attain this goal in the United States.[87] The Marxist-Leninist Classics define dictatorship of the proletariat and demonstrate that it must be established by the forceful overthrow of existing non-socialist governments.

Stalin in *Problem of Leninism* (Pet. Ex. 138, pp. 26–27) defines the dictatorship of the proletariat according to its fundamentals:

> Hence there are three fundamental aspects of the dictatorship of the proletariat.
>
> (1) The utilisation [sic] of the power of the proletariat for the suppression of the exploiters, for the defense of the country, for the consolidation of the ties with the proletarians of other lands, and for the development and the victory of the revolution in all countries.
>
> (2) The utilisation of the power of the proletariat in order to detach the toiling and exploited masses once and for all from the bourgeoisie, to consolidate the alliance of the proletariat with these masses, to enlist these masses in the work of socialist construction, and to assure the state leadership of these masses by the proletariat.
>
> (3) The utilisation of the power of the proletariat for the organisation [sic] of socialism, for the abolition of classes, and for the transition to a society without classes, to a society without a state.
>
> The dictatorship of the proletariat is a combination of all three aspects. None of these three aspects can be advanced as the *sole* characteristic feature of the dictatorship of the proletariat. On the other hand, it is sufficient for but one of these three characteristic features to be absent, for the dictatorship of the proletariat to cease being a dictatorship in a capitalist environment. * * *

In the following quotation, Stalin, with Lenin's help, reveals that the dictatorship of the proletariat must be installed through use of force by Communist minorities, independently of the will of the majority of the population, and that attempting to utilize peaceful means to do so is not to be considered:

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[86] These allegations are to the effect that the Soviet Union is the fatherland of the world Communist movement which all Communists are obligated to support and defend; the Red flag has been and is the flag to which Communists owe allegiance; all American Communists must support and defend the Soviet Union in war with any nation; in event of war between the United States and the Soviet Union, they must work for the defeat of the United States; some of Respondent's present leaders took an oath to Stalin at the Seventh World Congress of the Comintern; and, to leaders and members of Respondent, "patriotism" means solidarity with the Soviet Union.

[87] See Marxism-Leninism, pp. 21–44, *supra*.

To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution.

It is necessary to insist on this all the more strongly, all the more categorically, since we are dealing with the proletarian revolution which has for the time being triumphed in only one country, a country surrounded by hostile capitalist countries, a country the bourgeoisie of which cannot fail to receive the support of international capital.

That is why Lenin states that "* * * the liberation of the oppressed class is impossible not only without a violent revolution, *but also without the destruction* of the apparatus of state power, which was created by the ruling class * * *" (*Collected Works*, Vol. XXI, Book II, p. 155. Also *State and Revolution*, Little Lenin Library, p. 9).

"First let the majority of the population, while private property is still maintained, that is while the power and oppression of capital are maintained, declare itself for the party of the proletariat. Only then can it, and should it, take power. That is what is said by *petty-bourgeois democrats who call themselves "socialists" but are really the henchmen of the bourgeoisie.* [My italics—J. S.]

"*But we say:* Let the revolutionary proletariat first overthrow the bourgeoisie, break the yoke of capital, break up the bourgeois state apparatus. Then the victorious proletariat will speedily gain the sympathy and support of the majority of the toiling nonproletarian masses by satisfying their wants at the expense of the exploiters. [My italics—J. S.] (*Collected Works*, Vol. XXIV, p. 647, Russian edition.)

"In order to win the majority of the population to its side," Lenin continues, "the proletariat must first of all overthrow the bourgeoisie and seize state power and, secondly, it must introduce Soviet rule, smash to pieces the old state apparatus, and thus at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty-bourgeois compromisers in the ranks of the nonproletarian toiling masses. Thirdly, the proletariat must *completely and finally destroy* the influence of the bourgeoisie and of the petty-bourgeois compromisers among the *majority* of the nonproletarian toiling masses by the *revolutionary* satisfaction of their economic needs *at the expense of the exploiters*," (ibid, pp. 20–21).

Stalin also emphasizes that it is false for Communists to consider that such a thing as "peaceful evolution" from "bourgeois democracy" into a "proletarian democracy" is possible:

Marx's qualifying phrase about the Continent gave the opportunists and Menshevíks of all countries a pretext for proclaiming that Marx had thus conceded the possibility of the peaceful evolution of bourgeois democracy into a proletarian democracy, at least in certain countries outside the European continent (England, America). Marx did in fact concede that possibility, and he had good grounds for conceding it in regard to England and America in the seventies of the last century, when monopoly capitalism and imperialism did not yet exist, and when these countries, owing to the special conditions of their development, had as yet no (sic) developed militarism and bureaucracy. That was the situation before the appearance of developed imperialism. But later, after a lapse of thirty or forty years, when the situation in these countries had radically changed, when imperialism had developed and had embraced all capitalist countries without exception, when militarism and bureaucracy had appeared in England and America also when the special conditions for peaceful development in England and the United States had disappeared—then the qualification in regard to these countries necessarily could no longer hold good (*Foundations of Leninism*, Pet. Ex. 121, p. 55).

The following quotation is a reaffirmation by Stalin of the necessity of overthrowing "bourgeois" governments by forcible means:

**Therefore, Lenin is right in saying:**

"The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a *new one* * * *" (*Selected Works*, Vol. VII, p. 124) (ibid, at p. 56).

The foregoing is but an illustrative portion of the abundant utterances of the Classics relating to the nature and means of effectuation of the dictatorships of the proletariat throughout the world. They have not been taken out of context; they are embedded in the sense of these writings and mean what they say.

Although we have heretofore set forth under the heading "Marxism-Leninism" a review of the evidence and our finding that Respondent's aherence to Marxism-Leninsim has implicit in it complete subservience to the fandamental principles thereof—that the Classics are binding upon Respondent in all fundamentals; it is desirable, because of the principles and policies of the Classics concerning allegiance to the Soviet Union, and particularly the necessity for the overthrow of existing "imperialist" governments, including, *inter alia*, the United States, to summarize here, by way of review, some of the evidence establishing Respondent's present adherence to the Classics.

In 1945, when Respondent reverted to the name Communist Party of the United States of America (maintaining the basic organizational form under which it presently operates), William Z. Foster announced to the membership, in substance, that the Classics assumed an even greater importance, and said that "as never before, we must train our Party in the fundamentals of Marxism-Leninism" (Pet. Ex. 372, p. 788). Alexander Trachtenberg in 1949 declared to a group of Respondent's members meeting in Washington, D. C., that Party leaders must know the Classics and be able to apply their principles to any current situation at any time. Petitioner's witness Matusow shows that in the Party the *Communist Manifesto*, though 100 years old, "is just as relevant today as it was in 1848 when it was written." The Classics were in use by the Party, to Matusow's knowledge, in December 1950. Marxism-Leninism, as embodied in the Classics, provided the basis of what Petitioner's witness Lautner taught and was taught at Respondent's National Training School. The Classics were used in the Marxist-Leninist Institute in Los Angeles which Petitioner's witness Evans attended until it was discontinued in June 1950.

It is established that the above Classics have been used in study courses during the years 1945–1950, for use in teaching Respondent's members.

A recent article by Alexander Bittelman, a CPUSA leader, states:

> A theoretical contribution of Stalin which, *like the Foundations of Leninism and his other theoretical works, ranks with the fundamental theoretical and philosophical works of Marx, Engels and Lenin*, is the *History of the Communist Party of the Soviet Union.* The *History* is a fountainhead of Marxist-Leninist knowledge—theory, ideology, strategy, tactics, principles of organization. It is a guide to Marxist-Leninist action. It embodies the theoretical and programmatic positions of Marxism-Leninism (*Political Affairs*, December 1949, Pet. Ex. 373, p. 8). [Italic supplied.]

The same highly placed author, in January 1952, states:

> Lenin's teachings are triumphing because they are true. The teachings of Lenin, further developed by Stalin, demonstrate their creativeness and cogency in all the great progressive struggles of our day and epoch. Lenin's teachings inspire the actions of the vanguard fighters for peace and democracy. Peoples fighting for equal rights and national independence find their advance fighters and leaders guided by the teachings of Lenin, so brilliantly continued and further developed by Stalin. And the magnificent historic fight of our epoch—the fight for socialism, for Communism—whose grandeur overshadows all of the great previous achievements of mankind, crowning them with the realization of the noblest aspirations and dreams of the human race—this historic fight, we are

proud to say, is guided by the teachings of Lenin and of his great continuer Stalin. It is led by parties of Marxism-Leninism, by Communist and Workers Parties (*Political Affairs*, Pet. Ex. 489, p. 1).

In addition to the documentary evidence, it was established through the testimony of Petitioner's witnesses Gitlow, Kornfeder, Nowell, Crouch, Honig, Johnson, Meyer, Hidalgo, Matusow, and Budenz, among others, that the CPUSA in reality advocates the overthrow of the government of the United States by force and violence. The membership of the above witnesses in the CPUSA spanned the entire existence of the Party until January 1951. Their various positions therein ranged from high offices to rank and file Party membership. All were in a position to know whereof they spoke.

Respondent engaged in extensive cross-examination of these witnesses on their testimony concerning force and violence and also examined its own witnesses at some length on this subject, thus joining issue thereon.

In essence, Respondent's witnesses testified that the CPUSA does not seek to overthrow the government of the United States by forcible means but rather it seeks to establish its program by peaceful means within the framework of the United States Constitution; that "force and violence" as referred to by Respondent comes into play only in the event that the duly elected "socialist" government is subject to "counter revolutionary" force by the unseated capitalist-monopolists; it then advocates meeting such an attempt by force to maintain their position. Respondent points to language in its 1945 and 1948 Constitutions (Pet. Exs. 329 and 374, respectively) which embraces the United States Constitution. On the other hand, Petitioner's witnesses establish that the principles of "scientific socialism, Marxism-Leninism," as used in Respondent's Constitution and other writings, have a definite meaning to CPUSA members,[88] i. e., that the basic goal of Respondent, founded on the writings of Marx, Engels, Lenin, and Stalin, namely, the establishment of the dictatorship of the proletariat, can be attained only by the violent shattering of the "bourgeois" state, and this includes the government of the United States.

It is established that such language in these Constitutions of Respondent, and other similar statements embracing the Bill of Rights and the United States Constitution, are irreconcilable with Marxist-Leninist principles, and are devices to clothe a conspiracy against the United States Government in the habiliments of legality. The testimony of Respondent's witnesses, as set forth above, is likewise rejected as being irreconcilable with the great weight of the evidence.

The testimony of Petitioner's witnesses establishes that, pursuant to the preachments of the Classics, the CPUSA seeks to overthrow the existing government in the United States, and its institutions, by forcible means, and to establish a dictatorship of the proletariat in proceeding to establish socialism."[89]

We are also mindful that the evidence in this proceeding discloses, and we officially notice, that most of Respondent's foremost leaders, despite contentions like those made by Respondent in this proceeding, were recently convicted under the statute known as the Smith Act (Title 18, Secs. 11 and 13, United States Code) of conspiring to teach and advocate the overthrow of the United States government by force and violence; and that the convictions of eleven such leaders

[88] See Secret Practices for further details re "protective language," pp. 107–108, *supra*.
[89] See Marxism Leninism, pp. 21–44, *supra*.

which have been reviewed by the Supreme Court of the United States have been upheld (341 U. S. 494; Rehearing denied, 342 U. S. 842).

Respondent's adherence to and implementation of a concept requiring the overthrow of the United States Government by any means, including force and violence, is completely incompatible with, and the exact antithesis of, allegiance to the United States. This becomes even more clear when we examine additional international aspects of Marxism-Leninism from which this concept flows.[89]

The Classics reveal that the requirement of paramount allegiance to the Soviet Union is but the natural corollary of the Soviet Union's position as leader of the world Communist movement and fatherland of the world proletariat. Consequently, the basic postulates of Marxism-Leninism, (a) protection of the Soviet Union, and (b) destruction of capitalist states and the establishment, ultimately, of world Communism, impinge directly upon allegiance. In the infancy of the Soviet Union, Lenin, as cited by Stalin in *Problems of Leninism* (Pet. Ex. 138, p. 19), evaluated its international position as involving inevitable clashes with imperialist states and proclaims the necessity for the Soviet Union to call forth the world revolution:

> The second enormous difficulty was * * * the international question. If we were able to cope so easily with Kerensky's bands, if we so easily established our power, if the decree on the socialisation of the land and on workers' control, was secured without the slightest difficulty—if we obtained all this so easily it was only because for a brief space of time a fortunate combination of circumstances protected us from international imperialism. International imperialism, with all the might of its capital and its highly organized military technique, which represents a real force, a real fortress of international capital, could under no circumstances, under no possible conditions, live side by side with the Soviet republic, both because of its objective situation and because of the economic interests of the capitalist class which was incorporated in it, it could not do this because of commercial ties and of international financial relationships. A conflict is inevitable. This is the greatest difficulty of the Russian Revolution, its greatest historical problem: the necessity to solve international problems, the necessity to call forth the world revolution (*Collected Works*, Vol. XXII, pp. 315–317, Russian Edition).

That protection and security of the Soviet Union is fundamental to the world Communist movement is clear from Stalin's statement:

> The final victory of socialism is a complete guarantee against attempted intervention, and that means against restoration, for any serious attempt at restoration can take place only with support from outside, only with the support of international capital. Hence the support of our revolution by the workers of all countries, and still more the victory of these workers in at least several countries, is a necessary condition for completely guaranteeing the first victorious country against attempts at intervention and restoration, a necessary condition for the final victory of socialism. (A quotation of Joseph Stalin cited by him in his *Problems of Leninism*, *supra*, at p. 64.)

The Classics make it plain that the Soviet Union, fostering its own security, will work toward the destruction of capitalism by developing revolutions in all countries. Stalin quoting Lenin:

> Lenin expressed this thought in a nutshell when he said that the task of the victorious revolution is to do the utmost possible in one country *for* the development, support and awakening of the revolution *in all countries* (*Selected Works*, Vol. VII, p. 182) (*Foundations of Leninism*, Pet. Ex. 121, p. 46).

Stalin elaborates on this international aspect in setting forth the "absolute law" of capitalist development and of world revolution:

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[89] See Marxism-Leninism, pp. 21–44, *supra*.

Uneven economic and political development is an absolute law of capitalism. Hence, the victory of socialism is possible, first in a few or even in one single capitalist country taken separately. The victorious proletariat of that country, having expropriated the capitalists and *organized its own socialist production* [my italics—J. S.] would rise against the rest of the capitalist world, attract to itself the oppressed classes of other countries, raise revolts among them against the capitalists, and in the event of necessity, come out even with armed force against the exploiting classes and their states (*Collected Works*, Vol. XVIII, p. 272) (*Problems of Leninism, supra*, at p. 69).

Stalin in *Foundations of Leninism* (Pet. Ex. 121, pp. 90–91) states in capsule form the strategy applicable to the various stages of the revolution, which depicts the Soviet Union as the "base" for the overthrow of "imperialism":

Our revolution already passed through 2 stages, and after the October Revolution it has entered a third stage. Our strategy changed accordingly.

* * * * * * * * *

Third stage. Commenced after the October Revolution. Objective: to consolidate the dictatorship of the proletariat in one country, using it as a base for the overthrow of imperialism in all countries. * * *

The hegemony exercised by the Soviet Union over the world Communist movement is that of originator and founder:

Is it surprising, after all this, that a country which has accomplished such a revolution and possesses such a proletariat should have been the birthplace of the theory and tactics of the proletarian revolution?

Is it surprising that Lenin, the leader of this proletariat, became the creator of this theory and tactics and the leader of the international proletariat? (*ibid*, p. 19).

The leadership of the Soviet Union is openly lauded in the *Programme of the Communist International* (Pet. Ex. 125, p. 27):

Thus, the system of world imperialism, and with it the partial stabilization of capitalism, is being corroded from various causes: First, the antagonisms and conflicts between the imperialist states: * * * and lastly, the hegemony exercised over the whole world revolutionary movement by the proletarian dictatorship in the U. S. S. R. The international revolution is developing.

In view of the fact that the U. S. S. R. is the only fatherland of the international proletariat, the principal bulwark of its achievements and the most important factor for its international emancipation, the international proletariat must on its part facilitate the success of the work of Socialist construction in the U. S. S. R. and defend her against the attacks of the capitalist powers by all the means in its power (*ibid*, p. 65).

The Soviet Union being the fatherland or home base of the world revolution, the leaders of the Soviet Union serve also as leaders of the organized world Communist movement. Hence, the Communist International, the Soviet Union, and Stalin were given pledges of allegiance by Respondent's leaders and members as shown by the evidence which we now set forth.

Nowell, a former CPUSA official who testified for the Petitioner in this proceeding, took an oath upon joining the CPUSA (in 1929) to carry out the Party line and to adhere to the principles of the Comintern at all times.

Earl Browder read a pledge to 2,000 workers who were initiated into the CPUSA in the New York District in 1935. Part of this pledge read as follows:

I pledge myself to rally the masses to defend the Soviet Union, the land of victorious socialism. I pledge myself to remain at all times a vigilant and firm defender of the Leninist line of the Party, the only line that insures the triumph of Soviet Power in the United States (Pet. Ex. 145, p. 105).

At Madison Square Garden in New York City in 1937, about 3,000 new recruits to the Party pledged, among other things, to uphold and advance the program of the Communist Party, as well as their "complete devotion to the Leninist struggle for socialism—for a Soviet America."

At the Seventh World Congress of the Communist International at Moscow in 1935, delegates from the CPUSA, including some of the present leaders of the Party, took an oath of fealty, "To Comrade Stalin, leader, teacher, and friend of the proletariat and oppressed of the whole world" whom they assured that "the Communists will always and everywhere be faithful to the end and to the great and invincible banner of Marx, Engels, Lenin, and Stalin" and that "under this banner, Communism will triumph throughout the world."

The delegation of Respondent to this Congress approved this oath of fealty to Stalin and two of the delegates, Browder and Foster, were elected at this Congress to the Presidium of the Executive Committee of the Communist International. Subsequently, the decisions of the Seventh Congress of the Communist International and the work of the CPUSA delegation at that Congress were fully approved by the Central Committee of Respondent.

Of the nine members of the delegation to the Seventh World Congress of the Communist International who took and approved this oath to "Comrade Stalin," six, namely, William Z. Foster (National Chairman), John Williamson (Labor Secretary), Gilbert Green, Jack Stachel, William Schneiderman, and Martha Stone, are presently leaders of the CPUSA. At the 15th National Convention of the CPUSA, held between December 28–31, 1950, the Party elected these six members or alternate members of its National Committee.

After this 1935 Congress of the Communist International, all Communist leaders and functionaries had to take a basic pledge or oath of loyalty to Stalin.

Foster, as the principal speaker at the 1948 Ohio State Convention of Respondent, stated that the CPUSA in Ohio should elect as leaders only those individuals upon whom they could depend in the event of a war between the Soviet Union and the United States.

In 1949, the CPUSA published a message to Stalin in which the Party accused the United States Government of violating the commitments made at Yalta and at Potsdam and referred to the existing government as "American imperialists." This message, in effect, constituted a reaffirmation by the CPUSA of its loyalty and a further acknowledgment of Stalin's leadership of the world-wide Communist movement.[90]

Twelve of the thirteen members of the National Committee of the CPUSA, who were elected at the 15th National Convention of the Party held December 28–31, 1950, and three of the alternates have been convicted under the Smith Act as heretofore noted. Four of those convicted, namely, Williamson, Green, Schneiderman, and Stachel, were among those leaders of Respondent who took an oath of fealty to Stalin at the Seventh World Congress of the Communist International at Moscow in 1935. The record does not disclose that any of these CPUSA leaders who have taken oaths of fealty to Stalin have ever repudiated the oaths, or that Respondent has repudiated their action.

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[90] See Training and Reporting, pp. 89–98, *supra*.

That the allegiance owed the Soviet Union by Respondent's leaders and members is paramount to that owed to the United States is further borne out by the record. The evidence establishes numerous instances in the past where Respondent and its leaders have urged its members to defend the Soviet Union, even in the event of a war between that country and the United States of America. The slogan "Defend the Soviet Union," has been used in this regard.

Respondent's students at the Lenin School in Moscow, in the period between 1927 and 1937, were taught that the role of the CPUSA, in the event of war between the Soviet Union and the United States, is to support and defend the former and to labor for the defeat of the latter.

Early in its history, the CPUSA regarded as one of its purposes or duties the defense of the Soviet Union as the fatherland of the working classes all over the world. All new members of Respondent were instructed between 1927 and 1939, that the first and only allegiance of a Party member is to the workers' fatherland, namely, the Soviet Union, and not to any capitalist government.

A Red flag, brought from Moscow in 1929 by one of Respondent's members, was displayed at lectures on the Soviet Union. The use of the flag of the Soviet Union at a Communist camp in Michigan during the early 1930's, and up to 1936, was intended to signify the fatherland of the working class, or Communism as practiced in the Soviet Union, as well as to make friends for the Soviet Union, and to draw the American people nearer to Communist ideology and the CPUSA.

Two members of Respondent's Central Committee criticized a Party official for authorizing the flying of the American flag in a Fourth of July parade in 1934.

In 1935, Dimitri Z. Manuilsky, then head of the Communist International, told Respondent's delegates to the Seventh World Congress of the Communist International in Moscow, at a meeting immediately prior thereto, that the first allegiance of all CPUSA members was to the workers' fatherland, the Soviet Union. Manuilsky demanded that the subject of allegiance again be stressed throughout the lower ranks of Respondent. Students at Respondent's schools in the United States, particularly in 1932 and 1936 to 1941, were taught that the first and only allegiance of a Party member is to the Soviet Union, the fatherland, rather than to the United States.

A document in which the defense of the Soviet Union is urged, The Communist Party: *A Manual On Organization*, by J. Peters, was used during the 1940's as reference material by CPUSA officials.

Students at the Communist Midwest Training School in Chicago were taught in December 1945, that the Communist forces throughout the world owe their allegiance to the Soviet Union. Party members were taught at Respondent's meetings in 1948 that they owe allegiance to the "democratic forces" of the world and that the Soviet Union represents such forces.

Petitioner's witness Lautner, a former high official of Respondent, learned from his varied experience in the Party from November 1929 until January 17, 1950, that the primary duty of a CPUSA member lies in the defense of the Soviet Union. A CPUSA leader in November 1950 denounced the United States for inciting war against the Soviet Union. He urged Party members to respond to "imperialist slanders and war incitements" by an "ideological and political offen-

sive in the defense of the Soviet Union as the leader of the world camp of peace, democracy and Socialism," as well as "to support and defend the peace policy of the Soviet Union."

This evidence takes on clearer meaning when it is viewed against the Marxist-Leninist concept of "imperialism", and its corollary "just and unjust wars." [91]

The Classics are specific on the question of war as is exemplified by the following quotation from the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Pet. Ex. 330, pp. 167–168):

> It was not to *every kind* of war that the Bolsheviks were opposed. They were only opposed to wars of conquest, imperialist wars. The Bolsheviks held that there are two kinds of war:
>
> (a) *Just* wars, wars that are not wars of conquest but wars of liberation, waged to defend the people from foreign attack and from attempts to enslave them, or to liberate the people from capitalist slavery, or, lastly, to liberate colonies and dependent countries from the yoke of imperialism; and
>
> (b) *Unjust* wars, wars of conquest, waged to conquer and enslave foreign countries and foreign nations.
>
> Wars of the first kind the Bolsheviks supported. As to wars of the second kind, the Bolsheviks maintained that a resolute struggle must be waged against them to the point of revolution and the overthrow of one's own imperialist government.

In applying this basic concept, it was taught at the Lenin School in Moscow, and by Respondent at its schools and meetings during its entire existence, that a "just" war is any war in which the Soviet Union has as an adversary an imperialist power, regardless of whether the Soviet Union is the aggressor or the defender; and that any war between a colony and its mother country is a "just" war for the colony. Conversely, any war against the Soviet Union, regardless of which nation might be the aggressor, is an "unjust" war for the Soviet Union's adversary.

In the event of war between two capitalist countries, the Communist role is to work for the destruction of both, thus leaving to the Soviet Union a clear path for future conquest. [92] In the event of a war between the Soviet Union and the United States, however, CPUSA members are to work for the defeat of the United States.

The students at the National Training School of the CPUSA in New York City in about 1932, were taught that in the event of such a war, it was the duty of every Communist to help defeat the United States and to secure the victory of the Soviet Red Army; and that Communist cells in the American armed forces should work for the demoralization of such forces.

Browder stated in 1938, that in the event of a war between the Communist and non-Communist worlds, the task of the Party is to work for the victory of the Soviet Union, and world Communism.

The CPUSA, adhering to the principles of Marxism-Leninism, has consistently characterized the United States as an "imperalist" and a "capitalist" nation which by definition can participate only in "unjust" wars. Any war among capitalist countries or by a capitalist nation against a "socialist" country, such as the Soviet Union, is considered by Respondent to be an "unjust" war. However, the Soviet Union or any other "socialist" countries are upheld as "anti-imperialist" nations which cannot possibly start an "unjust" war; any war participated in by "socialist" nations is considered by

[91] See Marxism-Leninism, pp. 21–44, *supra*.

[92] It is interesting to advert here to the history of the Nazi-Soviet Pact as related in our findings herein under Nondeviation, pp. 82–83, *supra*.

Respondent to be a "just" war from the standpoint of such nations. In fact, in 1949, Foster and Dennis, leaders of Respondent, wrote in the Party publication, *Daily Worker*, that Respondent would oppose a "Wall Street" war as "unjust, aggressive, and imperialist." Thus, the war in Korea is considered by Respondent to be a "Wall Street" war. In this connection, the United States has been portrayed by Respondnent as the leader of all the imperialist nations bent on world conquest, while the Soviet Union is pictured as the peace-loving leader of the anti-imperialist nations.

In 1940, Eugne Dennis discussed with witness Budenz the steps to be taken by Respondent to turn the "imperialist" war into a civil war in this country, should the United States join with Great Britain against the Hitler-Stalin combine.

Students were taught in CPUSA schools in 1941 and 1947, that imperialism is worldwide and that a worldwide organization is necessary to bring about its downfall; further, that the world Communist movement is such an organization.

In December 1948, Henry Winston, National Organizational Secretary and a member of Respondent's National Committee, stated that the question of industrial concentration and placing of members of the CPUSA youth movement in the basic industries was particularly important at that time because, in the event of an "imperialist" war, their presence would be necessary in order to mobilize workers against this war, to slow down production, and to do whatever possible to make certain that such an "unjust" war is not successful. Winston is one of those convicted of a violation of the Smith Act, referred to earlier.

The position the CPUSA stressed in 1949 [93] was that there were two camps in the world: one, the "imperialist" camp led by the United States, and the other camp of the "forces for peace and democracy" led by the Soviet Union; and, that everything must be done to support the latter as against the former. In order to accomplish this objective, Respondent took the position that it should build and expand its Marxist-Leninist ideology.

At a secret meeting of Respondent in Baltimore in 1949, it was agreed that its members would not bear arms for the United States in the event of any conflict between the United States and the Soviet Union.

Students at the Marxist-Leninist Institute in Los Angeles from April 1949 to June 1950, were taught that the Soviet Union could at no time start an "unjust" war while the United States could start an "unjust" war but never a "just" one; further, that a good Communist must support a nation engaging in a "just" war and oppose an "unjust" war.

The position of the CPUSA at the present time is that the Korean War is an "unjust" war which the United States and her allies are waging as aggressors against the North Korean and Chinese peoples.[94]

From the evidence contained in this record, we find that Respondent exists in this country fundamentally for the purpose, which it constantly seeks to accomplish, of overthrowing the Government of the United States by force and violence, in order to install "socialism" under the dictatorship of the proletariat, after the manner of the Soviet Union; this is the very antithesis of allegiance to the United States.

[93] See also Imperialism re this position of Respondent, p. 49, *supra*.
[94] See Nondeviation, p. 84, *supra*.

We find upon the whole record that the evidence preponderantly establishes that Respondent's leaders and its members consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union.

## II. Legal Discussion

Respondent attacks the Recommended Decision asserting it does not fulfill its function, and that it cannot be relied upon by the Board because it allegedly misstates the record, fails to present relevant matters, and confuses the record and issues. Respondent sets forth specific instances which it contends are illustrative of the above alleged errors.

We have heretofore reviewed these matters, along with Respondent's overall exception to the Recommended Decision (No. 310), in disposing of its motion of November 24, 1952, to strike the Decision. As indicated in our Memorandum Opinion and Order of February 24, 1953, denying Respondent's motion, we have completely analyzed and evaluated anew all the evidence in this proceeding, considering all exceptions and contentions of the Parties. Our findings in this report contain only that substance from the Recommended Decision, which we, after an independent evaluation of the record, have confirmed as being supported by a preponderance of the evidence.

Respondent next contends that the Panel admitted both oral and documentary evidence of Petitioner without a proper foundation of competency. It cites examples which it claims are egregious. Respondent argues that while allowing boundless latitude to Petitioner, the Panel erroneously curtailed its cross-examination of all of Petitioner's witnesses, as well as the submission of its proof. It asserts that the Panel erred in refusing to require production of reports and memoranda turned over to the Federal Bureau of Investigation by Petitioner's witnesses, in restricting its cross-examination designed to show that Petitioner's witnesses were not credible, in excluding "various" exhibits offered by Respondent, and in its rulings regarding the evidence relating to the nondeviation criterion of the Act.[95] We have considered each of these specific allegations and we find no substantive error regarding the matters alleged by Respondent. Nor can we find any reasonable justification for Respondent's assertion that the Panel restricted its proof and its cross-examination of witnesses. It is noteworthy that Respondent cross-examined Petitioner's witnesses exhaustively and at great length. It was afforded every opportunity to present all material and relevant evidence, to the fullest. Any shortcomings in this respect must lie with Respondent.

Respondent further contends that the Recommended Decision does not rest on evidence of its activities subsequent to the effective date of the Act, but rather that it rests on certain "props" which assertedly are contrary to the evidence and the law. Respondent defines these "props" as the Panel's suggestion that the dissolution of the Comintern in 1943 was not real and that there is some relationship between Respondent and the Cominfrom; the Panel's conception (a) of Marxism-Leninism, (b) of the Comintern, (c) that Respondent's disaffiliation therefrom in 1940 was not real, and (d) that the formation

[95] We have disposed of this latter contention in our discussion concerning nondeviation, pp. 79-82, *supra*.

of the Communist Political Association and the reconstitution of the CPUSA were on orders from Moscow.

Specifically with respect to the Panel's concept of Marxism-Leninism and its reliance thereon, Respondent argues that the decision in *Schneiderman* v. *United States*, 320 U. S. 118, "held that the principles of Marxism-Leninism, as expressed in classical Marxist-Leninist literature, could reasonably be understood so as to be consistent with being 'attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.'" Further, it contends that it is a violation of the First Amendment and the holding in *Dennis* v. *United States* (339 U. S. 162), to consider as evidence of "guilt" under the Act the belief in, or discussion of, Marxist-Leninist principles and literature (p. 57). After due study and deliberation of the foregoing decisions we conclude that they are in no sense *res judicata* of, or applicable to, the issues in this proceeding, nor do they in any way preclude the findings and disposition we have made herein. After consideration of these decisions we made detailed findings regarding Marxism-Leninism, which have been set forth above; they are based upon a preponderance of the evidence of record and we deem it unnecessary to discuss them further. Respondent's position with respect to the so-called "props" of the Recommended Decision is untenable. We have, however, considered these propositions and to the extent, and in the form, they appear in our findings in this report they are not subject to the infirmities alleged.

Respondent has repeatedly urged that the issue of whether it is a Communist-action organization must be resolved by evidence of its activities and status during the period between the effective date of the Act (September 23, 1950), and the date of the petition (November 23, 1950). Proceeding on this basis, it has continually attacked the reception and use of evidence pertaining to its activities and status prior to the Act. Initially, it raised the question concerning pre-Act evidence in its motion to dismiss the petition. In disposing of this contention we ruled in our Memorandum Opinion and Order of January 24, 1951, denying the motion, that evidence of conduct or activities which occurred prior to the passage of the Act may be of probative value to establish issues coming into existence after the effective date of the Act and, if so, could be received. Respondent now argues that the Panel, in its Recommended Decision, while giving "lip service" to the Board's ruling, completely "negatives" it by relying on a legal presumption of continuation of a condition. Respondent further argues that no such legal presumption exists when, as here, there has been a change of law (enactment of the Act) which attaches sanction to previously innocent conduct. It stresses that, if such a presumption existed, it was nevertheless "illegitimate" for the Panel to rely thereon in the face of the uncontradicted testimony of its witnesses. It further argues in this connection that the use of pre-Act evidence by the Panel amounted to an unconstitutional "*ex post facto*" application of the Act and was contrary to its provisions.

As is apparent, evidence relating to periods throughout Respondent's entire history has been received and properly so under our aforementioned ruling on this point. In order to resolve the issues presented here, it is advisable, if not necessary, to consider Respondent's entire existence.

In reaching our conclusion herein we have considered and weighed commensurately, therefore, such pre-Act evidence as reasonably tends to establish or illuminate the present nature, activities, character, and status of Respondent in connection with the issues presented for decision. We believe that in so doing there has been no violation of the Act itself or any *ex post facto* or other unconstitutional application thereof. As the Supreme Court of the United States has stated "present events have roots in the past." This is particularly true in this proceeding where consideration thereof brought to light facts, and raised presumptions and inferences tending to show Respondent's true current purpose, as well as the nature of its present conduct. We have been able to trace Respondent's operations over more than thirty years into the present and have found that at no time during this period has Respondent changed its fundamental objectives, or its nature and purpose. There are no protestations of repentance and reform; and, though Respondent continually points to its "disaffiliation" from the Communist International, for example, as a severance of its relationship with international Communism, a study of its pre-Act existence properly enabled us to adjudge that this was, at most, only a superficial act designed in the interest of domestic political expediency to circumvent adverse legislation (Voorhis Act).

It would have been unwarranted by law to compel Petitioner to restrict its proof to fragmentary evidence confined to a relatively minute portion of Respondent's existence, i. e., the two-month period between the passage of the Act and the filing of the petition. Our determination on this question is supported by the authorities. *United States* v. *Schneiderman et al.* (106 Fed. Supp. 892, 898–900); *United States* v. *Dennis et al.* (183 F. 2d 201, 231–32); *F. T. C.* v. *Cement Institute et al.* (333 U. S. 683, 704–706); *N. L. R. B.* v. *Pacific Greyhound Lines* (91 F. 2d. 458, 459).

The law assumes in the absence of proof to the contrary, which Respondent did not establish to our satisfaction, that a condition or set of facts shown not too remotely in the past (all circumstances considered) to have existed, still continues. In the circumstances here presented we do not consider that the passage of the Act, in and of itself, affects this presumption respecting Respondent. In addition thereto, the record contains ample post-Act evidence which, when illuminated, supports our finding.

It should be noted in the latter connection that Respondent further contends that there is insufficient post-Act evidence in the record to support the Panel's finding against it. As this contention is really part and parcel of the foregoing, we shall not consider it further.

Suffice to say, our finding herein, that Respondent is a Communist-action organization, is clearly supported by a preponderance of the probative evidence of record.

Respondent also takes the position that Petitioner is required to prove the existence of a world Communist movement having the characteristics described in Section 2 of the Act, and that it has failed to do so. It asserts the finding made by the Panel concerning the objective of the world Communist movement is irrelevant and unsupported by the evidence. In view of the fact that we have heretofore found on this record that a world Communist movement exists, substantially as described in Section 2 of the Act, it is unnecessary to discuss whether such a finding is required. The evidence stated in our

findings on the world Communist movement [96] as well as the other findings in this report plainly establish the existence of an international Communist movement organized and directed by the Soviet Union, which conforms substantially to that described by the Congress in Section 2 of the Act. Respondent does not contend that there is more than one world Communist movement in existence and it is incorrect to state that the movement found herein is not sufficiently identified with that described in Section 2.

Throughout this proceeding Respondent has attacked the constitutionality of the Act and has contended that it was being administered in an unconstitutional manner. As we have previously ruled, the constitutionality of the Act is not properly an issue before us; and we presume that the Act is constitutional. We shall, therefore, address ourselves to the latter group of contentions. In this connection Respondent, during the hearing, in its briefs, exceptions, and supporting memorandum has persistently charged violations of the Bill of Rights of the Constitution. It contends that it violates the First Amendment to use as evidence, to base findings on, or to draw conclusions from its conduct and various statements relating to what it teaches in its schools, materials used in connection therewith such as books, study outlines and reading lists, statements by it or its leaders as contained in various publications including the *Daily Worker*, *Political Affairs*, and *For a Lasting Peace, for a People's Democracy* and the Marxist-Leninist Classics, and other important documents. On this basis it takes exception to statements in the Recommended Decision which, among others, are quotations from its various publications or Marxist-Leninist Classics, and to findings concerning the source, nature, and content of Marxism-Leninism, the world Communist movement, its leader and its objective, as well as the finding that it is a Communist-action organization.

Respondent further contends that the various findings of the Recommended Decision together with the recommendation that the Board enter an order requiring it to register as a Communist-action organization violate the Fifth Amendment. As best we can ascertain, this contention, that due process of law has not been accorded it, has a dual aspect. The first is a corollary to Respondent's assertion that much of the evidence in this proceeding violates the First Amendment, and the other, that irrespective of this it is none the less violative of the Fifth Amendment to find against Respondent on this record. Moreover, Respondent argues that the testimony of Petitioner's witnesses who were "planted in the CPUS as FBI informers, should have geen [sic] excluded under the First, Fourth, and Fifth Amendments."

Although it is extremely difficult in many instances to determine from Respondent's general allegations exactly the specific bases of its contentions, we have reviewed these contentions with great care and have examined their many aspects as they apply to our report herein. We find that no violation of Respondent's constitutional rights has been committed in this proceeding. To adopt Respondent's theory of what comprises constitutionally protected conduct and expression would result in closing to Petitioner legal avenues of proof.

In conjunction with its contentions respecting violations of the Fifth Amendment we have also examined Respondent's general asser-

[96] Pp. 4 to 9, *supra*.

tion, often repeated, that a fair and impartial hearing has not been accorded it. From our analysis of the record, we find that Respondent has been accorded a fair and impartial hearing, and a full measure of due process of law.

## CONCLUSION

The evidence in this proceeding discloses the history and activities of the Communist Party of the United States (Respondent herein) over the period of its entire existence. From its inception in 1919, it has been a subsidiary and puppet of the Soviet Union.

Since the late 1930's, when it was faced with adverse legislation, Respondent has become increasingly diligent and resourceful in its efforts to appear as a domestic political party while continuing its subservience to the Soviet Union. Many of its practices were contrived to conceal its revolutionary objectives. Thus, it continues as an avowed Marxist-Leninist organization, but, except to initiates, disclaims so much of Marxism-Leninism as would endanger its continued legal existence to espouse. As in the present proceeding, this frequently entails disavowing the core of Marxism-Leninism.

Consequently, Respondent is met with the dilemma of appearing to reject but yet maintain its reason for being. As our findings in this report reveal, this dual role is so fundamentally incongruous as to be incapable of fulfillment under scrutiny. It is so innate in Respondent's nature that it seek and accept Soviet Union direction and control that, in actuality, it does not function as the purely domestic political party whose role it would, de jure, assume. Rather, nurtured by the Soviet Union, it labors unstintingly to advance the world Communist movement.

With consummate patience, the Party strives for the establishment of a dictatorship of the proletariat in the United States; a goal which would rob the American people of the freedoms they have forged. While using the cloak of the United States Constitution, it struggles unremittingly to synthesize from the complexities of our time a condition in this country which would enable it to shackle our institutions and preside over a Soviet America, under the hegemony of the Soviet Union.

Upon the overwhelming weight of the evidence in this proceeding, we find that Respondent is substantially directed, dominated, and controlled by the Soviet Union, which controls the world Communist movement referred to in Section 2 of the Act; and that Respondent operates primarily to advance the objectives of such world Communist movement.

Accordingly, we find that the Communist Party of the United States is a Communist-action organization and required to register as such with the Attorney General of the United States under Section 7 of the Act.

An appropriate order will be entered.

By the Board:

(Signed) PETER CAMPBELL BROWN,
*Chairman.*

(Signed) KATHRYN MCHALE,
*Member.*

(Signed) WATSON B. MILLER,
*Member.*

Dated: April 20, 1953, at Washington, D. C.

CODDAIRE, *Member* (concurring):

On the basis of the testimony, the documentary material, and the Recommended Decision, all of which I have carefully read and studied, I am fully in accord with and concur in the findings and in the determination that the Respondent herein, the Communist Party of the United States of America, is a Communist-action organization under subsection (3) of Section 3 of the Act and required to register as such under Section 7. Since the Respondent has attempted by its briefs and arguments to eviscerate the Act and this proceeding, and since issues of far-reaching importance have been raised, I deem it desirable to set forth my understanding as to the nature and scope of the Board's Order issued herein. Proper understanding of the nature and scope of the Board's Report and Order does much to eliminate Respondent's contentions against the Act and the application of the Act to the Respondent.

The Subversive Activities Control Act of 1950 marks the beginning of a new stage in the development of public policy against un-American and subversive activities. The Board has been launched as a quasi-judicial agency for the carrying-out of the fact-finding and resultant adjudicatory aspects of a statutory scheme for, *inter alia*, identification of foreign dominated and foreign controlled organizations which operate in the United States primarily to carry out the evils found by Congress to be present in the world Communist movement.

Of particular importance are the facts that, in my opinion at least, registration proceedings before the Board are not criminal proceedings and reasonable registration in the public interest is not punishment. The result of the Board's order is not to outlaw the Communist Party nor is it punitive for past conduct. This proceeding is concerned solely with what amounts to the determination of a status. The order has, in effect, a forward-looking function aimed at registration or identification, as do many regulatory measures.

Respondent's main legal objections involve what it calls an improper use of pre-Act evidence, and a "built-in verdict" whereby under the Act the Board has no discretion other than to find as it has. These contentions, particularly when viewed against the nature and scope of the Board's Order as set forth above, are devoid of merit. The Board's Report treats with the question of pre-Act evidence and further elaboration is not necessary other than to emphasize that it is clearly proper, in my opinion, to base the determination of a status, or of characteristics, upon past and current facts whose weight we have strictly weighed.

Regarding the many arguments advanced by the Respondent in connection with its "built-in verdict" contention, the short answer is that the facts which have been ascertained in our Report, as established upon the formal record made in this proceeding, clearly and unequivocally show the Respondent to be a Communist-action organization as defined in the Act. Although there is no need for the Board to express an opinion on the constitutional questions raised by the Respondent, and I do not presume to do so, I can see nothing illegal *per se* in that the proofs in this proceeding establish the Respondent to be characteristically just the type of organization which the registration provisions of the Act cover.

(Signed) DAVID J. CODDAIRE,
*Member*.

Dated: April 20th, 1953, at Washington, D. C.

## APPENDIX A

### The Witnesses

Twenty-two witnesses appeared for Petitioner, nineteen of whom were former members of Respondent. Three witnesses appeared for Respondent, all of whom are members of the CPUSA. The periods of membership appear in parentheses after the names of witnesses. An asterisk appears after the names of witnesses who joined or rejoined Respondent as a result of conference with the Federal Bureau of Investigation.

### Petitioner's Witnesses

#### A. PETITIONER'S WITNESSES—FORMERLY MEMBERS OF THE RESPONDENT

Berenice Baldwin* (1943–1952): Membership director of Party Club in 1943; delegate to Michigan State Communist Party Convention in 1944; handled registration and membership records for Michigan District in 1947–1948; secretary of Party Section 1947–1950.

John Victor Blanc* (1934–1936; 1944–1949): Attended CPUSA schools in 1947 and 1948; dues secretary of Party Club in 1944; press and literature director for Party Club; organized and was chairman of Party Club 1947–1949; attended Ohio State Communist Party Convention in 1945, 1947 and 1948.

Louis Francis Budenz (1935–1945): Member, New York State Trade Union Committee, 1936–1937; labor editor of the *Daily Worker*, 1936–1937; member of Respondent's National Committee, 1936–1940; member of Illinois State Committee, 1937–1940; editor, *Midwest Daily Record*, 1937–1940; member of New York State Committee, 1940; president of Freedom of Press Company, Inc., 1940–1941; managing editor, *Daily Worker*, 1941–1945; alternate member, National Committee of Communist Political Association, 1944–1945.

Paul Crouch (1927–1942): Member of Young Workers League; chairman, CPUSA National Anti-Military Commission, 1928; member, National Young Communist League Secretariat, 1929; editor of the *Young Worker*, 1929; delegate, CPUSA National Convention, 1929, 1934, 1936, 1938 and 1940; National Secretary, Anti-Imperialist League; instructor in various CPUSA schools; CPUSA organizer in various Districts and officer in various District organizations.

William Garfield Cummings* (1943–1949): Press director, secretary, vice chairman, and chairman of Party Clubs; member, Ohio State Communist Party Committee; delegate to Ohio State Communist Party Convention, 1945 and 1948; delegate to CPUSA National Convention, 1948.

Timothy Evans, Jr.* (1948–1952): Chairman of Party Club; delegate to CPUSA regional convention in 1951; group leader and section educational director in 1951; assigned as "underground" member of CPUSA in summer 1951.

Benjamin Gitlow (1919–1929): Helped organize Respondent in 1919; member of Labor Committee and National Committee of Communist Labor Party; member of Political Committee (governing body) for most of time as member of Respondent; member of Secretariat, 1927–1929; General Secretary, 1928–1929; member, Executive Committee of Red International Trade Union, 1928–1929; present at conferences in Moscow, 1927, 1928, 1929; member, Executive Committee of the Communist International, 1928–1929.

Balmes Hidalgo* (1946–1949): Membership director of Party Club; financial secretary of Party Club; press director of Party Section; attended Party leadership school, 1947.

Nathaniel Honig (1927–1939): Discussion leader in Party Unit; employed by *Daily Worker;* editor, *Timber Worker*, 1937–1938, also editor of *Labor Unity*, 1930–1934; attended CPUSA National Convention, 1929–1934; teacher at Lenin School in Moscow, 1934–1935; representative of Trade Union Unity League to Red International of Labor Unions (Profintern) in Moscow; managing editor of *Western Worker*, 1936–1937.

John Edward Janowitz* (1943–1952): Member of various Party Clubs and Shop Units; alternate delegate to CPUSA Ohio State Convention, 1950.

Manning Johnson (1930–1940): CPUSA district organizer and district Agitation and Propaganda director; National Negro organizer for Trade Union Unity League; member, CPUSA National Committee Trade Union Commission; member, Negro Commission of National Committee; member, CPUSA National Committee, 1936–1938; student at CPUSA schools.

JOSEPH KORNFEDER (1919–1934): Helped organize Respondent in 1919; Branch organizer, 1919–1920; member, Central Committee, 1920–1924 and 1926–1928; labor union activities director, 1921–1922, eastern area director, 1920–1927; member, district committee and district bureau of Ohio, 1932–1934; general secretary, Trade Union Unity Council of New York; member, district bureaus and district committees; attended Lenin School in Moscow 1927–1930; Communist International representative in South America, 1930 and 1931.

JOHN LAUTNER (1929–1950): District Secretary of CPUSA National Hungarian Bureau in various States during 1930–1941; organizer in CPUSA sections and districts 1933 and 1936; director, CPUSA National Training School for Hungarian members, 1932; head of New York State Communist Party Review Commission, Fall 1947; member of CPUSA National Review Commission and in charge of security for New York State Party, 1948–1950.

MARY STALCUP MARKWARD* (1943–1949): Chairman, Party Club in 1944; membership director and treasurer for City of Washington, 1944; City Committee for Washington, D. C., 1945; member, District Committee, 1945 and 1948; visitor at Party National Convention in 1944.

HARVEY M. MATUSOW (1947–1951): Member of various Party youth clubs; employee of Jefferson School and manager of Camp Unity Book Store in 1948; Press Literature and Educational director of youth club, 1948–1949; employed at New York County Party headquarters in 1949; acting National Literature Director of the Labor Youth League and member, N. Y. State Executive Committee of the League during 1949 and early 1950; State literature director, New York Labor Youth League.

FRANK STRAUS MEYER (1934–1945): Transferred from British Communist Party; worked in Paris for British Communist Party in 1934; associated with British Young Communist League's Secretariat of the Central Committee; active in youth work in United States and Canada while a member of CPUSA; Area secretary, youth section, American League Against War and Fascism; Educational Director of Party Section, 1935–1937; Director, Chicago Workers' School and District Educational Director, 1938–1941; District Membership Director and Assistant Organizational Secretary, 1941–1942; instructor at Jefferson School, 1944.

WILLIAM ODELL NOWELL (1929–1936): Student, instructor, and director in Communist Party School in Detroit, Michigan; member and secretary of District Negro Commission, 1929; member of Michigan District Bureau and District Secretariat, 1930; member and later President of the Detroit Chapter of the Anti-Imperialist League, 1929; member, International Labor Defense, 1929; organizer, American Negro Labor Congress, 1929; Communist Party organizer in Auto Workers Union and Union representative to founding convention of Trade Union Unity League, 1929; manager, Workers' Book Store, Detroit, 1930; circulation manager of *Daily Worker* and Education Director in Michigan District; attended Lenin School, Moscow, 1931; Communist Party delegate to a celebration of Russian Revolution in Moscow, 1929; representative of Trade Union Unity League to Profintern.

HERBERT A. PHILBRICK* (1944–1949): Joined Massachusetts Youth Council in 1940 and was later chairman; joined Young Communist League in 1942 and American Youth for Democracy in 1943; member, Communist Party State Education Commission of Massachusetts; chairman, Massacusetts Communist Party leaflet production; alternate delegate, Massachusetts Communist Political Association Convention, 1945; State treasurer, American Youth for Democracy, 1943–1945; Cell Organizer, 1944; attended Communist Party Training School, 1945; District Educational Director, 1947; Professional Group Literature Director, 1947–1949.

DANIEL SCARLETTO* (1947–1952): Member of various Communist Party Clubs in 1947–1948; Press Director, El Sereno Club, 1948; Club organizational secretary, Mexican Concentration Club, 1948–1951: transferred to "underground" January 1951.

### B. PETITIONER'S WITNESSES—NEVER MEMBERS OF OR CONNECTED WITH RESPONDENT

JOHN W. CARRINGTON: Clerk of the Un-American Activities Committee of the House of Representatives. This witness was subpoenaed by the Attorney General in this proceeding to produce and authenticate, in his official capacity, certain documents from the files of the House Un-American Activities Committee.

ALEXANDER LOGOFET: Born and educated in Russia. Formerly employed by the Czarist government. Presently Russian interpreter for International Conferences for the Department of State. This witness was subpoenaed by the Attorney General in the instant proceeding to translate a document in the Russian language. (Petitioner's Exhibit No. 3.)

PHILIP E. MOSELY: Director of the Russian Institute; Professor of International Relations, Columbia University. Dr. Mosely testified as an expert for the Attorney General in regard to the allegations of the Petition under Section 13 (e) (2) of the Act.

RESPONDENT'S WITNESSES

HERBERT APTHEKER (1939 to present): Dr. Aptheker testified as an expert on Marxism-Leninism. Member of a Brooklyn Communist Party Club, 1940–1941; teacher, Jefferson School of Social Science, 1946 to present; editor, *Masses and Main Stream*, 1948 to present; managing editor, *Political Affairs*—about 1950 to present; trustee, Jefferson School, New York City, 1950 to present.

ELIZABETH GURLEY FLYNN (1937 to present): Member, National Committee, 1938 to present; chairman of Women's Commission of Communist Party, 1945 to present; chairman of Defense Commission, CPUSA, 1948 to present; columnist for *Daily Worker*, 1937 to present; delegate to Congress of Women for Peace, Paris, 1945; member, Political Bureau, later called National Board, 1941–1946, 1948; representative of *Daily Worker* at 80th birthday party for Marcel Cachin in Paris, 1949; representative of CPUSA to French Communist Party Congress, 1950.

JOHN GATES (1933 to present): Member of Young Communist League, 1931; organizer for the League, 1932–1937; organizer of various clubs in Youngstown and member of the Section Committee, 1933–1937; member, International Brigade in Spanish Civil War in 1938 and rose to rank of Brigade Political Commissar (Lt. Col.); National Executive Secretary, Friends of Abraham Lincoln Brigade, 1939; National Education Director of Young Communist League, 1939–1940; "Head", Young Communist League for New York State, 1940; United States Army, December 17, 1941–January 17, 1946; elected member, National Council Communist Political Association *in absentia*, 1944; elected member of National Committee of Communist Party *in absentia*, 1945; National Vets Director Communist Party, 1946–1947; member National Committee, Communist Party, 1946 to present; chairman, National Legislative Commission, 1947–1951; member, National Board, Communist Party, 1947 until it was discontinued; editor, *Daily Worker*, 1947 to present; chairman, National Review Commission, 1951.

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## APPENDIX B

A list of publications of major importance in this proceeding which were received in evidence in whole or in part follows:

Pet. Ex. 8: *Theses and Statutes of The Third (Communist) International*, published officially by the Communist International in Moscow in 1920. Reprinted by the United Communist Party of America (a former designation of Respondent).

Pet. Ex. 31: *The Communist Manifesto*, by Karl Marx and Friedrich Engels. Copyrighted in the United States in 1948, the 100th Anniversary edition published by International Publishers Company, Inc. [97]

Pet. Ex. 121: *Foundations of Leninism*, by J. Stalin, copyrighted in the United States in 1939, published by International Publishers Company, Inc.

Pet. Ex. 125: *Programme Of The Communist International*, copyrighted in the United States in 1929, published by the Workers Library Publishers, Inc.

Pet. Ex. 137: *Resolutions, Seventh Congress Of The Communist Interantional*, published in 1935 by Workers Library Publishers.

Pet. Ex. 138: *Problems of Leninism*, by J. Stalin, copyrighted in the United States in 1934, published by International Publishers Company, Inc.

Pet. Ex. 139: *State and Revolution*, by Lenin, copyrighted in the United States in 1932, published by International Publishers Company, Inc.

Pet. Ex. 140: *Imperialism, The Highest Stage of Capitalism*, by Lenin, copyrighted in the United States 1939, published by International Publishers Company, Inc.

[97] International Publishers Company, Inc., New York City, is headed by Alexander Trachtenburg, a leading member of Respondent.

Pet. Ex. 141: *Working Class Unity-Bulwark Against Fascism*, by Georgi Dimitroff, published by Workers Library Publishers in 1935.

Pet. Ex. 145: *The Communist Party, A Manual On Organization*, by J. Peters, published by Workers Library Publishers, July 1935.

Pet. Ex. 149: *The United Front, The Struggle Against Fascism And War*, by Georgi Dimitroff, copyrighted in the United States in 1938, published by International Publishers Company, Inc.

Pet. Ex. 330: *History Of The Communist Party Of The Soviet Union (Bolsheviks)*, edited and authorized by the Central Committee of the Communist Party of the Sovjet Union, copyrighted in the United States in 1939, published by International Publishers Company, Inc.

Pet. Ex. 335: *Mastering Bolshevism*, by J. Stalin, published in 1946 by New Century Publishers.

Pet. Ex. 343: *Strategy and Tactics Of The Proletarian Revolution*, copyrighted in the United States in 1936, published by International Publishers Company, Inc.

Pet. Ex. 417: *What Is To Be Done?* by Lenin, copyrighted in the United States in 1929, published by International Publishers Company, Inc.

Pet. Ex. 422: *The Theory Of The Proletarian Revolution*, copyrighted in the United States in 1936, published by International Publishers Company, Inc.

Pet. Ex. 423: *The Dictatorship Of The Proletariat*, copyrighted in the United States in 1936, published by International Publishers Company, Inc.

# BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

## Docket No. 51–101

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES, PETITIONER, v. THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, RESPONDENT

### ORDER OF THE BOARD

The Board having this day issued its Report in which it finds and determines that the Communist Party of the United States of America, respondent herein, is a Communist-action organization under the provisions of the Subversive Activities Control Act of 1950;

IT IS ORDERED that the said respondent, the Communist Party of the United States of America, shall register as a Communist-action organization under and pursuant to section 7 of the Subversive Activities Control Act of 1950, and

IT IS FURTHER ORDERED that if the Communist Party of the United States of America fails to comply with the registration requirements of said Act, pursuant to the above Order, then each and every section, branch, fraction, or cell of said respondent shall register in accordance with the requirements of said Act.

By the Board:

(Signed) PETER CAMPBELL BROWN,
*Chairman.*

(Signed) KATHRYN MCHALE,
*Member.*

(Signed) DAVID J. CODDAIRE,
*Member.*

(Signed) WATSON B. MILLER,
*Member.*

Washington 25, D. C., April 20, 1953.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

No. 11,850

(Filed June 17, 1953)

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner,*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, *Respondent.*

**Petition for Review**

Communist Party of the United States of America, by its attorneys, petitions the Court to review and set aside the order of the Subversive Activities Control Board issued April 20, 1953, in the proceeding before said Board entitled Herbert Brownell, Jr., Attorney General of the United States, Petitioner, v. The Communist Party of the United States of America, Respondent, No. 51-101.

*Nature of the Proceedings*

The order involved herein was issued under section 13 (g)(1) of the Internal Security Act of 1950 (hereinafter called the Act), after proceedings before the Subversive Activities Control Board (hereinafter called the Board) initiated under section 13(a) of the Act by a petition of the Attorney General that the Petitioner herein be required to register under section 7 of the Act as a "Communist-action organization." On April 20, 1953, the Board issued its order that the Petitioner herein "shall register as a Communist-action organization under and pursuant to section 7" of the Act. The order further provided that

if the Petitioner herein "fails to comply with the registration requirements of said Act, pursuant to the . . . Order, then each and every section, branch, fraction, or cell" of the Petitioner herein shall register in accordance with the requirements of said Act."

*Jurisdiction and Venue*

Jurisdiction and venue exists in this Court by virtue of section 14(a) of the Act, which provides:

> "The party aggrieved by any order entered by the Board under subsection (g), (h), (i), or (j) of section 13 may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia, within sixty days from the date of service upon it of such order, a written petition praying that the order of the Board be set aside."

*Grounds for Relief*

The Petitioner seeks to have the order of the Board set aside on the following grounds:

1. Sections 2 through 13 and 15 of the Act, and those provisions of sections 22, 23, and 25 of the Act which relate to members of organizations registered or required to register under section 7 of the Act (as carried forward in the Immigration and Nationality Act, 66 Stat. 163), are, on their face and as applied to Petitioner, in violation of the Constitution, including the First, Fourth, Fifth, Sixth, Ninth, and Tenth Amendments, Article I, Section 1, and Article I, Section 9, Clause 3.

2. The findings and order of the Board violate the Act, including Section 13(e) thereof.

3. The order of the Board is based on findings as to activities of the Petitioner herein prior to the date of the Act, in violation of the Act.

4. The findings and order of the Board are not supported by the preponderance of the evidence, as required by the Act.

5. The findings and order of the Board are contrary to the evidence.

6. The findings and order of the Board are based on incompetent, irrelevant, and immaterial evidence.

7. The findings and order of the Board are based on arbitrary, illegal and irrational inferences, conclusions, presumptions, and standards.

8. The findings and order of the Board fail to take into account the evidence favorable to the Petitioner herein.

9. The Board failed to make findings favorable to the Petitioner herein where such findings were required by its own statement of the evidence.

10. Two members of the Board, who presided at the hearing and participated in the Report and Order of the Board, were required to have disqualified themselves, or to have been disqualified, because of the filing of sufficient affidavits of bias and prejudice.

11. The proceeding against Respondent was in part conducted by persons presuming to sit as members of the Board when in fact and in law they were not members of the Board and had usurped office.

12. The members of the Board, during the proceeding, were subjected to and influenced adversely to the Petitioner herein by extra-legal pressures exerted upon them for the purpose of securing an order against the Petitioner herein.

13. The proceeding before the Board was conducted in an unfair and biased manner.

14. The Board committed prejudicial errors in the admission and exclusion of evidence, including the refusal to admit competent, relevant and material evidence offered

by the Petitioner herein; the admission of incompetent, irrelevant and immaterial evidence offered by the Attorney General; the curtailment of Petitioner's cross-examination of witnesses; and the refusal to compel the production of documentary evidence in the possession of the Attorney General demanded by Petitioner and to which it was entitled.

15. The Board exceeded its authority by ordering, conditionally, the registration of "each and every section, branch, fraction, or cell" of the Petitioner.

*Relief Prayed*

Wherefore, the Petitioner prays that the Court set aside the aforesaid order of the Board.

Respectfully submitted,

Vito Marcantonio
VITO MARCANTONIO
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New York, New York

John J. Abt
JOHN J. ABT
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Joseph Forer
JOSEPH FORER
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Washington, D. C.
*Attorneys for Petitioner*

1 (Filed November 11, 1950)

IN THE SUBVERSIVE ACTIVITIES CONTROL BOARD

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No. 51-101

J. HOWARD MCGRATH, Attorney General of the United States, *Petitioner*,

v.

THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Respondent*.

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On Petition for an order requiring the Communist Party of the United States of America to register with the Attorney General as required by Section 7 (a), (c) and (d) of the Internal Security Act of 1950.

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**Petition**

The Attorney General respectfully represents to the Subversive Activities Control Board that the Communist Party of the United States of America was required under Section 7 (a), (c) and (d) of the Internal Security Act of 1950 to register and file a registration statement with the Attorney General on or before October 23, 1950, as a Communist-action organization and it failed to do so and continues to fail to do so. Pursuant to Section 13 (a) of the Act, therefore, the Attorney General petitions this Board for an order, after appropriate proceedings, directing the Communist Party of the United States of America to register with the Attorney General as a Communist-action organization in the manner required by the Act, and directing further that if the organization fails to comply with the Board's order, each section, branch, fraction, or cell of the

organization shall register as a Communist-action organization.

2 In support of this petition the Attorney General refers to the Congressional findings of fact as set forth in Section 2 of the Act. The Attorney General alleges the following facts, based on information and belief, relating to the character of the Communist Party of the United States of America as measured by the standards specified in the Act.

I

Commencing in or about 1919, and continuing to the date of the filing of this petition, except for the period of the Communist Political Association from May, 1944 to July, 1945, there has existed in the United States an organization known from time to time by various names, which is now known as the Communist Party of the United States of America (hereinafter referred to as the "Communist Party" or "organization"). This organization has been and is composed of large numbers of members and affiliates who function through state, county, city and other units, which are subject to the supervision and control of the National Office of the Communist Party.

II

During the aforesaid period, the Communist Party, which is not a diplomatic representation or mission of a foreign government accredited as such by the United States Department of State, has been and is substantially dominated and controlled by the government and Communist Party of the Soviet Union, and by the foreign organization controlling the world Communist movement, such foreign organization being known at various times as the Communist International (Comintern) and the Communist Information Bureau (Cominform). Throughout its existence the Communist Party has operated and continues to

operate primarily to advance the objectives of the world Communist movement. The organization always has been an active participant in the world Communist movement, which has its home base in the Soviet Union. Like the other members of the world Communist movement, which are affiliated with the Communist Party of the Soviet Union, the Communist Party always has based itself on the principles of Marxism-Leninism, as from time to time expounded and revised by Joseph Stalin, the leader of the world Communist movement, and by the Communist Party of the Soviet Union, the Communist International, the Communist Information Bureau and other spokesmen for the world Communist movement. The policies of the organization have been formulated and carried out and its activities have been performed pursuant to the "correct" Marxist-Leninist position as set forth in directives, interpretations, publications and other communications issued by Stalin, the Communist Party of the Soviet Union, the Communist International, the Communist Information Bureau and other spokesmen for the world Communist movement, all for the purpose of effectuating the policies of the government and Communist Party of the Soviet Union and the organization of the world Communist movement, variously known as the Communist International and the Communist Information Bureau.

The aforesaid domination and control of the policies and activities of the Communist Party are illustrated by the following facts:

(a) In 1921 the Communist Party, which had become a member of the Communist International, agreed to be bound by the 21 conditions for membership in the Communist International. Among the conditions which the organization accepted was the principle that all resolutions of the Communist International and its Executive Committee were binding on the Communist Party.

(b) The Communist International has maintained its representatives in the United States for the purpose of directing and supervising the activities of the Communist Party and the conduct of the leaders of that organization. The representatives of the Communist International have been empowered to serve on the organization's committees, to preside at meetings of the Communist Party and to cast the deciding vote.

(c) The young Communists in the United States functioned through an organization known as the Young Communist League, the youth organization of the Communist Party. The Young Communist League was a section of the Young Communist International, the Communist International's organization for the Communist youth of the world. The young Communist International and the Communist Party directed and controlled the activities of the Young Communist League and the Young Communist International, in turn, was directed and controlled by the Communist International.

(d) In or about 1929, there developed a serious factional dispute within the Communist Party. The controversy was submitted to a committee of the Communist International at Moscow for resolution and was finally settled by Stalin's direction to the American Communist leaders who appeared before him that the minority faction had the approval of himself and the Communist International and would henceforth control the organization. As a result, the leaders of the majority faction were expelled from the organization.

(e) Since September 1928, the Communist Party has been guided to the "correct" Marxist-Leninist position by the "Programs of the Communist International," which was adopted at the Sixth Congress of the Communist International held on September 1, 1928, in Moscow, and which was published in the United States by "Workers Library Publishers", an organ of the Communist Party. The Commu-

nist Party officially adopted and subscribed to that program and continues to adhere to it. Similarly, in 1939, the Communist Party, together with the Communist parties of other countries, was supplied with the most recent Marxist-Leninist manual, the "History of the Communist Party of the Soviet Union (Bolsheviks)", which was prepared for use as a guide to action with the active participation of Stalin and was authorized by the Central Committee of the Communist Party of the Soviet Union. This manual and other similar publications of the organization have been published in the United States by International Publishers, an organ of the Communist Party. Other Marxist-Leninist publications which the organization has used and continues to use as guides to action include "Foundations of Leninism" by Stalin; "State and Revolution" and "Imperialism" by Lenin; "The Communist Manifesto" by Marx and Engels; "Problems of Leninism" by Stalin; "The Communist" and its successor, "Political Affairs"; the "Daily Worker" and the "Worker"; and such compilations of Marxist-Leninist writings as "Strategy and Tactics", "Theory of the Proletarian Revolution" and "Dictatorship of the Proletariat".

(f) In November, 1940, the Communist Party voted to disaffiliate from the Communist Infernational for the avowed purpose of removing itself from the terms of the so-called Voorhis Act, but in fact the organization continued to uphold the principles of the Communist International, and the Communist International continued its direction and supervision over the organization through its resident representatives in the United States.

(g) In 1943, when the government of the Soviet Union was militarily allied with the government of the United States and other capitalist democracies in the conduct of World War II, the Communist International was formally dissolved. Shortly thereafter, in the spring of 1944, the

Communist Party similarly dissolved itself and the leaders of the Communist Party created a Communist Political Association, dedicated to working in cooperation with progressive forces in the United States and subordinating the Marxist-Leninist program which the Communist Party had followed.

(h) With the end of the hostilities in Europe in 1945, the Communist Party was instructed by leaders of the world Communist movement, including Jacques Duclos, a leader of the French Communist Party and a former member of the Executive Committee of the Communist International, and Dimitri Manuilsky, a leader of the Communist Party of the Soviet Union and former General Secretary of the Communist International, to reestablish itself in the United States for the purpose of again carrying forward the program and activities to which it had adhered from 1919 to 1944. In July, 1945, the Communist Party was reconstituted in accordance with the directions which it had received. Upon its reconstitution, the organization immediately returned to its former program.

(i) In 1947, the Communist Information Bureau was established as the organization for the world Communist movement and as a successor to the Communist International. Because of the terms of the Voorhis Act and the Foreign Agents Registration Act, the Communist Party found it inexpedient to become a formal member of the Communist Information Bureau, but it has affiliated with that organization of the world Communist movement, and it has conformed its policies and activities to the policies and activities of the Communist Information Bureau.

III

Throughout its existence the Communist Party never knowingly has deviated from the views and policies of the government and Communist Party of the Soviet Union, the

Communist International, the Communist Information Bureau and other leaders of the world Communist movement. Whenever such views and policies have conflicted with the position taken by the Government of the United States, the Communist Party has opposed the position of the United States. The Communist Party has advocated the views and policies of the government and Communist Party of the Soviet Union, the Communist International and the Communist Information Bureau, as the case may be, in the following instances, among others:

(a) The Communist Party has based itself upon the doctrines of Marxism-Leninism as construed, interpreted and extended by Stalin, the Communist Party of the Soviet Union, the Communist International, the Communist Information Bureau and other leaders of the world Communist movement.

(b) Except when the United States and the Soviet Union were potential or actual military allies, the Communist Party has consistently expressed the view that the United States is an imperialistic power bent on instigating wars for world domination, and that the Soviet Union and other Communist nations are the only true democracies which seek to preserve peace.

(c) The Communist Party advocated opposition to the League of Nations while the Soviet Union opposed such organization, and when the Soviet Union reversed its position the Communist Party supported the League of Nations.

(d) The Communist Party endorsed and justified the trial and execution of a large number of prominent Russian military and political leaders by the Soviet Union in the "purge" of 1937.

(e) The Communist Party supported and justified the position of the Soviet Union in the Russo-Finnish War in 1939.

(f) The Communist Party supported and justified the territorial expansion of the Soviet Union through the conquest of Polish territory in 1939, and the absorption of Latvia, Estonia and Lithuania in 1940.

(g) Commencing in or about 1935, the Communist Party softened its previous attacks against democratic capitalism to advocate a program of united front action to combat fascism and nazism in accordance with the changed policy of the Communist International.

(h) When on August 23, 1939, the Hitler-Stalin Non-Aggression Pact was consummated, the Communist Party overlooked its opposition to fascism and nazism and supported the Hitler-Stalin Pact.

(i) During the period from the signing of the Hitler-Stalin Pact to June 21, 1941, the Communist Party characterized the war between the Western European powers and Germany and Italy as an "unjust" imperialist war which Communists could not support and affirmatively sought to prevent American aid from being given to the Western European nations.

(j) Coincident with the German attack on the Soviet Union on June 22, 1941, the Communist Party abruptly reversed its position by characterizing the war as a "just" war against fascism requiring the support of all Communists and demanded that the United States give full aid and assistance to the nations opposing Nazi Germany and Italy.

(k) Once the Soviet Union was engaged in the war, the Communist Party abandoned its attacks on the Government and institutions of the United States and its traditional disruptive tactics in favor of a policy of cooperation with all forces directly or indirectly aiding the Soviet Union in its war effort. In accordance with this policy, the Communist Party expressed its approval of the dissolution of the Communist International in 1943, and the Communist Party itself was dissolved in May, 1944.

(l) With the termination of hostilities in Europe in 1945, the Communist Party, in accordance with instructions from the leaders of the world Communist movement, was reconstituted in July 1945, for the purpose of returning to the views, policies and activities which it had followed prior to May, 1944.

(m) In 1946, the Communist Party supported the demands of the Soviet Union upon Turkey for revision of the Montreux Convention so as to give the Soviet Union a voice in the control of the Dardanelles.

(n) In the period following the termination of hostilities in World War II, the Communist Party consistently supported the policies and tactics of the Soviet Union, the world Communist movement and the Communist parties in Bulgaria, Roumania, Hungary, Albania and Poland in their efforts to obtain control of the governments of those countries and, since the success of such efforts, the Communist Party has vigorously supported the conduct and policies of those Communist governments.

(o) The Communist Party supported and justified the Communist destruction of the democratic government of Czechoslovakia and has continued to support the Communist government which replaced the Czechoslovakian democracy.

(p) The Communist Party supported the coalition of the Chinese Communists with the Nationalist Government of China during World War II and thereafter supported the Chinese Communists in their violent revolution against the legal Government of China.

10 (q) The Communist Party supported the violent revolutionary efforts of the Communist guerrillas in Greece and similarly supports the violent revolutionary efforts of the Communists in Indo-China, Burma and the Philippines.

(r) The Communist Party supported the Communist efforts to prevent the successful establishment and maintenance of the government of Western Germany and supported the Soviet blockade of Berlin in 1948.

(s) Since the end of World War II, the Communist Party has opposed those facets of American foreign policy which it regards as inimical to the interests of the Soviet Union and the world Communist movement, such as the Truman Doctrine, the Marshall Plan and the resultant program of the Economic Cooperation Administration, the North Atlantic Pact, and the Military Assistance Program for the Atlantic Pact nations.

(t) The Communist Party has supported and justified the stifling of internal opposition to the various Cominform governments through repressive measures against religious and political leaders such as Cardinal Mindszenty and Nicola Petkov, and through widespread programs of religious oppression.

(u) The Communist Party supported the Communist Government of Yugoslavia when that government collaborated with the Soviet Union and the Cominform, and it has opposed and condemned the Yugoslavian Government since its defection from the Soviet Union and the Cominform.

(v) The Communist Party opposed and condemned the position taken by the United States in its opposition to the Communists in the Italian elections of 1948 and charged American policy in Italy with leading to the attempted assassination of Togliatti, the Italian Communist leader.

11 (w) From the time the scheme was first launched by the Communist Information Bureau, the Communist Party has rendered unqualified support to the "peace" campaign of the World Partisans of Peace and its Stockholm Peace Petition.

(x) The Communist Party has consistently supported the Soviet position as to the treatment of and settlement with the former Axis powers and occupied countries.

(y) The Communist Party has supported the position of the representatives and spokesmen of the Soviet Union and its satellite nations in the United Nations, including among others, the Soviet position on the questions of atom bomb control, on recognizing and seating Communist China, on the election of Yugoslavia to the Security Council in 1949, and on the use of the veto by the Soviet Union.

(z) The Communist Party has consistently supported the Communist Government of North Korea both before and after that Government's violent invasion of the Republic of South Korea; it has opposed the actions of the United States and the United Nations in defending South Korea from the aggression of the North Korean Government; and it now supports the intervention of the Chinese Communists in the Korean conflict.

IV

The Communist Party now receives and from time to time in the past has received financial aid, from or at the direction of the government and Communist Party of the Soviet Union, the Communist International and the Communist Information Bureau. As the beneficiary of such foreign aid:

(a) Communist Party publications, in effect, have been subsidized by receiving pre-paid cable information from Communist sources.

(b) The Communist Party has received quantities of propaganda materials without cost for sale at a profit.

(c) Communist Party members attending Communist training schools in the Soviet Union have received transportation and living expenses for attending such schools.

(d) Communist Party members traveling in the Soviet Union and other Communist nations for the purpose of orientation, attending Communist meetings or observing the operation of Communist governments have received transportation expenses and salaries while engaged on such missions.

(e) The Communist Party has received funds for use in infiltrating and influencing the American ~~trade~~ union movement.

V

The Communist Party regularly reports and has reported to the government and Communist Party of the Soviet Union and to the Communist International and the Communist Information Bureau, and has sent members and representatives to the Soviet Union and other foreign countries for instruction and training in the principles, policies, strategy, and tactics of the world Communist movement.

(a) Representatives of the Communist Party reported its programs and internal activities to the Communist International through its World Congresses held in Moscow and through its Executive Committee and Presidium, on both of which American Communists served, and received instructions in the principles, policies, strategy, and tactics of the world Communist movement.

(b) Until travel abroad was rendered impossible by World War II, the Communist Party sent members
13 and representatives to the Soviet Union from time to time to report the activities of the Communist Party and to transmit to the Communist Party instructions in the principles, policies, strategy and tactics of the world Communist movement.

(c) The Communist Party further reported its program and activities to the Soviet Government, the Communist Party of the Soviet Union and to the Communist International through representatives of the Communist International within the United States.

(d) Until travel abroad was rendered impossible by World War II, the Communist Party sent members and representatives to the Lenin Institute and other schools and classes held in the Soviet Union, and to Spain during the Spanish Civil War for instruction and training in the principles, policies, strategy and tactics of the world Communist movement.

(e) After the Communist International was dissolved in 1943, the Communist Party continued to report its policies and activities to leaders of the world Communist movement. Thus, the contents of a vital document on the organization's affairs, which was suppressed by it in the United States, were transmitted abroad during the war by means unknown and were made known to Jacques Duclos, General Secretary of the Communist Party of France and former member of the Executive Committee of the Communist International.

(f) The Communist Party continues to report to the government and Communist Party of the Soviet Union and the Communist Information Bureau by publishing in Communist Party publications important statements, convention reports and speeches. Such matters are subsequently commented upon by such publications as the Soviet Union's "Pravda" and the Cominform's "For a Lasting Peace, For a People's Democracy" which indicate when corrections of policy are necessary.

## VI

From the inception of the organization to the date of the filing of this petition, the principal leaders of the Communist Party have been and are subject to and recognize the disciplinary power of the Soviet Government, the Communist Party of the Soviet Union, the Communist International and the Communist Information Bureau and other spokesmen of the world Communist movement. This power has been exercised principally through the Com-

munist doctrine of "democratic centralism" which binds all Communists to execute the decisions of the leaders of the world Communist movement. When leaders of the organization have failed to obey the decisions of Stalin, the Communist International and other spokesmen for the world Communist movement, they have been expelled or otherwise censured. It was in recognition of the disciplinary power exercised by the government and Communist Party of the Soviet Union and the Communist International that leaders of the Communist Party were assigned by the Communist International as its representatives in such places as China, Germany, Latin America, India and Great Britain.

## VII

For the purpose of expediting and promoting its objectives and concealing its foreign direction, domination and control, the Communist Party from its inception has adopted a multitude of clandestine practices. While the degree of secrecy has varied from time to time, there has been strict adherence to the practice of secrecy during the period from July 1945, to the time of the filing of this petition. The means by which the organization has sought to cloak itself in secrecy includes the following:

(a) The practice of having both open and concealed members;

(b) The policy of refusing to disclose to courts and other governmental agencies having a right to such information the facts concerning the membership and operations of the organization;

(c) The practice during periods of strict secrecy of destroying or secreting existing records and of not keeping membership records and of not issuing membership cards;

(d) The use of protective language in the organization's constitution to mask the organization's real objectives; and the use of words in the organization's terminology which have one meaning to the uninitiated and a completely different meaning to members of the organization;

(e) The practice of identifying members by Party names, numbers and symbols;

(f) The use of code words, couriers, confidential mailing addresses, and other similar devices;

(g) The practice of resorting to false swearing where deemed expedient;

(h) The practice of having secret meetings limited to trusted members;

(i) The reduction of the size of important committees so as to limit the number of persons who have access to vital information;

(j) The division of the membership into groups of no more than five so as to protect the identity of other members of the organization;

(k) The practice of assembling materials and devising plans for the underground operation of the organization; and

16 (l) The practice of instructing members who are not openly known as such to refuse to disclose their membership in the organization and of instructing all members of the organization to refuse to disclose the identity of other members of the organization.

## VIII

From 1919 to the date of the filing of this petition, the leaders of the Communist Party and a substantial number

of its members have considered the allegiance they owe the United States as being subordinate to their loyalty and obligations to the government of the Soviet Union.

(a) The government of the Soviet Union has been and is regarded as the only fatherland of the world Communist movement, which all Communists are obliged to support and defend under all circumstances.

(b) The Red flag has been and is recognized as the flag to which Communists owe primary allegiance.

(c) In the event of a war between the Soviet Union and any other nation, it is the recognized duty of all American Communists to support and defend the Soviet Union.

(d) In the event of a war between the Soviet Union and the United States, the Communists in the United States have obligated themselves to act to defeat the military efforts of the United States and to aid and support the Soviet Union. The Communist Party teaches its members that in such event they must act to foment a civil war in the United States as a means for impairing the nation's military effort and for establishing a Soviet America having a dictatorship of the proletariat such as exists in the Soviet Union.

(e) At the Seventh World Congress of the Communist International, the delegates from the Communist Party, including some of the present leaders of the organ-
17 ization, took an oath to "Comrade Stalin, Our Leader", pledging their complete support and assuring him that they would be faithful to the end.

(f). To the leaders and members of the Communist Party, patriotism means solidarity with and support of the Soviet Union.

Respectfully submitted,

J. HOWARD MCGRATH
J. Howard McGrath,
*Attorney General*

JAMES M. MCINERNEY
James M. McInerney,
*Assistant Attorney General*

IRVING S. SHAPIRO
Irving S. Shapiro,
*Special Assistant to the Attorney General*

WM. A. PAISLEY
William A. Paisley,
*Special Assistant to the Attorney General*

November 22, 1950

18 VERIFICATION

WASHINGTON, DISTRICT OF COLUMBIA ss.:

J. Howard McGrath, being duly sworn, deposes and says:

I am the petitioner above named. I have read the foregoing petition and know the contents thereof. The matters alleged are based on information and belief, and I believe them to be true. The sources of my information and the grounds of my belief are the investigative reports made by the Federal Bureau of Investigation with reference to the Communist Party of the United States of America.

J. HOWARD MCGRATH
J. Howard McGrath

Sworn to before me this 22nd day of November, 1950

A. DEVITT VANECH

(Filed February 14, 1951)

**Answer**

Respondent files this answer under protest against the arbitrary, illegal and prejudicial action of the Board in ordering it to answer in advance of an adjudication of its assertion of the privilege against self-incrimination secured by the Fifth Amendment in the action pending in the District Court of the United States, entitled *Communist Party of the United States, et al.* v. *McGrath, et al.*

Respondent reaffirms and reasserts all of the grounds for the dismissal of the petition, the quashing of the proceeding and the striking of the petition set forth in its motions heretofore filed with the Board.

Answering the petition, the respondent denies that it is a Communist action organization as defined in Section 3 (3) of the Subversive Activities Control Act of 1950.

Respondent reserves the right to amend this answer in the event of a court adjudication in the above entitled action that an answer is required.

THE COMMUNIST PARTY OF THE UNITED STATES

By: Gus Hall,
*National Secretary*

STATE OF NEW YORK: } ss.:
COUNTY OF NEW YORK: }

GUS HALL, being duly sworn, deposes and says: I am the National Secretary of the Communist Party of the United States and I subscribed to the foregoing answer on its

behalf. I have read the foregoing answer and know the contents thereof, and the same are true.

GUS HALL

Subscribed and sworn to before me this 13th day of February, 1950

CARL BRODSKY
*Notary Public*

Carl Brodsky
Notary Public, State of New York
No. 35-0428950
Qualified in New York County
Term Expires March 30, 1951

177 (Filed April 3, 1951)

**Amended Answer**

Answering the petition, the respondent states as follows:

I.

A. Respondent denies the authority of the persons purporting to act as members of the Subversive Activities Control Board to conduct this proceeding, for the reason that they do not hold lawful office, and no lawfully constituted Board is now in existence.

B. Respondent files this amended answer and participates in this proceeding under protest against the denial by the Subversive Activities Control Act of 1950 (herein called the Act) and by this proceeding of fundamental civil and political rights guaranteed to it by the Constitution and Bill of Rights.

C. Respondent reaffirms and reasserts all of the grounds for dismissing the petition, quashing the proceeding and striking the petition set forth in its motions heretofore filed in this proceeding.

II.

A. Respondent denies the first unnumbered paragraph of the petition, and further denies that it is a Communist action organization as defined by Section 3 (3) of the Act.

B. Respondent states that it was organized in 1919 and has been in existence continuously since that date, and states that its organizational structure and the relations between the national organization and its state, county, city and other units, are as defined and prescribed in its National Constitution.

C. Respondent denies the first five unlettered paragraphs of Section II of the petition. Respondent refers to
178 Part III of this answer for a true and correct statement of its purposes, the principles on which its policies are based and the manner in which they are adopted and carried out. Respondent denies paragraphs (A) to (I) of Section II of the petition, except to the extent that said paragraphs may be construed to allege the facts that: (1) it was affiliated with the Communist International prior to November, 1940; (2) it disaffiliated from the Communist International in November, 1940; (3) the Communist International was dissolved in June, 1943; (4) prior to October 16, 1943, there was an organization in the United States known as the Young Communist League, which prior to December 22, 1940, was affiliated with the Young Communist International (5) at a Convention of the Communist Party in May, 1944, the Party reorganized itself as the Communist Political Association; (6) in July, 1945, at a Convention of the Communist Political Association, the Communist Party was reconstituted; (7) in 1929 there was a disagreement within the Communist Party; and (8) certain books and other publications, including the books and publications described in paragraph (E) of Section II, have been sold and distributed in the United States. Respondent denies the relevancy of any of the foregoing facts to any issue to be determined in this proceeding.

D. Respondent states that it has adopted and advocated views and policies on public questions of concern to the American people, and particularly the working people. Respondent denies the false, distorted and tendentious statements of Section III of the petition relating to its views and policies, their character and purpose, and further denies the relevancy of the allegations of Section III to any issue to be determined in this proceeding. Respondent refers to Part III of this answer for a true and correct statement of the character of the views and policies of the Party and the purpose of their adoption and advocacy.

E. Respondent denies that it receives financial aid from or at the direction of the Government of the Soviet
179 Union, the Communist Party of the Soviet Union, the Communist International, or the Communist Information Bureau. Respondent denies paragraphs A, B and E of Section IV of the petition. Respondent denies the relevancy of the allegations of Section IV of the petition to any issue to be determined in this proceeding.

F. Respondent denies Section V of the petition. Respondent states that during the period of its affiliation with the Communist International, members and representatives of the Party attended and participated in meetings of its congresses and certain of its committees; that members of the respondent have from time to time visited foreign countries, including the Soviet Union; that in the past certain members of the respondent studied in the Soviet Union. Respondent denies the relevancy of any of the foregoing facts to any issue to be determined in this proceeding.

G. Respondent denies Section VI. of the petition.

H. Respondent denies Section VII of the petition, and refers to Part III of this answer for a further answer thereto.

I. Respondent denies Section VIII of the petition, and refers to Part III of this answer for a further answer thereto.

## III.

### A.

The Attorney General's petition misrepresents and completely distorts the Communist Party's peace policies. It adopts the supposed "Congressional findings of fact as set forth in Section 2" of the Act.

The Communist Party declares that these so-called findings are gross falsehoods, a re-hash of the Hitler-Goebbels Big Lie under cover of which the Nazis seized power in Germany and plunged the world into war.

The language of that Act paraphrases the words of Hitler, who declared that:

180 "The Communist Party was a section of a political movement which had its headquarters abroad and was directed from abroad . . .

"We look on Bolshevism as a world peril for which there must be no toleration . . . Communism is the most frightful barbarism of all times." (*Nazi Conspiracy and Aggression*, U. S. Gov't. Printing Office, Washington, D.C. 1946. vol. 1, p. 246)

In 1820, similar slanders were spread against the United States itself by Count Metternich, architect of the reactionary European war pact known as the Holy Alliance.

According to Metternich:

"These United States . . . have cast blame and scorn on the institutions of Europe most worthy of respect . . . fostering revolutions wherever they show themselves . . . they lend new strength to the apostles of sedition, and reanimate the courage of every conspirator," Dexter Perkins, *Hands Off! A History of the Monroe Doctrine*, Boston, 1941, pp. 56-57.

(1) The Communist Party has consistently defended world peace and the national security of the United States. The false and distorted characterization of its views and policies on international questions to Section III of the Attorney-General's petition are wholly irrelevant to the charge of foreign domination.

The petition cites a series of instances in which the policies advanced by the Communist Party were in agreement or at variance with the foreign policy of particular administrations. The Communist Party opposed the foreign policies of the Harding, Coolidge and Hoover Administrations. So did many non-Communist Americans. The Communist Party supported the main anti-Axis and peace policies of the Roosevelt Administration, while freely exercising its right to criticize or oppose certain departures from these policies which weakened the struggle for peace. It did not stand alone, either in its support or in its opposition.

The Communist Party has indeed opposed the whole war policy pursued by the bipartisan coalition in power since Roosevelt's death. But it is wholly irrelevant to the false charge of foreign domination and control that it opposed such policies as the Truman Doctrine, the Marshall
181 Plan, the North Atlantic Pact, or the U.S. Government's brazen interference in the Italian elections of 1948 which is belatedly admitted in the Attorney-General's petition. Equally irrelevant is its opposition to the rearming and re-Nazification of western Germany, to the appeasement of fascist Spain, to military support of the puppets Bao-Dai and Chiang Kai-shek, to the interventionist war in Korea, and the acts of aggression against the Chinese People's Republic.

Millions of non-Communist Americans have joined with it in opposing some or all aspects of the Truman Administration war policies. The Communist Party has been at all times in the vanguard of this growing popular opposition to all Wall Street's war aims, and has been at all times

consistent in its advocacy of a peace policy based on American-Soviet cooperation.

(2) The Communist Party has supported all genuine peace proposals, regardless of where or by whom they were initiated. This fact is also irrelevant to the false charge of foreign domination and control.

The Communist Party insists that any proposal for the settlement of international differences must be judged solely by the extent to which it serves the interest of the American people—which coincide with those of all peoples who aspire to lasting peace.

It has consistently supported the peace proposals advanced by the Soviet Union for the reason that the peace policies of the Soviet Union have consistently met this supreme test. The U.S.S.R. is a socialist country, ruled by the working people. It is a land free of international cartellists, monopoly profiteers, merchants of death and others who stand to profit in any way from aggression, conquest or war. Free from the spectre of recurrent economic crisis and mass unemployment, the Soviet Union has a limitless home market for its expanding peace-time production and thus has no reason to embark on imperialist adventures abroad. Its cornerstone is the equality
182 and friendship of peoples, and it has destroyed the social and economic roots of war by abolishing class and national oppression.

The Communist Party has not hesitated to support various peace proposals initiated by capitalist states. It has supported such policies whether put forward by President Roosevelt before and during World War II, by President Truman at Potsdam, or more recently by Premier Nehru of India and the Arab-Asian bloc in the United Nations.

The Communist Party has also supported a number of important peace campaigns initiated by people's movements in the United States and elsewhere. A notable example is the World Peace Appeal for outlawing atomic

weapons through international agreement and inspection. Other examples (significantly omitted from the petition) are its support for the similar appeal made by the International Red Cross, and the peace proposals advanced by the American Quakers.

(3) It is irrelevant to examine the extent to which the position of the Communist Party on one or more issues of foreign policy coincides with that of the Soviet Union or any other nation.

The purpose of the Communist Party in advocating its peace proposals cannot be established by determining who initiated, supported, or opposed them. The only pertinent test is: does the policy advocated by the Communist Party conform to the true interests of the American people by promoting the cause of world peace?

Every example of the peace policy of the Communist Party set forth in Section III of the petition—despite the Attorney-General's attempt to falsify and distort them—illustrates the consistency of its devotion to the cause of peace, and hence to our country and people. Every cited example exposes the Attorney General's sinister effort to make it appear *that the United States is Wall Street,* and the venal interests of the big bankers and international cartellists, those of the nation.

The Communist Party declares that the American
183 people are the nation. The enemies of the nation and people are the handful of Wall Street monopolists who lead a world-wide conspiracy to subordinate human life and liberty to their vested interests and greed for profit.

The Communists—and many non-Communists—served our country well by opposing the Wall Street monopolists who in the 1930's financed and supported Hitler, condoned the rape of Manchuria, Ethiopia and Czecho-Slovakia, and up to the day of Pearl Harbor sold oil and scrap iron to Japan. Those Americans—Communists and non-Commu-

nists—were true patriots who opposed the embargo against Republican Spain, fought in the Abraham Lincoln Brigade, and otherwise defended peace and democracy against the fascist Franco and his masters Hitler and Mussolini.

The Communist Party, and many others, opposed the Wall Street carteflists who maintained treasonous relations with their Nazi partners throughout World War II. Communists and all true defenders of the United States opposed the big monopolist corporations that refused to convert their plants to war production, until bribed with huge cost-plus contracts and excess profits.

It was the American workers, including the leaders and members of the Communist Party, who selflessly supported the U.S. anti-fascist World War II effort on the battlefront and on the home front.

The Communist Party today calls on the American people to reverse the policy that frees the Nazi war criminals, and the murderers of American G.I.'s at Malmedy. It opposes the restoration to power of Alfred Krupp, the rearming of western Germany and Japan, the rebuilding of the German and Japanese trusts under the new management of Wall Street.

The Communists are joined by millions in opposing and condemning these betrayals of the World War II dead, and the aims for which 15,000 members of the Party
184 served in the armed forces of the United States.

The foreign policies which the petition accuses the Party of opposing have now brought the world to the brink of a terrible atomic war. They have already cost over 50,000 American casualties. They have brought on the United States the hatred and moral condemnation of all peace-loving humanity. These are the policies that launched General Ridgeway's "Operation Killer," the policies of war on the colored peoples of Asia, of mass murder, of genocide.

These same imperialist policies are saddling the American people with crushing taxes, driving down the worker's

living standards through unrestricted monopoly profiteering and rigid wage freezes. These policies are fostering unprecedented brutality against the Negro people, and extending the Dixiecrat system of lynch justice to our Northern cities and to the Negro G.I.'s in Korea. These policies are corrupting our youth, putting 18 year-olds in uniform and training them to become what General Hershey called a "generation of killers."

These policies mock our country's democratic traditions, and are fast destroying both the Constitution of the United States and the Charter of the United Nations.

In whole or in part, the policies which the Communist Party has opposed are opposed by a majority of the American people. The attempt, through this proceeding, to outlaw the Communist Party is therefore also an attempt to outlaw all opposition to a third world war, all united action in defense of world peace.

To this end, the petition seeks to establish that the Communist Party, and any other group that does not submit to control by the Wall Street monopolists, is "foreign dominated." The Communist Party freely admits its independence from and opposition to this war-minded financial oligarchy. This proves only that it is "dominated" by concern for the welfare of the workers and common people of the United States.

185 (4) The Attorney General's allegation as to what patriotism means to the leaders and members of the Communist Party is wholly false and malicious.

The Communist Party rejects the chauvinist slogan, "My country right or wrong." With this slogan, and in the name of German "patriotism," Hitler dragged the German people to national dishonor and national disaster, and forced them to support the Axis war against humanity.

The Communist Party subscribes to the slogan of Carl Schurz: "My country, right or wrong; when right to be kept right; when wrong to be set right."

This concept of patriotism is in the great American tradition of Abraham Lincoln, Frederick Douglas, Ralph Waldo Emerson, Henry David Thoreau and others who actively opposed the Polk Administration's annexationist war against Mexico. It is in the tradition of Carl Schurz, Mark Twain, Finley Peter Dunne and others who opposed the unjust Spanish-American war and the annexation of Puerto Rico and the Philippines. It is in the honored tradition of Eugene Debs, who was jailed for his opposition to the first World War.

Today, true patriotism expresses itself in united struggles for a foreign policy that will keep our country secure in a world at peace; advance the economic and social welfare of our people by devoting America's vast resources and labor power to peace-time production and construction; defend and extend the democratic rights of all Americans, Negro and white, by defending the right of all peoples everywhere to take their own path to social progress.

In this spirit of true patriotism, the Communist Party seeks to unite all like-minded Americans—regardless of their political beliefs—in a common struggle to curb the would-be war-makers, and to reconstruct Roosevelt's "Grand Design" for world peace by establishing friendly relations and trade with the Soviet Union, the Chinese People's Republic, and the People's Democracies of Eastern Europe.

186 It is beyond dispute that today world peace must be based on agreement between the United States and the Soviet Union. By stigmatizing all agreement with the Soviet Union, and making hostility toward it the test of "patriotism", the Attorney-General reveals that the real purpose of this proceeding is to outlaw the advocacy of peace and to prepare for an American-made war of aggression and conquest.

B

The Communist Party has been an American working class political party for over thirty years. Its record is one of defense of the rights and welfare of the working class, the Negro people, and the interests of the American nation.

The true purposes and character of the Communist Party are set forth in its Constitution, which was most recently reviewed and re-adopted by the 15th National Convention in December, 1950. In its preamble the Constitution states:

"The Communist Party of the United States is a political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism . . .

"The Communist Party upholds the achievements of American democracy and defends the United States Constitution and its Bill of Rights against its reactionary enemies who would destroy democracy and popular liberties. It uncompromisingly fights against imperialism and colonial oppression, against racial, national and religious discrimination, against Jim-Crowism, anti-Semitism and all forms of chauvinism.

"The Communist Party struggles for the complete destruction of fascism and for a durable peace . . .

"The Communist Party holds as a basic principle that there is an identity of interest which serves as a common bond uniting the workers of all lands. It recognizes further that the true national interests of our country and the cause of peace and progress require the solidarity of all freedom-loving peoples and the continued and ever closer cooperation of the United Nations.

"The Communist Party recognizes that the final abolition of exploitation and oppression, of economic crisis and unemployment, of reaction and war, will be achieved

187 only by the socialist reorganization of society—by the common ownership and operation of the national economy under a government of the people led by the working class.

"The Communist Party, therefore, educates the working class, in the course of its day-to-day struggles, for its historic mission, the establishment of Socialism. Socialism, the highest form of democracy, will guarantee the full realization of the right to life, liberty and the pursuit of happiness, and will turn the achievements of labor, science and culture to the use and enjoyment of all men and women."

The Communist Party is "dominated and controlled" only by its members and the leaders they elect. Article IV, Sections 1 and 2 declare:

"Every member of the Party who is in good standing has not only the right but the responsibility to participate in the making of its policies and in the election of its leading committees, officers and delegates in the manner provided for in this Constitution.

"After a through discussion in any club, committee, or Convention, decisions are made by a majority vote."

Article VII, Section 1 and 7, further states:

"The highest authority of the Party is the National Convention. . . ."

"Between National Conventions, the National Committee is the highest authority of the Party."

(1) The roots of the Communist Party lie deep in American soil. Section I of the petition deliberately conceals the Party's historic origins, in an effort to give credence to the false charge of foreign domination.

Socialist thought, primitive socialist experiments, and socialist political organizations appeared in this country long before the existence of the Soviet Union or the Communist Party. Karl Marx once observed that, "Socialism

and Communism did not originate in Germany, but in England, France and *North America.*"

Nearly one hundred years ago, and sixty years before the Socialist Revolution of 1917, the first Communist club in America was organized. Many of Marx' works were first published in this country. American Marxists supported the founding of the Republican party, and backed
188 Lincoln's 1860 campaign for the presidency.

American followers of Marx, who called themselves Communist, enlisted in the Union Army. Joseph Wedemyer and August Willich rose to the rank of Brigadier General. Among other well-known Communists of the time were Fritz Jacoby, a leader of the New York Communist Club who was killed at Fredericksburg, and Robert Rosa, a Major in the Union army.

American Marxists were active in the early trade unions. They helped form the first National Labor Union—the forerunner of the American Federation of Labor, whose head, William Sylvis, subscribed to the principles of the International Workingmen's Association—the First Communist International.

In 1881, American Marxists played a leading role in the organization of the American Federation of Labor, and their socialist views were reflected in the preamble to its first Constitution.

In 1876, the American Marxist organized as a national polictical party—the Socialist Labor Party. In 1900, the Socialist Party was established.

In the decade prior to the Russian Revolution of 1917, a strong left trend developed in the American Socialist Party led by Eugene Debs. This group finally broke with the opportunist leaders of the Socialist party, who had betrayed the principles of socialism and abandoned the struggle against the imperialist war of 1914-1918.

The victory of the first socialist revolution, and the establishment of a socialist state in the land formerly ruled by the Czars, was an historic event which naturally made

a deep impression on workers all over the world, including those Americans who had long held socialist ideas and now saw their socialist dream become a reality. In 1919 these left forces in the Socialist party founded the Communist Party. Its first general secretary was Charles E. Ruthenberg, who had been imprisoned with Eugene Debs as a result of his peace activities in 1918.

189 The Communist Party chairman, William Z. Foster, was an active participant in these socialist movements, and in the struggles of the trade unions where his leadership of the 1919 steel strike made labor history. Elizabeth Gurley Flynn, a member of the Communist Party National Committee, and many of its charter or veteran members came to the Communist Party deeply imbued with socialist thought and bringing with them a rich experience of the class struggle in this country. These Communist leaders symbolize the continuity of the Communist Party history, and are living refutation of the Attorney General's specious contention that the Party is foreign in origin and alien to America.

(2) The Communist Party is a party of a new type. Far from being a "conspiracy" it is a political party of the working class.

The Communist Party is the political party of the American working class, and therefore a party of a new type. It does not conform to the structure and practices of the Democratic and Republican parties because the aims and aspirations of the working class do not conform to the aims and aspirations of the imperialist exploiters.

The Republican and Democratic parties are the servants of the monopolists, and seek to perpetrate the system of private ownership under which the few profit from the labor of the many. The Communist Party is the party of Socialism, and strives to convince the workers that it is their historic task to establish the common ownership of the nation's resources and manage its productive capacity for the benefit of all the people.

Unlike the Republican and Democratic parties, the Communist Party is free from corruption. It has never had a Teapot Dome, deep-freeze, or mink coat scandal—a Pendergast machine, or a Frank Costello in its ranks.

Unlike the Republican and Democratic parties, the Communist Party does not deceive the voters and make election promises to be forgotten after the votes are in.

Unlike the Republican and Democratic parties, the Communist Party does not offer the people fake "alternatives," while keeping them prisoners of the two-party system owned and run by Wall Street.

The Communist Party is the vanguard party of the American working class. In fulfillment of its vanguard role, it led the long struggle to organize the workers in the mass production industries, and to establish industrial unions. In the 1930's, the decisive sections of the American working class responded to the Communist Party's vanguard leadership, when with the assistance of hundreds of Communists the Congress of Industrial Organizations cracked the open shop in the basic industries.

During the years of Hoover's Great Depression, the Communist Party lead the successful fight for government unemployment relief and insurance.

The Communist Party is the vanguard Party of the Negro people in their struggle for national liberation and equality. It actively opposes the ideology of white supremacy and works for the alliance of the working-class with the Negro liberation struggle. It resolutely combats any expression of white chauvinism in its own ranks.

The Communist Party initiated and led the campaign that defeated the Scottsboro frame-up. It leads the fight against lynch justice, jim-crow discrimination and segregation, and the national oppression of the Negro people who are the majority in the Black Belt in the South. It fights for an F.E.P.C. and poll-tax repeal. If bent every effort to save the Martinsville martyrs and is fighting resolutely for the lives of Willie McGee and the Trenton Six.

The Communist Party is a party of a new type because it is a party that promotes Negro and white unity, and the united action of all groups and individuals prepared to struggle against the threat of fascism and war.

191. The Communist Party is a party of a new type because it engages in and helps lead all the economic struggles of the workers and common people, actively supports the wage demands and strikes of the trade unions, participates in popular movements for rent and price controls, for schools, housing and medical care. It concerns itself with the economic and social conditions of the youth, women, and small farmers. It fights against the wage-freeze, increased taxes and other effects of the huge war budget upon those least able to pay. It has led the struggle to preserve the Bill of Rights, against the reactionary drive of the war-mongers to convert our country into a police state, and to degrade our culture into an American version of Nazism.

The Communist Party is the party of peace, social progress and *Socialism*. Unlike the Republican and Democratic parties, the Communist Party seeks to educate the workers in the course of their day-to-day struggles, to promote labor unity and the united action of all peace-loving and democratic forces.

The Communist Party participates in national, state and city election campaigns. It organizes public discussion of its local and national Convention resolutions, and of the reports made to its National Committee. It uses every means available to make its policies known to the American people, and to convince them of the validity of its position on all public questions.

(3) The Communist Party promotes working class internationalism. International labor solidarity and the cooperation of the world peace forces have benefitted our own as well as other countries. The Communist Party's participation in international movements is totally irrelevant to the charge of foreign domination and control.

The Communist Party fully suscribes to and practices the view of Abraham Lincoln who said:

"The strongest bond of human sympathy, outside of the family relation, should be one uniting all working people, of all nations and tongues and kindreds."

192 The Attorney General's false charges were also answered in 1869 by William Sylvis. Noting that the program adopted at the Baltimore Convention of the National Labor Union was strikingly similar to that drawn up by Karl Marx at the Geneva Congress of the First International, Sylvis wrote to Marx: "Capital is the same tyrant in all parts of the world. Therefore, I say our cause is a common one."

Internationalism is a cherished American tradition. At its birth in 1776 our country had the fraternal assistence of Lafayette, Kosciusko and Steuben. These participants in our Revolution were not French, Polish or German "foreign agents." France did not cast out Lafayette as an "American agent," although he returned honored with American citizenship conferred on himself and his descendants.

The Union cause in our Civil War of 1861-65 owed much to the support of the British working class—which saved us from British intervention in behalf of the slave-owning insurrectionists. Yet the British workers were not "American agents," but true British patriots.

The struggle for an eight-hour day, initiated in the United States, became an international struggle in which the workers of Europe and America joined forces to better their living and working conditions.

The historic international struggles for the freedom of Dreyfus in France, for the freedom of Tom Mooney, Sacco and Vanzetti, the Scottsboro boys in America, and many other similar labor defense struggles were "dominated" only by the universal concern of the peoples to save the victims of class injustice. Beginning with the Reichstag Fire trial, and the frame-up of the great Communist leader

George Dimitroff, Nazi atrocities gave rise to a tremendous wave of such international struggles.

Among the working class internationalism arose in the earliest days of the trade unions in every country. They found it essential in order to protect themselves against the breaking of strikes by the employers, through importation of workers from other countries, who were kept ignorant of the existence of the strike.

The forms of working class internationalism vary. At one time, the Communist Party was affiliated with the Communist International, and participated in its congresses and political campaigns around specific issues. Those relations were terminated in 1940, and the Communist International itself dissolved in 1943. Since 1940, the Communist Party has had no international affiliation of any kind—although it follows with interest the experiences of other Communist parties, reads their journals, and on appropriate occasions sends or receives fraternal greetings.

International cooperation has often included financial assistance from workers of any countries to workers of other countries. The Communist Party raises its finances from its membership and from public appeals and campaigns. Its annual financial drive is conducted publicly. For many years the Communist Party gave financial assistance to the victims of facism, to the resistance movements in various fascist countries, and to anti-fascist refugees. Such practices have by no means been limited only to Communist or working class movements in this country. The long fight for the Irish Republic received financial support from individuals and groups in many countries. From the days of the Czarist pogroms to those of the Nazi terror, the Jewish people of Europe have received financial aid from Jews and non-Jews throughout America and the world. American Zionists have for years contributed financially to the support of their movement in other countries.

Participation in an international working class organization in no way implies any foreign "disciplinary power."

It cannot and does not imply robot-like "discipline".

194 Participation in a working-class international organization means to consult together on the basis of the different types of working-class experience in each country, to assist one another in the scientific examination of such specific conditions and experiences, and to place the combined thinking at the service of the working-class of one's own country for their consideration.

The Attorney General's false charges in this connection have an obvious and sinister purpose, as the petition reveals in its citation of the support given by the Communist Party to the mighty and growing world peace movement.

For the threat of an atomic world war has aroused the world's peoples to an altogether new appreciation of the value and power of international co-operation in defense of peace. The vast majority of the human race has formed a mighty and growing movement of struggle for peace. No nation on earth could, if it would, impose a robot-like "discipline" on these hundreds of millions of war-weary human beings. Nor can any agency of government prevent the American people from associating themselves with their fellow men and women in other lands, who are bound together by the universal and supreme will to prevent a third world war.

C.

The Communist Party has resolutely defended its constitutional rights and legal status. It functions openly as a legal political party. It maintains public national, state and section headquarters which are listed in the telephone directory. Its views are constantly released to the general press, and published in daily, weekly and monthly papers and journals which circulate through the mails and are for sale on newsstands. Books by Communist leaders are sold in bookstores everywhere. The Marxist classics are on the

shelves of public and university libraries all over the country. National, state, and section organizations of the Party issue millions of leaflets every year—and give them the widest possible circulation.

Despite the Communist Party's fight to defend its constitutional rights, and despite the wide support the American people have given this struggle, many restrictions have recently been placed on the Party's effort to present its program to the people. In a number of states the Communist Party has been deprived of its right to a place on the ballot. Almost everywhere it is denied the right to buy newspaper space for paid advertisements, or radio time. F.B.I. Director J. Edgar Hoover inadvertently admitted that the Party's right to secure meeting halls and assemble publicly has been drastically curtailed, when he told a congressional committee recently that the number of public meetings held under Communist auspices has decreased.

In similar defiance of the Constitution, the Communist Party and its members have been subjected to slander and persecution by a host of federal and local agencies, and singled out for prosecution by this Act and various state acts and local ordinances.

Communists are being robbed of their right to earn a living, as well as of their right to speak and assemble. Americans alleged to be Communists, or to hold views shared by Communists, or to have relatives or friends alleged to associate with Communists suffer similar economic and social disadvantage.

Long prison terms are meted out to men and women simply because they are Communists, Communist sympathizers, or under suspicion of having Communist ideas. Persons under suspicion of association with Communists are harassed by legislative committees, threatened with violence, and in some instances have been the victims of physical assault. Americans of foreign birth, who have lived here since infancy, are threatened with deportation and the concentration camp on the ground of such alleged sympathies or associations.

Under these conditions, Communists have in some instances been obliged to safeguard their liberty and their jobs by exercising their right to keep their political views to themselves.

Such necessary precautions were forced on the American workers throughout the long years when their efforts to organize trade unions in the basic industries were met by blacklist, discharge, strike-breaking violence, and a whole system of legalized and extra-legal terror.

Such necessary precautions were also common among the pre-Civil War Abolitionists. What the Attorney General calls "clandestine practices" were adopted by the heroic Negro leaders Harriet Tubman and Sojourner Truth, and by the Quakers and others who maintained stations on the underground railway in the days of the Fugitive Slave Law.

In the face of these facts the Attorney General now cynically claims that the precautions forced upon Communists as a result of their persecution by the Department of Justice and other public and private bodies have been voluntarily adopted by the Communist Party to conceal its purposes. His real complaint is that despite persecution, the Party is still able to express its views publicly, and to initiate or support broad united front actions on vital issues of the day. *The purpose of this Act and of this proceeding is therefore to outlaw the Communist Party,* and remove it from all access to the market place of ideas. Their purpose is to prevent the Communists from rallying wide popular support for such policies as that adopted by the Party's National Convention in December, 1950:

"It is the sacred duty of our Party, of every worker, of every person who loves his home and country, to prevent a third world war with all its ghastly consequences. Such a war would only spell death, destruction, untold misery and starvation, not only for other peoples throughout the world, but for our own people. There is no greater patriotic duty than the prevent a third world war; for to save peace is to save America itself from destruction."

D

Throughout the 32 years of its existence, the Communist Party has been guided by the working class
197° social science first expounded a century ago by Karl Marx and Frederick Engels, and later enriched and developed by V. I. Lenin, Joseph Stalin, and their collaborators. This science was evolved from an objective analysis of the concrete economic and social conditions existing in various historic periods and in various parts of the world, and from the generalized experience of the world working class. Its chief exponents, their followers and collaborators, have analyzed the scientific laws of social change and progress, the laws of the development of capitalist production and of the irreconcilable conflicts inherent in the capitalist social system.

This science has enabled the Communist Party to guide the working people of the United States in effective struggle for immediate improvements in their living and working conditions, and to prepare them for future struggles looking toward the socialist reorganization of society.

The Communist Party naturally studies and learns from the foremost exponents of Marxism-Leninism, those whose theory and practice have been tested in experience and verified by history. But, in applying this science to the solution of the problems of the American working class and people, the Communist Party relies above all on its own leadership, on the experience of its members and other advanced workers, and upon its analysis of American conditions and the needs and desires of the American people.

Sharing a common scientific outlook, the Communist Parties of all countries naturally express similar views on current questions. This is particularly true when the questions are international in scope and related to the world wide struggle for peace.

The Attorney General's false charge that this similarity of views constitutes a "conspiracy" is as ridiculous as to

charge that similarity of views in any other science betokens some kind of conspiracy. Such a position would return humanity to the Dark Ages, negate all science, and ban all scientific inquiry and interchange. Yet the
198 Attorney General degrades our country's level of intelligence by making the charge that the publication in newspapers and working class scientific journals of speeches and articles by Communist leaders represent the submission of "reports" by "foreign agents" to their supposed "superiors."

(1) In its advocacy of social change, social progress, and the eventual socialist reorganization of society the Communist Party gives its allegiance only to the sovereign power that resides in the American people.

The Communist Party declares that no fundamental social change can be brought about in our country, except by the will and united action of a majority of the American people. Least of all can the socialist reorganization of society be imported, or imposed from without. The common ownership of the means of production cannot be established by any minority group, but only when a majority of the people accept the leadership of the American working class and its Communist vanguard.

The history of the United States has been marked by many great struggles for social change and progress. Victory in these struggles has been possible only when the majority of the American people made a decisive choice and threw their weight into the balance. The outcome of today's struggles, and of those of the future, will also be decided by the majority.

This is true for our country and for all countries. This generalization of past experience is emphasized in all the literature of Marxism-Leninism, from the century-old *Communist Manifesto* through all the current documents of the Communist Party of the United States.

This fundamental principle was emphasized by the world's leading Marxist, Joseph Stalin, when on March 1, 1936, he told the American publisher Roy Howard:

"'Export of revolution' is nonsense. Each country if it wishes, will make its own revolution, and if it does
199 not wish to, there will be no revolution. Thus, for example, our country wanted to make a revolution and made it."

(2) Reaction has always levelled the "foreign agent" charge against movements for social progress, in our own and other countries. The fact that the Communist Party hails and supports the socialist achievements of the peoples of the Soviet Union and the lands of People's Democracy, and the national liberation victories and struggles of the colonial peoples, is wholly irrelevant to the false charge of "foreign domination."

Both before and during his presidency, Thomas Jefferson was denounced as an "agent of France" by the American Tories. The Federalists declared that the Democratic Clubs which Jefferson organized were "part of a vast secret and subversive international body organized by the bloody French Jacobins, and subsidized by Paris gold." These and similar false charges were used as pretexts for passing the Alien and Sedition Acts of 1798—the hated political progenitors of the Subversive Activities Control Act of 1950.

The same false charges were levelled against the early American trade unions. In sentencing the New York tailors in the conspiracy trial of 1836, Judge Edwards declared: "Trade unions are of foreign origin and I am led to believe mainly upheld by foreigners."

The Abolitionists, the woman suffrage movement, advocacy of a graduated income tax and proportional representation—even free public education—were in their time denounced as "foreign" inspired. Unemployment insurance and social security, first advanced by the Communist Party in the 1930's, were opposed as a Moscow plot to wreck the American economy.

Today American imperialism opposes the peoples' movements for social change throughout the world as "internal

aggression," organized and promoted by the Soviet Union —and therefore to be resisted by the force and violence of atomic world war organized by the United States. This proceeding, and the Act under which it is brought, confirm that such a view can only lead to the destruction of all liberty in the United States itself.

The Act is planned and intended to outlaw the Communist Party. But it is not aimed at the Communists alone. Its broad target is the Constitution, the labor movement and the Negro people, and the growing people's movement of resistance to the Wall Street drive toward fascism and a third world war.

That is why it was opposed in Congress by broad forces which included the American Federation of Labor, the Congress of Industrial Organizations, the Railroad Brotherhoods, and many independent unions; the National Association for the Advancement of Colored People, the American Jewish Congress, the American Civil Liberties Union, Americans for Democratic Action, the American Veterans Committee, the National Farmers Union, the Women's International League for Peace and Freedom, the Association of the Bar of the City of New York, the National Lawyers Guild, Governor Bonner of Montana, Governor Johnson of Colorado; the noted constitutional authorities Professor Zechariah Chafee of Harvard, Professor Fowler Harper of Yale, and Professor Emeritus William Gorham Rice of Wisconsin; such distinguished citizens as Chancellor Robert M. Hutchins of the University of Chicago and Councilman Stanley M. Isaacs of New York; religious groups like the Episcopal League for Social Action and the Friends (Quakers) Committee on National Legislation; Bishop Francis Hass of Grand Rapids, Michigan and many others. More than 20 major newspapers, and thousands of local groups, condemned this measure.

The nationwide movement which opposed the Act at the time of its passage has grown and will continue to grow. For this war measure was pushed through Congress at a

time when the Korean war hysteria was at fever pitch, and before broad sections of the American people had learned from experience that it is an unjust and unnecessary
201 war entailing heavy sacrifice and threatening our country and the world with atomic catastrophe.

The Communist Party reaffirms its faith that the American people will build an invincible united front of resistance to those who are driving our nation toward fascism and a third world war.

We confidently predict that the Act will be repudiated, as the Alien and Sedition Acts and the Fugitive Slave Act were nullified by the popular will.

We reaffirm our allegiance to the American working class which gave birth to the Communist Party, to the American people and the nation whose interests we have served and will continue to serve under any and all conditions.

We unqualifiedly deny the Attorney General's slanders, and assert that the Communist Party and Americans of all political affiliation have the right and the duty to organize in defense of peace and the Bill of Rights.

Whatever may be the decision of this illegally constituted Board, we have no doubt that the American workers and common people—Negro and white—will follow the precept of Thomas Jefferson and join their forces to guarantee that "we shall see the reign of the witches pass over, and the people recovering their true right."

THE COMMUNIST PARTY OF THE UNITED STATES
by GUS HALL

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202 VERIFICATION

State of New York )
County of New York ) ss.

Gus Hall, being duly sworn, deposes and says: I am the National Secretary of the Communist Party of the United States and I subscribed to the foregoing amended answer on its behalf. I have read the foregoing amended answer and know the contents thereof. The matters alleged therein

are based on information and belief, and I believe them to be true.

GUS HALL

Subscribed and sworn to before
me this 31 day of March, 1951.

CARL BRODSKY
*Notary Public*

CARL BRODSKY
Notary Public, State of New York
No. 31-0428950
Qualified in New York County
Certificates filed in the following offices:
County Clerk; New York County
Register; New York County
Commission Expires March 30, 1953

318 (Filed November 20, 1951)

**Motion for the Disqualification of Dr. Kathryn McHale**

The respondent, by its counsel, moves that Dr. Kathryn McHale be disqualified from any further participation in the proceeding against the respondent. In support of this motion, the respondent has filed the accompanying affidavit of bias and prejudice executed on its behalf by one of its counsel, John J. Abt.

VITO MARCANTONIO
JOHN J. ABT
JOSEPH FORER
*Attorneys for the Respondent*

319 (Filed November 20, 1951)

**Affidavit of Bias and Prejudice**

DISTRICT OF COLUMBIA, *ss:*

John J. Abt, being first duly sworn, deposes and says:

1. I am one of the attorneys for the respondent in the above-entitled proceeding. I make this affidavit for and on

behalf of the respondent. This affidavit is made pursuant to Section 7 of the Administrative Procedure Act, 5 U. S. Code sec. 1006.

2. Dr. Kathryn McHale, a member of the Subversive Activities Control Board and a member of the panel which is conducting the hearing in the above-entitled case, has a personal bias and prejudice against the respondent and in favor of the petitioner. Facts and reasons for the belief that such bias and prejudice exist are set forth in paragraphs 3, 4, 5, 6, and 7 hereof. The statements in paragraphs 3, 4, 5, 6, and 7 are made on information and belief, derived from newspaper accounts of the speech of Dr. McHale referred to in such paragraphs and from what purported to be a copy of said speech.

3. On November 15, 1951, Dr. McHale made a speech in Washington, D. C. at a luncheon of the Woman's National Democratic Club. In this speech, she discussed, among other things, the proceeding against the respondent now pending before her. This in itself was a gross impropriety which, if indulged in by a judge or juror in a pending case would require a mistrial. The tenor of Dr. McHale's references to this proceeding, furthermore, was, in effect, that she and her listeners knew that the respondent is guilty of the charges made in the Attorney General's petition, and that the problem is only whether this known guilt can be established by evidence. "What the outcome will be," she said, "is any one's guess. But as an old recipe for
320 rabbit stew goes, we must first catch the rabbit."

That is, Dr. McHale identified herself with the endeavor of the petition (the "hunter" of the "rabbit") to convict the respondent. Dr. McHale also stated that the hearings pending herein offer "an opportunity for a continuing education into the true nature of democracy." By this statement Dr. McHale implied that the respondent is guilty but that the "true nature of democracy" requires respondent nevertheless to be accorded a hearing.

4. Dr. McHale stated in her speech that the proceeding against the respondent "is a warning to joiners to stop,

look and listen before affiliating with any group." This remark obviously derives from a belief that the government's evidence has shown that the respondent is something to be warned against and has shown that it is an organization which people should hesitate to affiliate with. Furthermore, the remark indicates her belief that persons should be cautious about joining other organizations. Since other organizations can be proscribed under the McCarran Act only if the respondent is first proscribed, Dr. McHale obviously assumed that an order adverse to the respondent was as good as entered. In short, these remarks demonstrate that Dr. McHale has already come to a conclusion concerning the case even before the respondent has had an opportunity to introduce its evidence.

5. One of the issues being tried before the panel is the views and policies of the respondent toward Germany prior to and after the Soviet-German Non-Aggression Pact of 1939. The petitioner's witness on the stand at the time of Dr. McHale's speech testified on this subject. The petitioner seeks to prove that the respondent shifted its views and policies toward Germany upon the conclusion of this Pact, and that its doing so is evidence that the respondent is dominated and controlled by the Soviet Union. In her speech, Dr. McHale stated: "It was the Hitler-Stalin Pact that called attention to the American Communists switching from their previous position. The switch did not look like 'sympathy' to our Congress, but like direct con-
321 trol outside the U.S.A." Thus, Dr. McHale demonstrated a prejudgment of the question of whether a switch in policy had occurred and indicated her belief that the supposed switch was indicative of foreign control of the respondent.

6. Among the issues before the panel are whether the Soviet Union is attempting to overthrow existing governments by force, infiltration, and other means, and whether the Soviet Union and the "world Communist movement" represent a danger to the security of the United States.

Dr. McHale showed that she has prejudged these issues by stating in her speech:

"As 1947 came, things were happening fast. Before that, as long as Russia seemed powerless to hurt America, she was regarded as a remote danger. Then, instead, she continued to maintain and build a strong army; took over countries as Czechoslovakia, et al.; stepped up infiltration; blocked atomic control and inspection; etc. What was formerly regarded as a remote danger began to be regarded as an immediate one."

7. Dr. McHale also stated in her speech concerning the hearings pending before her: " . . . the Communist Party has seized every legal opportunity to inject postponement on legal technicalities, which has so far interfered with a continuous schedule of hearings." Obviously, the making of this criticism was improper. Furthermore, it is untrue. The criticism is particularly unjust because the hearings have been unduly prolonged by the acquiescence of the panel (including Dr. McHale as a member thereof) in the petitioner's endeavor to encumber the record with a great volume of irrelevant, cumulative and repetitious material.

JOHN J. ABT

Subscribed and sworn to before me this 19th day of November, 1951.

RAYMOND GODBERSEN
(SEAL) *Notary Public*

CERTIFICATE OF COUNSEL

I certify that the foregoing affidavit is made in good faith.

JOHN J. ABT

322 **Opinion and Order of the Board Denying Respondent's Motion for the Disqualification of Dr. Kathryn McHale**

On November 20, 1951, Respondent, by its counsel, moved that Dr. Kathryn McHale, a Member of the Board and of

its Hearing Panel in the above-entitled proceedings, be disqualified from any further participation therein, and in support of such motion has submitted an affidavit of alleged personal bias and prejudice executed by one of its counsel.

The affidavit, in substance, charges on information and belief, that such personal bias and prejudice against the Respondent is shown by a speech delivered by Board Member McHale on November 15, 1951 at a luncheon of the Women's National Democratic Club in Washington, D. C.

Dr. McHale has furnished a copy of her speech as it was presented at the aforesaid luncheon to the other Members of the Board.[1] For the reasons hereinafter mentioned, we find nothing in the speech which in our opinion supports a charge that she has prejudged the issues in the pending proceedings or is personally biased or prejudiced against Respondent.

In *Hurd* v. *Letts*, 80 App. D. C. 233, 152 F. 2d 121 (1945), the Court stated the well-established rule that a sufficient affidavit of bias and prejudice must state facts and reasons tending to show personal bias and prejudice regarding the case pending and must give support to the charge of a mental inclination that may prevent or impede impartiality of judgment. However, nothing in Respondent's affidavit or Dr. McHale's speech satisfies the requirements of this rule.

In *United States* v. *Dennis*, 183 F. 2d 201 (C.C.A. 2, 1950) affd. 341 U. S. 494, commonly known as the trial of the eleven Communists, it was charged that a juror should be withdrawn because he had made a speech in which he had said, "We are already fighting a war with Communism and it should be a fight to the death." Nevertheless, the
323 Court of Appeals stated that such a declaration by the juror was insufficient to disqualify him. See also *Federal Trade Commission* v. *Cement Institute*, 333 U. S. 683, 700-703 (1948).

Dr. McHale's speech taken as a whole consists of nothing more than a brief reference to: (1) the history of the Sub-

[1] A true copy of which is hereto annexed.

versive Activities Control Act; (2) the purpose of the Board as provided for in such Act; (3) a summarization of the registration provisions; and (4) a concise resume of the contents of the Attorney General's petition in these proceedings. In our opinion, this speech fails to indicate bias, prejudice or prejudgment.

Respondent's affidavit consists of extracting expressions from Dr. McHale's speech and importing to them a meaning which, in our opinion, is unjustified when such words are read in the context of the speech as a whole. Significantly Respondent fails to note the language of the speech where, in briefly summarizing the subject of the Act, Dr. McHale stated, "The requirement is to strike at Communist conspiracy, if it exists, without tearing the fabric of the Constitution which protects us all. Freedom for discussion, for criticism, for new ideas has been basic in our system."

Again, in discussing the action required of the Board by the Act upon the filing against an organization of a petition of the Attorney General, she said, "* * * the Board holds hearing on facts and will finally issue an order of requirement based upon the preponderance of the evidence, if such exists. The Board examines witnesses, documentary evidence, etc., to determine its findings in each case."

Under the circumstances, we do not believe it necessary to discuss in detail those parts of the speech which taken out of context are relied upon by Respondent.

For the reasons stated above, Respondent's motion should be and hereby is denied. It is so ordered.

By direction of the Board.

PETER CAMPBELL BROWN
*Acting Chairman*

(SEAL)

Dated: December 4th, 1951
Washington, D. C.

As I sat here listening to the eloquent introduction of your Chairman, there was just one little doubt that crossed my mind. It occurred to me that if I were really as smart as the Chairman says I am, I would never have let the Committee talk me into making this speech.

The Internal Security Act of 1950, sometimes called the McCarran Act or the anti-Communist law, is one of the least understood laws in the history of the republic. Yet, it is highly important that American's understand it, since it involves (1) our national safety and (2) our individual liberties.

On September 20, 1950, the law was passed overwhelmingly by the House and the Senate. The President vetoed it two days later. Only ten per cent of each house supported his veto. No matter what critics may say, it is the law of the land. It is something new under the sun. It is a complex law, designed to deal with what Congress contends is a clear and immediate danger. All Americans must make a continuing effort at better understanding. We are told by law analysts that the final decision on cases under this Act will be foremost in the legal archives of the future.

Now that you have had some strong coffee, let us take a brief glance at the law itself. It is about 25,000 words in length. It took thirty months to draft this legislation, in other words, it was not hastily drawn. The requirement is to strike at Communist conspiracy, if it exists, without tearing the fabric of the Constitution which protects us all. Freedom for discussion, for criticism, for new ideas has been basic in our system. The Constitution itself provides for change, when and if enough people desire it.

There has been a Communist Party in the United States since World War I; it is only in the last ten years that Congress has been concerned, and only in the last three or four years that the problem, to them, has become an urgent one. It was the Hitler-Stalin Pact that called attention to the American Communists switching from their previous

position. The switch did not look like "sympathy" to our Congress, but like direct control outside the U.S.A. Congress passed the Smith Act in 1940, making it a crime to advocate the overthrow of government by force and violence. Before this Act could get a tryout, however, we were fighting on Soviet Russia's side against Hitler. They were our allies. And optimistic Americans seemed serene and friendly about our relationship. They hoped that the Soviet would reciprocate the friendliness of the war years and that we could concert all energies to peaceful reconstruction. You know what happened, of course. As 1947 came, things were happening fast. Before that, as long as Russia seemed powerless to hurt America, she was regarded as a remote danger. Then, instead, she continued to
325 maintain and build a strong army; took over countries as Czechoslovakia, et al.; stepped up infiltration; blocked atomic control and inspection; etc. What was formerly regarded as a remote danger began to be regarded as an immediate one. So the Congress initiated and finally produced the Internal Security Act of 1950.

Exercising their Constitutional rights, the Congress declared: "There exists a world Communist movement" which they set out in fifteen statements in describing the necessity to enact legislation to meet a "clear and present danger" to the security of the U. S. A.

It is about only one part of this legislation that I want to talk to you today, namely the registration feature. The law required registration with the Attorney General within thirty days after its passage, of certain groups and individuals described in the Act; it also required the submission of annual reports by such groups and individuals and other data as specified in the law. No one registered.

Under the Act, the Subversive Activities Control Board was set up, with the duty of determining whether any organization is a "Communist-action organization" or a "Communist-front organization" within the definitions set out in the law. Therefore, upon application made by the

Attorney General that an organization or an individual so designated which has not done so, should register, the Board holds hearings on facts and will finally issue an order of requirement based upon the preponderance of the evidence, if such exists. The Board examines witnesses, documentary evidence, etc., to determine its findings in each case.

To date, the Attorney General has submitted only one petition to the Board, one concerning the Communist Party of the U. S. A. In it, he petitions the Board for an order, after appropriate proceedings, directing the Communist Party of the U. S. A. to register with the Attorney General as a Communist-action organization. In the petition, the Attorney General makes some sixty-six separate allegations which he contends show that the Communist Party of the U. S. A. is indeed a Communist-action organization, and which he believes show:

1. History and foundation of the Communist Party of the U. S. A.

2. Direction and control of the Communist Party by a world Communist movement.

3. Non-deviation of the Communist Party from policies of foreign powers.

4. Financial aid to the Communist Party of the U. S. A. from foreign powers.

5. Reporting of the Communist Party of the U. S. A. to foreign powers; training of Communist Party members abroad.

326 6. Recognition of disciplinary power of foreign Communist leaders.

7. Clandestine practices of the Communist Party.

8. Allegiance to the United States as subordinate to the Soviet Union as the fatherland.

As of November 1, the Attorney General has already presented 354 exhibits to be considered by the Board and the Communist Party has presented 26. The testimony up

to that time had consumed 6,775 pages of transcript, fourteen witnesses having been called by the government.

The findings of the Board as to the facts, in this as well as in any other cases which may be presented to the Board, determines the status of the organization or individual. Such decision of the Board is subject to review by the courts, however.

If a finding is made against an organization or an individual, it must register; in registering, foreign control is admitted; then the membership, literature and broadcasts of any such group will be labeled, its financing revealed, etc. Refusal to register under the Act carries certain penalties: imprisonment and/or fine. The alternative to these is that of evasion which has to be faced too.

Whatever happens, here is an opportunity for a continuing education into the true nature of democracy. It is a warning to joiners to stop, look and listen before affiliating with any group. What the outcome will be is anyone's guess. But as an old recipe for rabbit stew goes, we must first catch the rabbit.

You are cordially invited to all hearings, which are open to the public. They will prove a revelation to you of your responsibility in national security. They are held from Monday through Thursday on the first floor of the Lafayette Building at 811 Vermont Avenue from 10 a.m. to 12:15 M and from 2:00 p.m. to 4:15 p.m. Call to be sure there is no recess the day you want to come, for the Communist Party has seized every legal opportunity to inject postponement on legal technicalities, which has so far interfered with a continuous schedule of hearings.

* * * * * * * * * *

860 (Filed November 24, 1952)

**Motion to Disqualify Board Chairman Peter Campbell Brown**

The Respondent moves that Board Chairman Peter Campbell Brown be disqualified from participating further

in this proceeding. In support of this motion there is attached hereto an affidavit of bias and prejudice.

Respondent requests oral argument on this.

VITO MARCANTONIO
Vito Marcantonio

JOHN J. ABT
John Abt

JOSEPH FORER
Joseph Forer
*Attorneys for Respondent.*

861 **Affidavit of Bias and Prejudice**

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss:

Joseph Forer, being first duly sworn, deposes and says:

1. I am one of the counsel for Respondent in the pending proceeding before the Subversive Activities Control Board.

2. In my opinion, Peter Campbell Brown, chairman of the Board, has exhibited bias and prejudice against Respondent and in favor of Petitioner.

3. As a basis for this opinion, I state the following matters on information and belief.

A. On November 16, 1952, Mr. Brown participated in a television program known as "Georgetown University Forum", on the subject, "United States Government v. Communist Party." The moderator of this discussion was one Frank Blair. The other participants in the discussion were George R. Gallegher, General Counsel of the Board, and one Edward Bennett Williams. On the same day, the same persons participated in a radio program with the same title and along the same lines.

B. Mr. Gallegher was the principal draftsman of the Recommended Decision of the Panel. He headed and in-

structed the staff of the Board which prepared drafts thereof for submission to the Panel, consulted with the Panel on the drafts, and was responsible for making required changes to meet the wishes of the Panel and for producing the final draft.

C. The theme of the television and radio programs, supported by all the participants therein, was that the Respondent herein is a subversive agent of the Soviet Union, and that the Panel had done a great job by officially labelling the Respondent as such an organization. In the course of the televised discussion, Mr. Brown stated, among other things: that there had been a definite showing made against Respondent on each of the eight criteria established by the Act for the determination of a Communist Action organization; that the Act defined a Communist-front organization as one controlled by the Communist Party; that he assumed that it would be the Respondent which would appeal the order which the full Board would enter
862 in this proceeding; that the Panel's contribution was that it had for the first time caused the respondent to be labelled for "what it really is", an instrumentality of a foreign government; that the Respondent had never deviated in its positions from the positions of the Soviet Union; that Gitlow, a witness in this proceeding, has been expelled from Respondent by order of Stalin.

D. In the course of the televised discussion, Mr. Gallegher stated, among other things, that the greatest domestic threat is the existence of the Communist Party; and that the proceeding before the Panel debunked Respondent's "pose" as a political Party and proved it to be an instrument of the Soviet Union.

E. Throughout the televised program, Mr. Blair and Mr. Williams made comments hostile to the Respondent.

JOSEPH FORER
Joseph Forer

Subscribed and sworn to before me this 19th day of November, 1952.

BETTY WEINMAN
*Notary Public*

Betty Weinman
Notary Public, State of New York
No. 31-9580050
Qualified in New York County
Cert. filed with City Reg. N. Y. County
Commission Expires March 30, 1954.

863 (Filed November 24, 1952)

**Motion to Re-open Hearing Before Panel**

The Respondent moves that the Board direct that the hearing before the Panel be reopened, for the following purposes:

1. In order to permit Respondent to introduce evidence to prove:

(a) That Petitioner's witnesses, Mary Stalcup Markward, William Garfield Cummings, and Berenicce Baldwin, testified falsely and perjuriously in the proceedings herein in answering questions as to whether they had been paid for their services as informers and as to the amount of such payments.

(b) That such false and perjurious testimony was known by the Petitioner, the Attorney General of the United States, to be false and perjurious.

2. In order to permit Respondent to examine the named witnesses, and employees of the Petitioner, to ascertain whether these witnesses had been instructed by Petitioner or his agents to give false testimony in other respects as well, and whether they did so.

3. In order to permit Respondent to obtain, by subpoena or by order of the Panel, the records of the Petitioner with

regard to the amounts paid by or at the direction of Petitioner to each of Petitioner's witnesses.

If the foregoing is denied, then Respondent moves that the testimony of the three named witnesses be stricken.

In support of, and for the grounds of, this motion, Respondent refers to the annexed affidavit of John J. Abt, its counsel. Respondent requests oral argument on this motion.

VITO MARCANTONIO
Vito Marcantonio

JOHN J. ABT
John J. Abt

JOSEPH FORER
Joseph Forer
*Attorneys for Respondent.*

Office Executive Secretary Received Nov. 24, 1952 10:20 A. M. Subversive Activities Control Board — Registered Article 384688

* * * * * * * * * * *

**864 Affidavit in Support of Motion to Re-open Hearing**

CITY OF NEW YORK
STATE OF NEW YORK } ss:
COUNTY OF NEW YORK

JOHN J. ABT, being first duly sworn, deposes and says:

1. I am one of Respondent's counsel in the proceeding pending before the Subversive Activities Control Board.

2. On or about November 14th, 1952, I learned that the United States government had stipulated in the pending New York Smith Act trial, U. S. v. Flynn, et al. (C. 136-7), United States District Court for the Southern District of New York, as to the payments made by the Federal Bureau of Investigation to certain persons for their services and expenses in spying on the Communist Party of the United States, the Respondent herein.

3. I have examined the aforesaid stipulation. It is dated November 12th, 1952, and lists the payments made to September 10th, 1952.

4. Mary Stalcup Markward was a witness for the Petitioner in the proceeding herein. She had been, according to her testimony, a plant in the Respondent for the F. B. I. She testified that she had not been paid any salary by the F. B. I. and that the only money she received from the F. B. I. was reimbursement for expenses such as paying dues, making contributions, buying literature, "and other incidental things." She testified that none of her activity for the government was contingent upon receipt of any money, and that she volunteered to be a spy "without remuneration of any kind". She testified that the expense
865 payments were received by her in irregular amounts at irregular times. When asked how long she had worked for the F. B. I., she testified that she "was engaged in this activity from May of 1943 until October of 1949." She also testified that she could not state how much money she had received from the F. B. I. She also testified that she had made no formal financial arrangements with the F. B. I., and that the payments made to her were made at the initiative of the F. B. I. (Tr. 5841-5842, 5955-5958).

5. The aforesaid stipulation lists payments to Markward as follows:

| Year | Paid for Services | Paid for Expenses |
|---|---|---|
| 1943 | $ 507.95 | $ 2.00 |
| 1944 | 1,646.00 | 50.00 |
| 1945 | 2,660.00 | |
| 1946 | 4,450.00 | |
| 1947 | 4,885.00 | |
| 1948 | 4,605.50 | |
| 1949 | 3,875.00 | |
| 1950 | 450.00 | |
| 1951 | 450.00 | 45.00 |
| 1952 | 350.00 | 50.00 |
| TOTALS: | $23,829.45 | $147.00 |

866 10. A copy of the aforesaid stipulation is attached hereto.

JOHN J. ABT
John J. Abt

Subscribed and sworn to before me this 20th day of November, 1952.

Betty Weinman
*Notary Public*

BETTY WEINMAN
Notary Public, State of New York
No. 31-9580050
Qualified in New York County
Cert. filed with City Reg. N. Y. County
Commission Expires March 30, 1954.

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867 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

ELIZABETH GURLEY FLYNN, et al., *Defendants.*

**Stipulation**

C 136-7

The defendants herein have heretofore caused to be issued and served upon the Attorney General of the United States a subpoena duces tecum requiring the production of all vouchers, receipts, cancelled checks and other records showing all payments ever made by the Department of Justice or any of its constituent divisions and bureaus to the following individuals: *Louis Francis Budenz, John Lautner, Harvey Matusow, Bereniece Baldwin, Louis Rosser, Charles W. Nicodemus, Ralph Vernon Long, Mary Stalcup Markward, William G. Cummings, Thomas Aaron*

*Youngloye;* and all records showing the date, place, amount of such payments, the reasons for and purposes of such payments; the nature of the services compensated for by such payments; and where payments were made as compensation for expenses, all records describing said expenses.

In lieu of the production of the aforesaid records, the prosecution has supplied to the defendants, and the defendants have accepted, certain data concerning payments to each of the persons above named. The prosecution represents that said data, which are incorporated in the figures hereinafter set forth, accurately state the facts concerning all the payments made up to and including September
868 10 1952 to each of said persons, the amount, date and purpose thereof, except that the prosecution has not caused a search to be made of records of payments by United States Marshals in all districts to each of the persons above named. The prosecution represents that the figures hereinafter set forth include all payments of which it has knowledge made by United States Marshals to the aforesaid persons.

In consideration of the foregoing, and upon the data submitted by the prosecution, and in order to facilitate the progress of the trial,

IT IS STIPULATED by and among the defendants and the prosecution as follows:

I.

That if the appropriate officer of the Federal Bureau of Investigation were to produce the records of that Bureau described in the above subpoena, and were to be called and sworn as a witness for the defendants in this trial, he would testify that the Federal Bureau of Investigation has paid to the witnesses for the prosecution in this case up to and including September 10, 1952 the sums set out below after the names of each, and for the years indicated, and that such payments were made for services performed and

expenses incurred by such witnesses in furnishing information to the Federal Bureau of Investigation concerning the Communist Party or its activities or members, or the defendants herein, or some of them.

869 Mary Stalcup Markward

| Year | Services | Expenses | Total |
|---|---|---|---|
| 1943 | $ 507.95 | $. 2.00 | $ 509.95 |
| 1944 | 1,646.00 | 50.00 | 1,696.00 |
| 1945 | 2,660.00 | | 2,660.00 |
| 1946 | 4,450.00 | | 4,450.00 |
| 1947 | 4,885.00 | | 4,885.00 |
| 1948 | 4,605.50 | | 4,605.50 |
| 1949 | 3,875.00 | | 3,875.00 |
| 1950 | 450.00 | | 450.00 |
| 1951 | 450.00 | 45.00 | 495.00 |
| 1952 | 350.00 | 50.00 | 400.00 |
| Grand Total | $23,879.45 | $147.00 | $24,026.45 |

870 II.

That if the appropriate officer of the Department of Justice were to produce the records of that Department described in the above subpoena, and were to be called and sworn as a witness for the defendants in this trial, he would testify that the Department of Justice (exclusive of the Federal Bureau of Investigation) has paid to the witnesses for the prosecution in this case up to and including September 10, 1952, the sums set out below after the names of each, and for the years indicated, and that such payments were made in connection with witness fees, transportation, per diem, furnishing information and consultation with respect to testimony in this and other cases involving the Communist Party or its activities or members, or the defendants herein, or some of them.

| | Witness Fees | Tran's and Per Diem | Total |
|---|---|---|---|
| 871 Mary Stalcup Markward | | | |
| Other Cases (9 days at $25; 7 days at $4) | $253.00 | $ 6.58 | $259.58 |
| This case (11 days at $4) | 44.00 | 145.48 | 189.48 |
| Grand Total | $297.00 | $152.06 | $449.06 |

872 The defendants shall not be precluded by the making of this stipulation from showing that any of the individuals named herein as a recipient of payments from the Department of Justice received other or different payments from those recited in this stipulation, but nothing herein contained shall be construed as an admission
873 on the part of the prosecution of the defendants' right to offer such evidence.

Dated: New York, N.Y., November 12, 1952.

/s/ Myles J. Lane per D.L.M.
Myles J. Lane, United States Attorney for the Southern District of New York.
Attorney for United States of America.

/s/ Elizabeth Gurley Flynn
Elizabeth Gurley Flynn,
Attorney pro se.

/s/ Pettis Perry
Pettis Perry,
Attorney pro se.

/s/ Mary M. Kaufman
Mary M. Kaufman,
Attorney for defendants Betty Gannett, Louis Weinstock.

/s/ FRANK SERRI
Frank Serri,
Attorney for defendants
Albert F. Lannon, Alexander
Trachtenberg, William W.
Weinstone.

/s/ JAMES T. WRIGHT
James T. Wright, Attorney for
defendants George Blake
Charney, Arnold S. Johnson.

/s/ JOHN T. MCTERNAN
John T. McTernan,
Attorney for defendants
Alexander Bittleman, Victor
J. Jerome, Claudia Jones,
Jacob Mindel.

* * * * * * * * * * *

893 **Affidavit of Peter Campbell Brown**

DISTRICT OF COLUMBIA }
CITY OF WASHINGTON } ss.

PETER CAMPBELL BROWN, being first duly sworn, deposes and says:

1. I am Chairman of the Subversive Activities Control Board and was presiding member of the Hearing Panel in the above entitled proceeding.

2. On November 16, 1952, I participated as a guest in unrehearsed television and radio programs known as "The Georgetown University Forum". The other participants thereon were Messrs. Frank Blair, moderator, George R. Gallagher and Edward Bennett Williams. The questions asked of me were not known by me in advance.

3. My appearance on the aforesaid programs was subsequent to the issuance by the aforesaid Hearing Panel of its findings of fact and recommended decision in the above entitled proceeding, which is a part of the official public

record therein. In these findings of fact and recommended decision, the aforesaid Hearing Panel found upon the basis of the completed evidence adduced before it that the above entitled Respondent is a Communist-action organization as defined in the Internal Security Act of 1950 and recommended that the aforementioned Board enter an appropriate order requiring the respondent to register as such with the Attorney General of the United States.

4. During the aforesaid television program, I summarized briefly those provisions of the aforesaid Act which are administered by the Board, the functions of the Board, the issues in the above entitled proceeding and related concisely several of the findings contained in the aforesaid recommended decision which the Hearing Panel, consisting of my colleague and myself, had issued previously to the parties in the above entitled proceeding.

5. I did not state that the Panel had done a "great job" in any respect nor that the aforementioned respondent is a "subversive agent" of the Soviet Union.

6. Consonant with the findings set forth in the recommended decision, I stated that in the above entitled proceeding petitioner had made a definite showing under each of the eight criteria provided in the aforesaid Act for determination of a Communist-action organization.

894 7. In relating the definition in the aforesaid Act of a Communist-front organization I utilized inadvertently the term "Communist Party" instead of "Communist-action organization".

8. In answer to a question as to whether the aforesaid respondent would appeal the decision in the above entitled proceeding, I stated my belief that this would be done if the decision of the Board were adverse to the aforesaid respondent; that I would assume that the respondent would appeal although I could at no time speak for the other members of the Board as the decision in the above entitled proceeding was not final. This opinion was based upon the

evidence which had been adduced before me during the hearing, and the Hearing Panel's findings thereon.

9. In referring to the Hearing Panel's findings of fact and recommended decision, I stated, in essence, that it is the first time that the aforementioned respondent had been labeled for what it is, an instrumentality of a foreign government. In effect, omitting the words "first time", this was the conclusion of the Hearing Panel in its findings and recommended decision.

10. In alluding to specific findings in the recommended decision I related, in accordance with such findings, that respondent had not deviated in its positions from those of the Soviet Union and that the witness Gitlow had been expelled from respondent by order of Stalin.

11. I stated specifically during the aforementioned programs that I could not speak for the Board as to the ultimate decision in the aforementioned proceeding.

12. Such statements of fact as were made by me during the aforementioned programs were based upon the aforesaid Act and the findings and conclusions made by my colleague and myself in the recommended decision.

13. My sole interest and concern at all times in the above entitled proceeding has been and will be to decide each matter on its merits and in accordance with the standards set forth in the statutes and regulations governing the conduct and decisions of the aforementioned Board. This I have done and will continue to do.

PETER CAMPBELL BROWN
Peter Campbell Brown

Sworn and subscribed to before me this 16th day of December, 1952.

ELLEN C. DONAHAY,
(Seal) *Notary Public, D. C.*

My Commission expires July 31, 1956.

Respondent has filed various motions: to disqualify Board Chairman Brown; to defer decision until a fifth member can participate; to re-open the hearing; and to strike the recommended decision.

Petitioner filed a memorandum in opposition to said motions. Oral argument on the motions took place before the Board on December 19, 1952.

We examine first the motion to disqualify Chairman Brown, which is supported by an affidavit of bias and prejudice executed by Joseph Forer, Esq., of counsel to respondent in this proceeding. The charges of bias and prejudice are, essentially, that subsequent to the recommended decision in this proceeding, i.e., on November 16, 1952, Chairman Brown participated in television and radio programs known as "The Georgetown University Forum"; that among the other three participants thereon was the Board's General Counsel; that during the television program certain statements, which are set forth in the affidavit of Mr. Forer, were made by Chairman Brown and by the General Counsel to the Board; and that these statements reveal a bias and prejudice by Chairman Brown in favor of petitioner and against respondent.

Chairman Brown has voluntarily submitted to the Board his affidavit in response to Mr. Forer's affidavit. By Board action dated December 16, 1952, this was made a part of the record in this proceeding. It was served upon both parties prior to the oral argument on these motions. No objection thereto was interposed by either of the parties.

903 Chairman Brown, individually, and the Board, with Chairman Brown not participating therein, have considered the motion and will rule thereon separately.

Upon due consideration of this motion and the supporting affidavit, Chairman Brown deems himself not to be biased and prejudiced, as alleged, and finds himself not to

be disqualified from further participation in this proceeding.

It is the Board's opinion, with Chairman Brown not participating, that the allegations in respondent's affidavit fall far short of establishing personal bias or prejudice or any other ground of disqualification recognized by law. It is noted that the aforesaid program took place subsequent to the issuance by Chairman Brown and his colleague on the hearing panel, Member McHale, of their recommended decision in this proceeding. It is clear that any statements made by an employee of the Board, such as those alleged by respondent herein, cannot serve to impute personal bias or prejudice to a Board member nor be utilized as a basis for the member's disqualification. Respondent's affidavit is legally insufficient to serve as the basis for the disqualification of Chairman Brown.

We have, in addition, examined the affidavit of Chairman Brown and as a result thereof, we find him not to be biased and prejudiced, as alleged.

We turn now to respondent's motion to defer decision until a fifth board member can participate therein.

This motion is based upon these grounds: (1) there is presently a vacancy on this Board, the full complement of which is five; (2) two members of the Board sat on the hearing panel in this proceeding and issued the recommended decision; and these same two members have "exhibited bias and prejudice, a prejudgment of the case and an inability or indisposition to adjudicate the case fairly". In support of this motion respondent refers to its exceptions to the recommended decision, its brief in support of such exceptions and the affidavits of bias and prejudice filed in this proceeding against Chairman Brown and Member McHale.

904 The Board previously disposed of respondent's motion to disqualify Member McHale on December 4, 1951, by ruling that Member McHale had not exhibited bias and prejudice and was therefore not disqualified. On

this date the Board has ruled to the same effect as to Chairman Brown. Consequently, we believe this motion to defer decision until a fifth board member can participate is without merit and should be denied.

Ruling is reserved on respondent's motions to re-open the hearing and to strike the recommended decision pending oral argument on the exceptions to the recommended decision and a review by the Board of the entire proceeding.

IT IS THEREFORE ORDERED that respondent's motions to disqualify Chairman Brown and to defer decision until a fifth member can participate be, and they hereby are, denied; and it is

FURTHER ORDERED that, pursuant to respondent's request for oral argument on the exceptions to the recommended decision in this proceeding, such argument will be heard by the Board on January 5, 1953, at 10 o'clock A. M. in Room 113, Lafayette Building, 811 Vermont Avenue, N. W., Washington 25, D. C.

By direction of the Board.

PETER CAMPBELL BROWN
Peter Campbell Brown
*Chairman*

Dated: December 23, 1952

* * * * * * * * * * *

920 **Memorandum Opinion and Order of the Board**

On November 24, 1952, respondent filed various motions: to strike the recommended decision; to reopen the hearing; to disqualify Board Chairman Brown; and to defer decision until a fifth member can participate. We denied the last two motions by order dated December 23, 1952. In the same Order of the Board, we reserved decision on the motions to strike the recommended decision and to reopen the hearing pending oral argument on the exceptions to the recommended decision and a review by the Board of the record. Oral argument on the exceptions took place on January 7, 1953, and upon review of the entire record in

this proceeding we now consider respondent's pending motions, which remain for decision.

We examine first the motion to strike the recommended decision, which contends that: (1) it does not fulfill the functions required of a recommended decision; (2) it rests on erroneous and illegal premises; (3) it was issued by a Panel of which both members are disqualified by reason of bias and prejudice and affidavits of bias and prejudice; and (4) its principal draftsman, the General Counsel of the Board, has exhibited bias and prejudice against respondent.

Grounds (3) and (4), which were incorporated in other motions by respondent, have previously been found by the Board to be without merit in its Orders dated December 4, 1951 and December 23, 1952. Concerning the remaining grounds, it is our opinion upon a review of the record in this proceeding that the recommended decision adequately fulfills its function. The Board's decision will constitute independent findings and conclusions on the issues in the proceeding upon full review of the entire record, including respondent's exceptions to the recommended
921 decision. Consequently, we need not discuss herein the "premises" on which the recommended decision rests.

We believe the motion to strike the recommended decision is without merit and should be denied.

We turn now to the motion to reopen the hearing for the following purposes asserted by respondent:

(1) In order to permit respondent to introduce evidence to prove: (a) that petitioner's witnesses, Mary Staleup Markward, William Garfield Cummings, and Bereniece Baldwin, testified falsely and perjuriously in the proceedings herein in answering questions as to whether they had been paid for their services as informers and as to the amount of such payments; (b) that such false and perjurious testimony was known by the petitioner, the Attorney General of the United States, to be false and perjurious.

(2) In order to permit respondent to examine the named witnesses, and employees of the petitioner, to ascertain whether these witnesses had been instructed by petitioner or his agents to give false testimony in other respects as well, and whether they did so.

(3) In order to permit respondent to obtain, by subpoena or by order of the Panel, the records of the petitioner with regard to the amounts paid by or at the direction of petitioner to each of petitioner's witnesses.

Respondent supports this motion with an accompanying affidavit of John J. Abt, attorney for respondent in this proceeding, to which is attached a copy of a stipulation entered into between the Government and defendants in *United States v. Elizabeth Gurley Flynn, et al*, in the United States District Court for the Southern District of New York. Respondent also moves that the testimony of witnesses Baldwin, Cummings and Markward be stricken in the event the motion to reopen the hearing is denied.

Stated briefly, respondent asserts that petitioner's witnesses Cummings, Baldwin and Markward gave false testimony in this proceeding in testifying concerning whether they had been paid for their services as informants for the Government of the United States and as to the amount of such payments. In support of this assertion respondent refers to the aforementioned stipulation
922 in which there is contained a yearly breakdown of money paid to these three witnesses by the Government of the United States for "services" and "expenses" in supplying information concerning respondent's activities to the Government over a period of several years.

We have reviewed the testimony of these three witnesses in this proceeding in the light of the whole record and with due consideration to respondent's contentions and supporting documents. The testimony of witnesses Cummings and Baldwin cannot reasonably be said to be at variance with the information contained in the aforementioned stipulation.

As to the witness Markward, she stated on direct examination that she had received money from the Government in connection with her activities as an informant for the Federal Bureau of Investigation while performing as a functionary of respondent, but did not consider that she had been paid a salary by the Government. She stated that the money received was for the purpose of paying dues in the respondent organization, transportation to Washington, D. C. (from her home in Chesterbrook, Virginia), making contributions, buying literature, "that type of thing, and other incidental things". On cross-examination, she stated, in essence, that she received money from the Federal Bureau of Investigation in the form of reimbursement of expenses incurred in her activities on behalf of the Government over a period of several years; and that she did not recall the amounts received yearly.

The aforementioned stipulation contains the aggregate sum of $147 under the heading of "expenses" received by the witness Markward from the Government for the years 1943 to 1952, inclusive. It is apparent to the Board that her transportation from her home to Washington, D. C., where she performed as a functionary of respondent, at the allowed government rate of seven cents per mile would alone greatly exceed the sum of $147 over those years. This excludes consideration of other expenses she must have incurred in connection with her activities on behalf of the Government.

Consequently, it is readily seen that the figure of $147 under the heading "expenses" in the stipulation is not to be construed as being all-inclusive of the witness Markward's expenses when viewed in the context of her testimony in this proceeding.

923

In any event, such variance as may appear on the face of the record between her testimony in this proceeding and the stipulation attached to respondent's motion is in no sense material to petitioner's case when her whole testimony, which is largely cumulative and corroborative of

the testimony of other of petitioner's witnesses, is viewed in the light of the entire record. We conclude that a grant of respondent's motion would not affect the result of this proceeding. We also conclude that the pertinent portions of the testimony of the witness, when viewed in context, reveal no basis for respondent's charge of perjury. Respondent has made similar reckless charges against other of petitioner's witnesses throughout this proceeding.

It is readily apparent that respondent did not exercise due diligence in presenting these contentions to the Board. The witness made it clear from the outset of her testimony that she had received money from the Government while engaged in activities in its behalf. Yet, respondent did not attempt during the hearing to obtain the records of the Federal Bureau of Investigation with regard to payments to these witnesses as was done in *United States* v. *Elizabeth Gurley Flynn, et al.*, wherein the aforementioned stipulation, upon which respondent now relies, was entered. Rather, respondent filed this motion to reopen the hearing almost five months after the testimony was concluded.

We therefore conclude that respondent's motion to reopen the hearing is without merit. *United States* v. *Marie L. Richardson*, U.S.D.C., D.C., Cr. No. 1645-51, January 16, 1953. We likewise find no adequate basis for granting respondent's alternative motion that the testimony of witnesses Baldwin, Cummings and Markward be stricken.

It Is Therefore Ordered that respondent's motions to strike the recommended decision, to reopen the hearing and to strike the testimony of the aforementioned witnesses be, and they hereby are, denied.

By direction of the Board.

Peter Campbell Brown
Peter Campbell Brown
*Chairman*

Dated: February 24, 1953
Washington, D. C.

1673 **EXCERPTS FROM TESTIMONY AND PROCEEDINGS**

**Benjamin Gitlow**

was called as a witness for and on behalf of the Government, and having been first duly sworn, was examined and testified as follows:

* * * * * * * * * * *

1674 Direct Examination

By Mr. Paisley:

* * * * * * * * * * *

1704 Q. During the time you were a member of the Executive Committee of the Communist Internationale and a member of its Presidium, were you a mem-
1705 ber of any other committees or organizations under the control of the Communist Internationale? A. Well, every Communist organization that I was a member of was controlled by the Communist Internationale.

Q. Well, did you hold any other office or position in any organization having its base of operations in Moscow? A. I did.

Q. What was that? A. That was the Red International of Trade Unions, known as the Profintern. I was a member of its Executive Committee in 1928 and 1929.

Q. And generally, what was the function of that organization? A. The function of that organization was to carry out, on a world scale, the trade union policies laid down by the Communist Internationale.

Q. Did you voluntarily resign from the Communist Party, or were you expelled, or just how did you happen to leave the Party? A. Well, I was expelled from the Communist Party in 1929 because of a difference with Joseph Stalin, on the question of the leadership of the American Communist Party.

Q. On how many occasions did you go to Moscow to confer with officials of the Communist Internationale? A. In 1927, in 1928 and in 1929.

Q. Have you had occasion, during that time to
1706 meet and talk with Joe Stalin? A. I had. I spoke to Joe Stalin at length in 1927, and I had occasion to meet with him in 1929.

* * * * * * * * * * *

Q. Mr. Gitlow, my next questions are direct to the period of time, 1919 to 1929, and I ask you, first, to give the Board some idea as to the organizational structure of the Communist Party in the United States? A. The Communist Party in the United States was a Centralized Organization, ruled from the top down, and not from the bottom up.

* * * * * * * * * * *

1721 Q. What power did the Communist Internationale have over the organization in the United States? A. The Communist Internationale had full power over the Communist Party of the United States.

Q. At all times during your membership? A. At all times during my connection with the Communist Party.

* * * * * * * * * * *

1729 Q. I hand you a series of membership cards, Mr. Gitlow, in the Workers Party of America, for the year 1922 to 1924, 1925 and in the Workers Communist Party of America for 1926 and 1927.

1730 First, I will ask you to explain what was the difference, if any, between the Workers Party of America, and Workers Communist Party of America? A. I will explain it.

Q. Then, I ask you if you can identify those cards? A. At the end of 1919, beginning of 1920, the Communist Party of the United States went underground, and was an underground organization.

Right after the Communist Party went underground, the party decided to carry on legal activities through another organization, presumably not a Communist Party, and for that purpose, the Workers Party was organized.

The Workers Party was organized by the Underground Communist Party, as the legal expression of the Communist Party in the United States, and this decision was made with the approval of the Communist Internationale at the time.

When the Communist Party felt that the Party could emerge from its underground existence and assume a legal existence per se, then the Workers Party, as such, was merged with the Communist Party, and the Workers Party became the Communist Party, the only Communist Party organization in the United States.

Later on, in order to bring about the transition from the name "Workers Party," to Communist Party, the name was changed to include in the middle of the title, in
1731 parentheses "Communist Party." So you had the Workers Communist Party.

And then, the Workers Party, the "Workers" was thrown out, and the name "Communist Party" remained. But the "Workers Party" was always a Communist Party organization.

Q. Were the legal and illegal organizations in being at the same time? A. They were in being at the same time, and in the Communist Party, which was the Underground Communist Party, which dominated both organizations, they were designated as the No. 1 and the No. 2 party, and the Communist Party, the Underground Communist Party, controlled all the affairs of the Workers Communist Party.

* * * * * * * * * * *

Q. Would you explain a little further, Mr. Gitlow, what you mean by legal and illegal party?

* * * * * * * * * * *

1732 The Witness: In Communist phraseology, the "legal party" means the party which is permitted to operate openly and above board, without any underground organization and set up.

"Illegal party" is that Communist Party which is completely underground, and carries on its organization on an underground basis.

By Mr. Paisley:

Q. That is what you meant by the use of those terms? A. That is right.

Mr. LaFollette: Let me ask the witness: when you say "legal and illegal," you don't refer to any law of the Government of the United States, but you refer to a ruling of the Communist Party at the time about which you testified?

The Witness: Well, you require to have an understanding of the history concerning the Communist Party that brought this situation about.

The Communist Party went underground as a result of the activities of the Department of Justice through Attorney General Palmer at the time, in raiding all headquarters of the Communist Party, and in arresting a large number of Communist Party members and holding them for deportation.

1733 In addition to that, many state actions were pending against the Communist Party. You had state actions in the State of New York, Massachusetts, and also in the State of Illinois, and certain actions on the part of state authorities in other states, with the result that the Communist Party decided that it was impossible for the Communist Party to function openly, as an open organization.

The Communist Party therefore decided to go underground and in going underground they set up an organization which was built up on cadres of five, every party member had an alias, didn't operate under his own name, all the headquarters of the Communist Party were secret headquarters, were not public headquarters, and many of the activities of the Communist Party were conducted on that basis.

Now, the Communist Party felt that the Party couldn't operate legally at the time, so it took this underground position.

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Q. How did the membership in the two organizations compare?

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1734 The Witness: The overwhelming majority of the workers of the Workers Party were members of the Underground Communist Party. Every member of the Underground Communist Party became ipso facto a member of the open organization.

However, in the open organization were included members who were not members of the Underground Communist Party.

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1737 Q. Was it customary for each member to have a membership card like those? A. It was customary for each member of the Communist Party to have such a membership card, except those who were considered in the category of secret members of the Communist Party. They carried no cards.

Q. Did you have any secret members during the time you were in the Party? A. Yes, sir, we had a considerable number of secret members of the Communist Party.

1738 Q. Why were they secret members, and what do you mean by "secret members?" A. By "secret members," we considered those members of the Communist Party who for political or other reasons, it was felt to be advisable to keep their membership records unknown in the Communist Party, and to prevent a disclosure of their membership in the Communist Party, and we generally included in that category important civil servants in the Government, members of the Armed Forces, generally school teachers, and the Party members engaged in espion-

age and other illegal and confidential activities for the Communist Party and the Soviet Government.

Q. I believe you say you had occasion to go to Moscow for three years, 1927, 1928, and 1929? A. That is right.

Q. How did you travel, Mr. Gitlow? A. I traveled as a Canadian Citizen in 1927, as a Canadian citizen in 1928, and as a Canadian citizen in 1929.

Q. Under what name? A. Under the name of James Hay.

Q. Did you go alone? A. In 1927, I went with J. Lovestone. We made the trip together.

In 1928, I headed the delegation from the American Communist Party to the Congress of the Red Inter-
1739 nationale of Trade Unions in Moscow. I was the Chairman of the delegation, and I went with about ten to fifteen others on the trip.

And in 1929, I headed the delegation of the American Communist Party that went to Moscow to appeal against Stalin's decision to change the leadership of the American Communist Party.

Q. Well now, do you know how those other individuals traveled? That is, on what kind of passports? A. Well, I know that J. Lovestone traveled also as a Canadian citizen, with a Canadian passport.

Others traveled on American passports, under assumed names and a couple traveled with legitimate passports that they had obtained.

Q. How did you folks get these passports? A. These Canadian passports?

Q. Yes, sir. A. We had, at the time, a set up in Montreal, Canada, an agency for that purpose, and it was centered in an export house, export-import house, in Montreal, that had very excellent connections with the passport bureau of the Canadian Government, and which also did work for the Soviet Union in that respect.

Q. Did you go through Canada in order to get over there? A. Yes, sir, we would go through Canada to make out the application in Canada.

Then the application was mailed to Ottawa, and
1740 then was mailed to us in New York and we used it in New York to board ship for Europe and into the Soviet Union.

Q. What would you do with the passport when you would get back to this country? What would happen to the passport then? A. Well, if we got back to this country, we kept the passport in our possession. But when we got into the Soviet Union the passport was turned over to what was known as the ORG Department of the Communist Internationale, which was the G.P.U. section of the Comintern at the Comintern headquarters, and we were issued Russian papers to facilitate our stay in Russia.

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1747 Q. Now, while you were over in Moscow, can you give us the names of other officials of the Communist Party of the United States who were there on official business? A. Well, there was William Z. Foster, who was there on very many occasions.

J. Lovestone on many occasions.

James V. Cannon, an official of the Communist Party, was there.

Earl Browder was there.

Harrison George.

H. M. Wicks.

J. Louie Engdahl, and very many others.

Q. How many of those that you now name are still alive, so far as you know? A. Well, Harrison George is
1748 alive, Earl Browder is alive, William Z. Foster is alive—there are many who are still alive and in the Party, who were officially delegated to go to Moscow to take up the affairs of the Communist Party.

Q. Is that the same William Z. Foster who is now the head of the Communist Party of America? A. It is the same William Z. Foster.

Mr. LaFollette: Was that the same Earl Browder who is or is not a member of the Party?

The Witness: The same Earl Browder.

Mr. LaFollette: You don't know whether he is a member of the party or not?

The Witness: At the present time he is expelled from the Party so I presume he is not a member of the party.

By Mr. Paisley:

Q. Do you remember approximately when he was expelled? A. He was expelled several years ago.

Q. Pardon me? A. He was expelled several years ago, after the conclusion of World War II.

Q. What power, if any, did the Communist Internationale exert over the Communist Party Conventions in the United States? A. The power of the Communist Internationale over the Conventions of the Communist Party was the following.

First, no Convention of the Communist Party of the United States could be held without the approval of
1749 the Communist Party.

Second, the Communist Internationale prepared the main political resolution which was introduced to the Convention of the Communist Party in the United States for its adoption.

Third, the Communist Internationale sent its own representatives to the Conventions of the American Communist Party, with power to see to it that the Communist Party of the United States, in its conventions and policies, carried out the directives of the Communist Internationale.

Q. During the time you were in the movement, approximately how many representatives did the Communist Internationale send over here? A. Well—

Q. For that purpose. A. Well, I could start trying to catalog them.

Q. Well, I wasn't asking for names, but just approximately how many, at this time? A. I would say close to 20 representatives of the Communist Internationale were sent to the American Communist Party Conventions.

Mr. LaFollette: Do I understand this is to each Convention, or the total? A. The total over a period of years.

By Mr. Paisley:

1750 Q. What power would that representative have at the Convention? A. The representative to a Convention of the Communist Party had extraordinary powers over the Convention and over the Communist Party.

In addition to that, the minute he landed in the United States, he became a voting member of all committees of the Communist Party of the United States, all its leading committees, that includes the Central Executive Committee, the Political Committee, and the Secretariat of the Communist Party.

Q. Do you know what would happen to one of your leaders of the American Party if you opposed his policies? A. Well, if we opposed his policies, then it would be subject to review by the Communist Internationale, and we would find ourselves expelled from the Communist party.

Q. Now, between Conventions, what power if any did the Communist Internationale exert over the Communist party in the United States? A. It exerted tremendous power over the Communist Party of the United States. It determined its main political line, because the Communist Party always carried out the political line of the Communist Internationale, and the line of the American Communist Party was always changed to conform with the changing line of the Communist Internationale.

It determined, to a very great extent, the top
1751 leadership of the Communist Party of the United States. It exerted power over the Communist Party of the United States through the subsidies which it made available to the Communist Party of the United States.

It also exerted great power over the Communist Party, due to the fact that the Communist Party had representatives in Moscow, with the Communist Internationale, so that the Communist Internationale could directly instruct

the American Party, through the American Party representatives in Moscow, and then it sent its own representatives, with power, to the United States to see that its decisions were carried out.

Q. Did the Communist Party in the United States have a representative or representatives in Moscow, continually? A. The Communist Party was never without direct representation at the Communist Internationale.

Q. In formulating and carrying out the policies and programs of the Communist Party in the United States during the time of your leadership, were you leaders concerned with the interests of the United States, the people of the United States, or did the aims and purposes of the Communist Internationale take precedent? A. The aims and purposes of the Communist Internationale and the Soviet Government, took precedence over the interests of the people of the United States.

Q. Just what was the fundamental aim and pur-
1752 pose of the Communist Party in the United States?

A. The aim and purpose of the Communist Party of the United States was:

1. To defend the Soviet Union as the fatherland of the working class all over the world.

2. To carry out the orders and the directives of the Communist Internationale.

3. To work for the undermining of the foundations of the American Government in order to make it possible for the Communists to over-throw our form of Government and set up in its place a dictatorship patterned after the dictatorship that rules in Russia today.

Q. Did you learn what the fundamental aim and purpose of the Communist Internationale was? A. Yes, surely.

Q. And what was that? A. The aims and purposes of the Communist Internationale were; the conquest of the world for Communists.

Q. And who made up the membership of the Communist Internationale? A. The membership of the Communist Internationale was made up of the various sections of the Communist Internationale.

Every Communists Party of the World was represented in the Communists Internationale, and the Communist Internationale Executive consisted of the representa-
1753 tives of the most prominent parties in the Communist Internationale.

The party that dominated the Communist Internationale was the Communist party of the Soviet Union. Every other Communist party was duty-bound to carry out the decisions of the Communist Internationale. There was no permission given to any communist party to oppose the decisions of the Communist Internationale, made through its Executive Committee.

The only Communist party that was permitted the privilege of opposing the decisions of the Executive Committee of the Soviet Union, and the decisions of the Communist Party of the Soviet Union became binding on the Executive Committee of the Communist Internationale.

Q. Were delegates sent over by the Communist Party of the United States to the Communist Internationale? A. Oh, yes, sir, sure.

Q. What methods did the party in the United States employ in carrying out the aims and purposes which you have just described? A. Well, to state them concisely and briefly, as possible: general propaganda, through the publication of newspapers, pamphlets, books, literature, and so forth, through the building up of the party organization, the recruiting of members into the Communist Party, and enlarging and developing and making the Communist or-
ganization more efficient, by infiltration of other
1754 organizations in an effort to capture the membership of these organizations so that they would be under Communist influence—so you have the trade union activities of the Communist Party, carried on for the pur-

pose of infiltrating the trade unions and bringing the trade unions under the hegemony and domination of the Communist Party—the same with all other organizations, the infiltration of our Government, our schools, of our colleges, as a cultural front, the carrying on of all kinds of movements, engineered and initiated by the Communist Party but not conducted under the name of the Communist Party for the purpose of reaching great masses of people who would not fall for such movement if they thought, or had any suspicion, that the movements were initiated and directed and controlled by the Communist Party, and the gathering of funds for that purpose, also connections with the Communist Internationale were of great value and help to the Communist Party in carrying on its activities in this country, as well as in its connections with the Soviet Government, and the resulting benefits that accrued to the Communist party through such relationships.

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1765 Q. Did the two Parties which were originally formed, Communist Parties, that is, back there in 1919, accept the 21 points of Communist Internationale? A. They accepted the 21 points without reservation, and were accepted into the Communist Internationale organization.

Q. Did the Communist Party in the United States ever have any representatives on the Executive Committee of the Communist Internationale? A. They did.

Q. Do you know who they were, during their period? A. Well, I can give you off hand a few of the members, I don't remember all of them: William Z. Foster

1766 was a member of the Executive, Charles E. Ruthenberg was a member of the Executive, I was a member of the Executive at one time, I think Earl Browder was a member of the Executive—there were a few others. I cannot recall their names at this time.

Q. What were the functions and the powers of the Executive Committee of the Communist Internationale? A. The

functions of the Executive Committee of the Communist Internationale were to supervise and direct the superstructure of the world Communist organizations, and to see that the various sections of the Communist Internationale carried out the orders and decisions and policies of the Communist Internationale.

Q. Was there any power in the International Communist movement over the decisions of the ECCI? A. There was.

Q. What was that? A. The Political Committee of the Communist Party of the Soviet Union had power over the Executive Committee of the Communist Internationale.

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1767 Q. Who were eligible for membership on this Committee? A. You mean who was eligible for membership on the Political Bureau of the Communist Party of the Soviet Union?

Q. Yes. A. Only members of the Communist Party of the Soviet Union.

Q. How did they exercise this control over the Communist Internationale? A. They exercised this control over the Communist Internationale because the Communist Party of the Soviet Union, directly through the Soviet Government, because of the system of collections, supported and financed the work of the Communist Internationale.

Q. What was the relation between the Communist Party of the Soviet Union and the Government of the Soviet Union? A. The Communist Party of the Soviet Union is synonymous with the Government of the Soviet Union.

In fact, the Communist Party of the Soviet Union supersedes the Government of the Soviet Union because
1768 all decisions, important decisions, determining the affairs of the Soviet Government, are first made in the Communist Party, and the organs of state are merely rubber stamps for the decisions of the Communist Party of the Soviet Union.

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Q. Did the sections of the Communist Internationale, to your knowledge, Mr. Gitlow, contribute any financial support to the organization? A. Not one penny to the financial support of the Communist Internationale.

All the money which supported the work of the
1769 Communist Internationale came from the Soviet Union.

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1775 Q. Have you formed any conclusion, Mr. Gitlow, as to whether or not activities of the Party in this country were controlled by the Communist Internationale?

Mr. LaFollette: And the facts upon which you predicate your conclusion.

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1776 The Witness: I think that the outstanding facts in the history of the Communist Party in the United States during the period when I was a member and leader of that Party, will indicate that the Communist Party of the United States was dominated completely by the Soviet Union, and I will refer only to major policies in this respect, which bear out this contention.

For example, the trade union policy of the United States. The trade union policy of the United States has shifted from independent trade-unionism, outside of the American Federation of Labor, to working within the American Federation of Labor. When this policy was changed in Moscow, it shifted from that of the organization of Communist, independent unions, in this country. The political factors that were changed: the Communist support of the formation of the labor party in the United States,
1777 first approved by the Communist Internationale, and, the Communist Internationale changed that policy, and that policy was changed and the Communist Party went into the organization of an independent ticket.

That later was changed again to a decision by the Communist Internationale directing the Communist Party of

the United States to work for the formation of a farmer-labor party in this country.

Matters concerning the Daily Worker: the organization of the Daily Worker, the supplying of a fund of $35,000 by the Communist Party—

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1779 The Witness: The Labor Party decision was made in 1924, and in the fall of 1924, just before the elections, the Communist Party had already succeeded in organizing a farmer-labor party, had secured the nomination of two candidates, one for president and vice president, when we got instructions from the Communist Internationale to give up the labor party, to discontinue the campaign, and to go into the elections on the ticket of the Communist Party.

That was done. Foster was nominated for president and I was nominated for vice president, as a result of that decision.

After that campaign was over, the matter was again reviewed by the Communist Internationale and the Communist Party of the United States was directed to begin a general agitation for the formation of a Farmer-Labor Party in this country.

In 1924, the Daily Worker was established, in the City of Chicago. We received from the Communist Internationale a sum of 35 thousand dollars to make that possible, plus a telegram and cable of greetings from the Communist Internationale on the formation of a daily Communist paper in the United States.

The trade union policies of the Communist Party, the formation of the Trades Union Educational League, in 1922, as an instrument for the infiltration of the trades unions—that policy of the A.F. of L. and existing legitimate unions, that was abandoned, in the year 1928,

1780 because the Trades Union Policy of the Soviet Union had shifted in the other direction, and so that policy was shifted for the United States also.

By Mr. Paisley:

Q. You have given us now instances— A. That is right I am compiling these instances all along the line.

Then the constitution of the leadership of the Communist Party of the United States. At the Convention of the Communist Party in 1925, Foster had a majority of the delegates to the Communist Party of the Convention.

We had, as a representative to the American Communist Party from the Communist Internationale, one Gusev, who operated in the United States under the name of Abe Pepper—not Pepper, his name was Green, excuse me, P. Green. Pepper was another representative—and Green was instrumental in enforcing the decision of the Communist Internationale that Foster accept a division of the Central Executive Committee on a fifty-fifty basis, the Foster group 50 per cent of the delegates to the Central Executive Committee, and Ruthenberg, 50 per cent, and then, P. Green, the representative of the Communist Internationale to the American Communist Party, sat in at the first meeting of the Central Executive Committee. They constituted the Political Bureau, the officers of the Party, on the basis of a majority established in the Central Committee by the membership of P. Green, which gave
1781 the majority of the Party over to the minority leadership of the Party at that time.

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1785 Q. Mr. Gitlow, you have been giving us some instances of the domination and control by the Communist Internationale of the Communist Party in the United States.

Now to get at the matter in another way, during your experience, do you know of any instance when a directive from the Communist Internationale was disobeyed by the Communist Party of the United States? A. I know of no instance where the Party as such disobeyed a directive of the Communist Party.

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I know where a decision was made to appeal against such a directive and what happened afterwards.

Q. On how many occasions was there an appeal? A. The appeal?

Q. Yes. A. The appeal I referred to was in 1929,
1786 in which I headed the delegation and appealed against the decision of the Communist Internationale.

Q. Try to keep your voice up, Mr. Gitlow. A. Yes, sir.

Q. That was the appeal which your faction of the Party took prior to your expulsion? A. That is right.

Q. Do you know of any other where a directive from Moscow was disobeyed? A. I know of no directive from Moscow that was disobeyed by the Communist Party in the United States.

Q. How often and to what extent did the Communist Party in this country receive directives from Moscow? A. They received many, many directives from Moscow on all kinds of matters. They were continually arriving at the headquarters of the Communist Party.

Q. Now when your Committees, your Executive Committee, of the Communist Party in the United States, would meet, and your Political Committee, and the Secretariat, was it necessary to keep and send to Moscow, minutes of the meetings? A. The procedure was that minutes of the meetings were taken down, and minutes forwarded to Moscow, of all meetings of the Central Executive Committee and ~~Political~~ Committee.

In addition, reports were sent to Moscow by the
1787 various departments of the National Office of the Communist Party.

In addition to that, there were individual reports and letters sent to the Communist International by the leaders of the Communist Party.

Q. Now you told us about the aims and purposes of the Communist International.

Did they change in any substantial way during the time of your membership? A. The fundamental aims of the Communist Party, and the fundamental position of the Communist Party was never changed, and was never changed so far as the Communist International was concerned, also.

That is, the basic principles, which they call Stalinism and Leninism. They have remained, actually, permanent for the World Communism Movement.

Q. And just what do Stalinism and Leninism mean? A. Those are the fundamental principles and policies and tactics for the conquest of the entire world for Communism.

Q. Did you ever hear the expression "Marxism," "Leninism?" A. I did.

Q. What did the Party teach was the meaning of that? A. Well, the Communists have held that their position is based on the position of Marx, on his economic political position.

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1807 One, the official Party delegations—Communist Party delegations that went to Russia. They started immediately with the formation of the Communist Party in the United States.

For example, John Reed was one of the first delegates of the Communist Labor Party to go to Russia to represent that party.

Louis C. Fraina and Isaac Horowitz were delegates—not Isaac, Nicholas Horowitz—were two of the delegates from the Communist Party. I remember there were two Communist Parties formed in 1919 that went to Moscow, and ever since then, there wasn't a year in which official Party delegates did not make trips to Moscow.

In addition to that, there were special delegations that went to Moscow. The most notable one was the Trades Union Delegation that went to Moscow in 1928.

Q. Approximately how many individual were included in the delegation? A. Well, I would not know the exact

number, but I think there were somewhere in the neighborhood of ten—maybe one less or a couple more.

Q. Do you know who sponsored the movement? A. I know who sponsored the movement and how it was organized.

Q. Will you tell us?

Mr. LaFollette: Excuse me, is this the Trades
1808 Union Delegation you are speaking of?

Mr. Paisley: Yes, sir.

The Witness: Yes, sir, the Trades Union Delegation to Moscow. The decision was made to organize such a delegation to be sent to the Soviet Union by the Executive Committee of the Comintern, and the funds for the same were supplied, the organization funds, for getting such a delegation organized, were supplied by the Communist Internationale, and then a labor leader of the British Trades Union Movement was sent to this country, and he was paid his expenses for making the tour of the United States in order to build up sentiment for the organization of such a Trades Union Delegation to go to Moscow, was supplied by the Communist Internationale, and he was paid for the job he did in this country.

The Communist Party organized all the details of the campaign that ensued, and as a result of that, a delegation was organized, and this delegation went to Moscow, and its affairs were manipulated by the Communist Party and a man put in charge as the Secretary of the Trades Union Delegation, who eventually wrote the report for that delegation, was a Secretary-Member of the Communist Party.

1809 Mr. LaFollette: Communist Party of the United States?

The Witness: Yes, sir. The report was written up and submitted to the Political Committee of the American Communist Party, and when it met with its approval, it was printed. It was printed through funds supplied by the Communist Internationale.

That was the trades union delegation that went to the Soviet Union.

Then, of course, there were the various delegations, any number of them, that were organized, and also a campaign was put on for this purpose by the Communist Internationale, and supported with the funds of the Russian Government, for the Russian Government wanted to make a tremendous celebration at its tenth anniversary, and so all kinds of delegations were organized in the United States to go to the Soviet Union in 1927 to participate in that celebration, all with the express purpose to utilize the trips of these delegations on the one hand to present a glowing picture of Communism in action in the Soviet Union, and on the other hand, to bolster up Communist propaganda and activities in the United States.

By Mr. Paisley:

Q. How did you gain your knowledge as to these matters? A. I happened to be a member of the Political Bureau of the Communist Party of the United States, and I
1810 was present in Moscow in 1927 when we discussed these matters at the headquarters of the Communist Internationale.

Q. Were these trade union delegations and other delegations you mentioned, matters that were discussed in the Political Committee from time to time? A. Oh, yes, sir, and they were very elaborately discussed in the meetings of the Political Bureau.

Q. Were these trade union delegates that were sent over there at the expense of the Communist Internationale, members of the Parties themselves? A. No, they were not. I think they were not. I don't recall the list, but I think the individual trade union members who went over with the delegation were not members of the Communist Party.

However, the technical staff which surrounded the delegation was made up of Communist Party members.

Q. Who was it that wrote up this report that you say was a secret member of the Party? A. Robert W. Dunn.

Q. How do you spell Dunn? A. I am not sure.

Mr. LaFollette: Is there an "e" on the end of the name?

The Witness: I am not sure now.

By Mr. Paisley:

1811 Q. Where is he now? A. I presume he is still doing the things he did before.

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1813 Q. Do you know whether or not, Mr. Gitlow, the Soviet Union maintained in this country any members of their OGPU? A. Yes, sir.

Q. How do you know? A. I know because we had relations with members of the OGPU through the Secretariat of the Communist Party of the United States, in this country, and also when I was a delegate to the Communist Internationale, we met with members of the OGPU who were assigned to duty in the United States.

Q. You mean you met them over there, in Russia? A. That is correct.

Q. Who were some of these agents? A. Well, the most active one in his relations with the Communist
1814 Party, who acted as a liaison between the Communist Party—as a liaison officer of the OGPU with the Communist Party, was Dozenberg.

Q. What was his first name? A. Nicholas Dozenberg. He was originally a member of the Communist Party, and he was in charge of the confidential work of the organization department of the Communist Party before he was assigned to the OGPU.

Q. Who assigned him to the OGPU? A. The Secretariat of the Party assigned him to the OGPU, and I was a member of the Secretariat at the time.

So he was disconnected from all party organization and assigned to the OGPU. That was in the year 1927, and he

met continuously with members of the Secretariat on OGPU matters, and the Secretariat was instrumental in obtaining for Nicholas Dozenberg, for the use of the OGPU banking references, recommendations, from legitimate business organizations, and so forth, and from time to time Nicholas Dozenberg would take up specific matters with the Secretariat of the Communist Party of the United States.

Q. Was he known as a member of the Communist Party? A. He ceased to become known as a member of the Communist Party when he was assigned to the OGPU.

Q. What was the function of the OGPU in this
1815 country? What was its purpose? A. The function of the OGPU in this country was to gather military and industrial information, and anything which the Soviet Government thought would be of value and interest to the Soviet Union.

Q. Gathered for what purpose? A. For the purpose of having the knowledge which would bolster up the position of the Soviet Union, primarily in international affairs.

Q. Then, it was passed on, I take it, to the Soviet Union? A. That is right.

Q. Now, when you were in Moscow, did you ever see any of the results of the activities of the OGPU in this country? A. Well, I saw quite a bit of it in the Communist Internationale, where the various reports dealing with the Communist Party, and its activities, which were gathered by the OGPU, were kept on file in the Communist Internationale.

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1823 Q. Well, now, you mentioned the name Scott, did you mean Johnson? A. That was his alias—Scott.

Mr. LaFollette: Scott and Johnson are the same man?

The Witness: The same man.

By Mr. Paisley:

Q. Were there any other agents of the OGPU with whom you came in contact in your activities as a communist leader in this country? A. Yes, sir, there were other agents.

Q. Could you now recall any of their names? A. I can't recall their names. I know them by their first names only—that is, I knew them by their first names only.

Q. Could your memory be refreshed, do you think, if I were to recall some of the names? A. It might. I wouldn't vouch for it.

. . . . . .

1824 Q. Did you ever know a man by the name of Dirba? A. Yes, I knew a man by the name of Charles Dirba.

Q. Was he a member of the Communist Party? A. He was a charter member of the Communist Party; originally also a member of the Lettish Club.

Q. Did he ever become active as an OGPU agent, to your knowledge? A. He took over the job in the National Headquarters of the Communist Party that Nick Dozenberg had. Whether he followed in the footsteps of Nick Dozenberg, I am not in a position to say.

Q. Now, do you know an organization known as the Amtorg? A. I do.

What do you know about the Amtorg? A. Amtorg was the trading corporation in the United States of the Soviet Government.

1825 Q. When was it organized? When did it become active in this country, if you know? A. I think it was organized—well I am not quite sure; but I think in the early Twenties, I think around 1924.

Q. Did the Communist Party of the United States have any contact or relations with that organization? A. It did.

Q. Will you detail the relationship and the circumstances? A. Well, the Secretariat dealt from time to time with the heads of the Amtorg on certain political questions that the Amtorg was interested in—notably on the question

of obtaining the recognition of the Soviet Union by the United States Government.

They were very much interested in that.

Also, the Amtorg cleared with the Communist Party of the United States the American personnel it hired, to determine whether or not they could be trusted to work in the Amtorg.

Third, a large number of members of the Communist Party worked in the Amtorg, and those members of the Communist Party who worked in the Amtorg were formed into a special group

The head of that group, at the time I was in the Party, was a Communist Party member by the name of Cooper, and this group kicked back part of its wages into the
1826 Treasury of the Communist Party.

Then the Amtorg supported the Communist Party Press, by putting advertisements, particularly, in the Foreign language newspapers of the Communist Party for which they paid in excess of the advertising rates for such advertisements.

Furthermore, the Amtorg made it possible for the Communist Party School of Business Relations, in what it was doing to realize monies financially from insurance and other activities.

In addition to that, the Amtorg sought the assistance of the Communist Party whenever technical delegations came to this country to attach Communist Party members to these delegations as translators, and so forth, who would be tied in with the OGPU representative that traveled with these delegations for information purposes.

Q. Did the officials of Amtorg from time to time meet with the Executive Committee or the Secretariat of the Communist Party? A. No, they met with members of the Secretariat; they never met at Party Headquarters.

Q. Was that frequent or otherwise? A. Yes, it was sometimes quite frequent.

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1892 Q. Mr. Gitlow, were these 21 conditions for admission to the Communist Internationale ever changed? A. During my connection with the Communist Party and with the Communist Internationale, they were never changed, or removed. They were always enforced.

Q. What use was made of the theses and statutes and the 21 points, during the time of your membership, after this convention, the Second Convention? A. They were used in two directions, mainly.

One, to educate the membership in the theses and statutes of the Communist Internationale, and the directives contained in the theses and statutes of the Communist Internationale were implemented by the Communist Party, and the necessary organizational and other steps were taken to comply with the theses and statutes of the Communist Internationale.

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1916 Q. Did the Communist International urge the organization that put out Exhibit 11 to unite with the United Communist Party? A. They always urged them, and the final decision for their members to unite with the Communist Party was carried out at the Richmond Convention in 1924.

Mr. LaFollette: Richmond, Virginia.

The Witness: No, Bridgeman, Michigan.

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1966 Q. And who was this representative of the Communist Internationale? A. The representative of the Communist Internationale to the American Communist Party at the time was Gussev, a member also of the Communist Party of the Soviet Union, and a member of the Control Committee of the Communist Party of the Soviet Union and considered a military expert by the Red Army.

Q. What was this Control Commission of the Soviet Union? A. The Control Committee of the Communist Party of the Soviet Union is that committee which deals

with matters of discipline or misconduct on the part
1967 of members and leaders of the Communist Party of the Soviet Union.

Q. Is that spelled G-u-s-s-e-y? A. That is right.

Q. And did he use an alias? A. Yes, sir, he used an alias in this country. His alias was P. Green.

Q. I see the name P. Green at the head of the following list of names, there, on page 165. William Z. Foster, J. Cannon, Alec Bittleman, C. E. Ruthenberg, Max Bedacht, J. Lovestone. Is that the same individual about whom you have been testifying? A. That is right.

Q. Is there any significance to the fact that Green's name is set off to the right, from these others? A. Well, that is to indicate that he was the head of the Committee.

Q. How many of those men listed are still active in the Communist Party in this Country, if you know? A. William Z. Foster is the Chairman of the Communist Party of the United States.

J. P. Cannon leads the Trotzkyist group in America.

Alexander Bittleman is a leader of the present Communist Party.

C. E. Ruthenberg is dead.

Bedacht was recently expelled from the Com-
1968 munist Party.

J. Lovestone is out of the Communist Party.

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2000 Q. Now, the question was, do you know what was meant by the use of the words, "Marxism and Leninism?" A. I do.

Q. What does it mean? A. The meaning of the phrase was the following:

As far as the economic social and political ideas of Marx were concerned, they were accepted. They were elaborated in the process of a violent revolution by Lenin, who worked out the tactics for revolutionary struggles, and Leninism categorically stands for the use of violence and force in

attaining the objectives of the Communist Party or the Communist Internationale.

Q. Which objectives are? A. Which objectives are the forceful overthrow of existing Governments which are not Communist Governments, their complete destruction, and replacing them with a Communist form of Government known as the dictatorship of the proletariat, in which
2001 only one party is permitted to operate, the Communist Party.

. . . . . .

2008 Mr. LaFollette: This man's name was Pepper?

The Witness: Yes, sir.

Mr. LaFollette: What was the alias?

The Witness: The alias was Pepper. His real name was Joseph Pogany.

Mr. LaFollette: And you knew him from 1922 to 1929?

The Witness: That is right.

Mr. LaFollette: And he came here from where? From the Soviet Union?

The Witness: He was sent here with a delegation of three representatives from the Communist Internationale, to the Communist Party of America.

The meeting of the Committee to which the delegation reported and presented their credentials, was held in my home, on Greenwich Avenue, New York City. I was present at that meeting of the Central Executive Committee at which the credentials were presented.

So I knew that he came as a representative of the Communist Internationale, together with Waletsky and one other man who originally lived in Buffalo whose name I can't recall at the present time. The other two representatives of the Communist Internationale, after the Bridgeman Convention, returned to Moscow. John Pepper was assigned for work in the American Party. He be-
2009 came a member of the Central Executive Committee, and a member of its Political Committee, and was one of the active, top leaders of the Communist Party of

the United States, and he finally was recalled to Moscow in the year 1929 and never returned again to this country. And I met him in Moscow in 1929, also.

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2027 Q. I hand you what purports to be a pamphlet entitled, "The Communist Manifesto."

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2037 Q. Now the question, Mr. Gitlow, is do you know what use the Communist Party, while you were one of its leaders, made of that document? A. The Communist Party made wide use of that document in educating its membership in the principles and tactics of the Communist Party, and it was taught in the workers school and the Communist Party made its own interpretation of The Communist Manifesto.

Q. Was it ever repudiated by any document which you ever saw? A. Never.

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2092 Q. Mr. Gitlow, I hand you a document, a photostat of which has been marked petitioner's exhibit 39 for identification, and ask you if you are familiar with that document?

(The above-referred to document was marked for identification as Petitioner's Exhibit No. 39.)

A. Yes, sir. I am familiar with this document.

Q. Will you tell us what it is, if you know? A. It is a report to the Communist Internationale by William Z. Foster and Alexander Bittelman.

Q. Made where? A. This report was presented to the Comintern in Moscow.

Q. Do you know whether or not it was prepared in Moscow? A. That, I couldn't tell you.

Q. I call your attention to the last page. I notice it appears to be dated in Moscow. A. I noticed that, but I couldn't tell you whether it was prepared in Moscow.

Q. How did it come into your possession? A. I got this from the archives of the Communist Internationale, in 1927.

Q. And what did you subsequently do with it? A. I turned it over with the rest of my files. It was included in my files, that went to the FBI.

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2123 Q. To what extent did you leaders of the Party in the United States undertake to conform to the dictates of the Cominform as to the editorial policy of the Daily Worker?

Mr. Abt: Objection to the Cominform, Mr. Chairman.

Mr. Paisley: I mean Communist Internationale.

Mr. LaFollette: The objection is as to the form of the question.

Mr. Abt: That is right.

Mr. LaFollette: Well, may I add, if any; the witness may proceed. The objection is overruled.

A. Well, the leaders of the Communist Party were very alert in seeing to it that the policy of the Communist press conformed with the line of the Communist Internationale.

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2125 Q. What was customary, if there was a custom, as to the fixing of the rates of your Party Conventions, in this country? A. Before a Convention of the Party could take place, permission for the holding of the same had to be secured first from the Communist Internationale.

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Q. Now, was it customary for the Secretaries of the Party to be elected at the Conventions over here? A. All top officers of the Communist Party that were elected at Conventions were subject to the approval of the Communist Internationale, and this was a decision on how the top leaders of the Communist Party in the United States should

2126 act before the holding of the National Convention.

In the period between the making of this decision on the American Question and the holding of the Convention

later on, in 1927, in that period Lovestone and Foster were designated by the Communist Internationale to act as the Secretaries of the Party, and Foster and Gitlow, as the Trade Union Secretaries of the Party.

Q. Did this decision of the Communist Internationale effect any change in the offices? A. Insofar as they removed the function of one General Secretary, and one Trade Union Secretary.

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2157 Q. Do you know whether or not the C. I. representative did come to the United States after that? A. He did.

Q. Do you know who he was? A. He was Gusev, alias P. Green.

Q. And was this Parity Commission formed? A. It was.

Q. Is that the same Parity Commission about which he had some other testimony or which was referred to in some other exhibit, introduced last week? A. It is.

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2158 Q. Can you identify that document? A. I can.

Q. Will you tell the Board just what it is? A. These are the minutes of the Executive Council of the Workers Party dealing with the agreement reached in Moscow for the organization of the International Relief, and as a result of that agreement the Executive Council considered the formation of the International Labor Defense in this country and selected a slate of the International Labor Defense, consisting of the Party people on the committee, who had an overwhelming majority, and the non—so-called non-Party people on the International Labor Defense, National Committee.

But among the non-Party people there were a number of secret members of the Communist Party. Robert W.
2159 Dunne at the time was a member of the Communist Party. Bishop M. Brown was a member of the Party; Meitzen was a member of the Communist Party

and Ralph Chapman was also a member of the Communist Party and they are indicated in the minutes as non-Party members.

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2187 Q. I believe you heretofore testified that copies of the minutes went to the Communist International in Moscow? A. They did.

Q. I direct your attention to the bottom of page 3 of Exhibit 52, which indicates that Comrade Green took part in this particular meeting.

Do you know who Comrade Green was? A. Yes, that was P. Green, the alias for Gusev, representative of the Communist International to the American Communist Party.

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2206. Q. Mr. Gitlow, did you folks have any policy with reference to the matter? A. We did have a policy in reference to the International Ladies Garment
2207 Workers Union.

Q. What was it? What was your policy? A. The policy was to compare the policies of the Administration with policies put forward by the Communist Party, and to utilize that difference in an attempt to win control over the International Ladies Garment Workers Union.

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2216 Q. Mr. Gitlow, I hand you another set of minutes of the Politburo of October 19, 1925, a photostat of
2217 which has been marked Petitioner's Exhibit 58.

(The document was marked Petitioner's Exhibit 58 for identification.)

By Mr. Paisley:

Q. How did that come into your possession? A. In the same way that the other copy of the minutes came into my possession.

Q. Did you make the same disposition of it? A. I did.

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2218 Q. I call your attention to the bottom of page 2 of that exhibit, Mr. Gitlow, the Young Workers League. I note the words "YCI" there. Do you know what that stands for? A. Young Communist International.

Q. Did it have anything to do with the Young Workers League? A. The Young Workers League was a section of the Young Communist International.

Q. Did the Young Communist International undertake in any way, to your knowledge, to control the activities of the Young Workers League in this country? A. It did.

Q. To what extent? A. To exactly the same extent that the Communist International controlled the affairs of the Communist Party of the United States.

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Q. Mr. Gitlow, how did you gain your informa-
2219 tion? A. Because the affairs of the Young Communist League were supervised by the Communist Party of the United States, and the communications that came from the Young Communist International were reported to the leading committees of the Communist Party of the United States, and the Young Communist International sent delegates to the Young Communist League of the United States, and those delegates had to present their credentials not only to the Young Communist League, but also to the Communist Party of the United States, and the representatives of the Young Communist International to the Young Communist League of the United States sat in at meetings of the leading committees, including the Politburo, of the Communist Party of the United States.

Q. Did the Young Communist International communicate from time to time with this Young Workers League over here? A. It communicated continuously with the Young Workers League in the United States.

Q. And did replies go back? A. Yes, sir, replies went back.

Q. How did they go, back and forth, do you know? A. They went through letter, through courier, through representatives, and through cables.

Q. Did they go direct to this youth organization, or otherwise? A. It depended upon the nature of the communication, how it was shipped from Moscow here.

2220 In addition to that, the Young Communist League sent representatives to the Young Communist International in Moscow who represented directly in Moscow the Young Communist League.

Mr. LaFollette: Did the Communist Party of the United States choose those members, or did they go direct?

The Witness: Those members were chosen with the approval of the Communist Party of the United States.

Mr. LaFollette: And the communications that came, do you know, did they go direct or did they come through the Communist Party of the United States?

The Witness: Well, they went direct to the contacts established for the Young Communist League in the United States, but were reported to the Communist Party in the United States.

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2238 Q. I call your attention to page 3 of these minutes, under the subject "Scandanavian Bureau."

Who is the Comrade Petersen mentioned in connection with that matter. A. Comrade Petersen was a man who was sent over to the Communist Party of the United States by the Executive Committee of the Communist International to assist the party in its organization, reorganizational and organizational activities.

Mr. LaFollette: Was that an alias, or was that his name?

The Witness: He was a Scandanavian by birth. I don't know what his real name was.

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2264 Q. Now I direct your attention to page 2(a) concerning a cable from one Losovsky. He refers to a league.

My first question is, do you know who Losovsky was? A. He was the Chairman—

Mr. Marcantonio: Mr. Chairman—.

Mr. Paisley: No, where he was. It says the cable was received. As far as the document is concerned, we don't know where he was.

The Witness: He was in Moscow.

By Mr. Paisley:

Q. Do you know to what League he was referring? A. Trade Union Educational League.

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2275 (The document referred to was marked for identification and received in evidence as Petitioner's Exhibit 66.)

Mr. Paisley: I am going to keep my questions on these minutes to a minimum, Mr. Chairman, and it will take a little time, because I am eliminating matters that we had expected to ask the witness about.

Mr. LaFollette: That is all right, Mr. Paisley.

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By Mr. Paisley:

Q. Mr. Gitlow, I call your attention to those listed as present.

Do you know whether any of those so listed were representatives of the Communist International, or, persons from Soviet Russia? A. Well, there was Bob, who was the representative of the Young Communist International, who was present, and Frank Miller, who was the representative to the party from the Executive Committee of the Communist International.

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2284 (Petitioner's Exhibit 69, marked for identification and received in evidence.)

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2287 Q. I call your attention to the first page, Mr. Gitlow, on the subject of "Negro Work," a motion by Ruthenberg that Comrade Whiteman "be requested to write out his report so that it can be sent to the Eastern Department of the Comintern, showing the progress in the work the A.N.L.C. is doing."

2288 Can you interpret that for the Board? A. The Eastern Department of the Comintern was the department that handled the Negro question, and reports on the Negro question, the activities of the Communist Party in this field of work, were sent to that department.

Q. And the ANLC, is that the American Negro Labor Congress about which you testified previously? A. It is, yes, sir.

Q. Down at the bottom of that page and continuing over to the next page is the topic "Anti-Imperialism," and has reference to "A.A.A.I.L.,"—in Cuba, and reference to a league, not otherwise denominated.

Can you tell us what the "League" was and what the "A.A.A.I.L." was? A. Well, the A.A.A.I.L. is the All-American Anti-Imperialist League, and the league referred to above is the same, the All-American Anti-Imperialist League.

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2313 Q. Now, Mr. Gitlow, are you familiar with this subject of the Port Bureau's which was apparently under discussion at the top of page 7 of this exhibit? A. I am.

Q. Will you explain to the Panel just what that matter was? A. The Port Bureau was a form of organization established on the waterfront. Club rooms were hired and facilities made available to sailors in order to attract them to these club rooms, and as a result of that the communists carried on their organizing work on the waterfront through these port bureaus.

Q. Did the Profintern have anything to do with the establishment of the bureaus? A. The organization of the port

bureaus was carried on, in all the leading ports of the world, under the direction of the Profintern, and the instruction for the organization of such port bureaus
2314 went out to the Trade Union Educational League, which was the Profintern section in the United States.

Q. What was the interest of the Communist Party of the United States in this matter? A. Because the Communist Party determined the policies, and supervised the activities of the Trade Union Educational League.

Q. Do you know whether or not the port bureaus were established in ports of the United States? A. They were.

Q. And were these established under the auspices of the Communist Party, for its own purposes? A. They were established and opened by the Communist Party for its particular purposes, on the waterfronts.

Q. Did the Profintern aid the establishment of these bureaus financially? A. It did.

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2315 Q. To what extent did the Communist Party aid financially these port bureaus? A. It provided the financial funds to open these port bureaus and provided the funds to operate them on the Atlantic Seaboard.

Mr. LaFollette: Was that during the year 1927, covered by these minutes, or at this time, in January, 1927?

The Witness: The organization of them was discussed at this time, but actual organization took place a little later.

Mr. LaFollette: During your period in the party?

The Witness: During any period in the Party.

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Q. Did you know a man known as George Mink? A. I did.

Q. Did you know whether or not he was active in the matter of the port bureaus? A. He was active in the matter of the port bureaus and organizing of communist activities on the waterfront.

Mr. LaFollette: Was he a member of the Communist Party of the United States?

2316 The Witness: He was a member of the Communist Party of the United States.

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2317 Q. I call your attention, Mr. Gitlow, to page 5, Miners International Conference.

It seems that a wire had been received from Salutsky to send a delegate.

Can you interpret that in any way for us? A. Yes, Salutsky was a Russian, and an official of the Profintern and in charge of the Miners International Conference which was to be held by the International Propaganda Committee.

2318 Q. Where did he want the delegates sent? To what place? A. The conference was to be held in Moscow.

Q. Here's another matter I overlooked. On page 6, there is the heading "IWA." There is some reference to a film, division of proceeds of the film showing shall be 25 per cent to the Art Film Corporation, 35 per cent to the IWA, 20 per cent to the National Office, and 20 per cent to the local organizations of the Party, and so on.

What kind of film was that? A. The International Red Aid sent Russian films to the United States to the International Workers Aid, and the profits to be made from the distribution of the films, was decided upon by the Party organization.

Q. Did the Russians charge anything for the film? A. Not one penny.

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2322 Q. I call your attention to page 2 of Petitioner's Exhibit 80, Mr. Gitlow, a cable quoted there and signed "ECCI Kuusinen", and refers to Jack, Ben and Bill going over to Moscow.

Do you know who Jack, Ben and Bill were? A. Yes, Jack was J. Lovestone, Ben was myself and Bill was William Z. Foster.

Q. Now on page 4, as to the motion by Bedacht that the Political Committee request the Communist International for permission for one Comrade Kruse to return. Do you know who Kruse was? A. That was Bill Kruse, who attended Lenin's University and graduated from the Lenin University, and who was in Moscow at the time.

Q. Was he a member of the American Communist Party? A. He was a member of the American Communist Party.

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2323 Q. Now as to this Petitioner's Exhibit 81, Mr. Gitlow, I direct your attention to the motion starting at the bottom of page 2, dealing with the "Arcos" raid. Can you tell us what the "Arcos" raid was? A. That
2324 was the name of the Russian Trading Corporation in Great Britain.

Q. Well, had some raid been made on it? A. Yes, the British Government raided the offices of the Arcos, and took away a lot of documents and material, letters and so forth, from the property.

Q. Keep your voice up, Mr. Gitlow. A. The British Government raided the Arcos office, and took away documents, letters, and files from the Arcos.

Q. How do you know that? A. Reported in the Press.

Q. Well, was it ever under discussion in any of your Communist Party meetings, afterwards? A. I discussed it at the time I heard about it, with Lovestone. We were on our way to Moscow when the news broke of the Arcos raids and we were very much disturbed about them because information appeared in the Press which gave the names and addresses of our connections and contacts for mail and cable, between the Communist International and the Soviet Government and the American Communist Party.

Q. Did it result in the disclosure of any of your secret members or agents in the United States? A. No, it disclosed the names and the addresses of the people who got confidential letters, reports, cables, and moneys from Moscow in the United States.

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2326 Q. Did you discuss it in Moscow, with your Comrades? A. Yes, the matter was under discussion at the Plenary sessions of the Communist International.

Q. Well, was any policy adopted with reference to the "Arcos" raids? A. The policy adopted was to center the attack against Great Britain as a moving force in trying to provoke a war against the Soviet Union.

Q. Do you know whether or not the Communist International communicated its wishes or desires in the matter to the Party here in the United States? A. Well, they
2327 adopted the policies, and these policies were transmitted to the Communist Party of the United States.

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2332 Q. Can you tell us with whom you discussed the "Arcos" raid in Moscow, in Soviet Russia? A. Well, I discussed it with J. Lovestone and I discussed it with Bukharin and other members of the Executive Committee of the Communist International.

2333 Q. Who was Bukharin? A. He was the president of the Communist International.

Q. Well, they don't get any higher in the Communist International than the president, do they?

Mr. LaFollette: Well, I think that is arguing with the witness. But is there any one higher than Bukharin?

The Witness: Yes, there was one higher.

Mr. LaFollette: Who is that?

The Witness: The General Secretary of the Soviet Party of the Soviet Union.

By Mr. Paisley:

Q. Who was he? A. Joseph Stalin.

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2337 Mr. LaFollette: Mr. Gitlow, had you gotten this far? Did you discuss the question of acquisition of Soviet codes by the British Government with anyone in the Comintern? Did that discussion come up?

The Witness: That discussion came up.

Mr. LaFollette: With whom did it come up?

The Witness: That came up with the "ORG" Department of the Comintern, and an individual in charge of that department by the name of Abram.

Mr. LaFollette: What is the "ORG" Department?

The Witness: The organization department of the Comintern and Abram was the one responsible for maintaining the codes and secret addresses and means of communications with the sections of the Communist International.

Mr. LaFollette: Was he an officer of the Communist International?

The Witness: Yes.

Mr. LaFollette: Were they in session at the time that you were there?

The Witness: He maintained an office. We had
2338 sessions of the Comintern which I attended, but in between sessions we had discussions with Abram in his office in which we discussed these matters, and as a result of that a new set of codes was drawn up for the American Communist Party, which were turned over in my presence to J. Lovestone and brought to the United States.

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2340 Q. Who was Grey, who appears to have set in with you on that meeting? A. Grey is the same name as
2341 Brown, who was the representative to the Communist Party of the United States from the Executive Committee of the Communist International.

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2396 Q. I notice one Swift was present and was making some motions at this particular Political Committee meeting, Mr. Gitlow.

Who was Swift? A. Swift is John Pepper, also an alias, and Joseph Pogany, mentioned before.

Q. Representative of the Communist International to the American Communist Party? A. That is correct.

2397 Mr. Paisley: We offer as Petitioner's Exhibit 95 the minutes of the Political Committee of June 15, 1928.

Mr. Abt: Same objections, Mr. Chairman.

Mr. LaFollette: Same ruling.

(Petitioner's Exhibit 95 marked for identification and received in evidence.)

By Mr. Paisley:

Q. Who was Markus? A. Markus was a representative of the Communist International sent as an organization instructor to the American Communist Party.

Q. So that you had two C.I. representatives there, Swift and Marcus, is that right? A. At that time Swift was not in the category of a Comintern representative to the American Communist Party.

Q. What is his category? A. As a member of the Communist Party and a member of its Political Committee.

Q. Those minutes seem to me very largely dealing with the miners situation in the anthracite coal fields.

Had the Communist International at that time indicated any interest in this situation? A. The Communist International had indicated great interest in the miners' situation in the United States, and had instructed the

2398 Communist Party to carry on a campaign among the members of the United Mine Workers for the purpose of defeating the presidency of John L. Lewis, and it went to the extent of subsidizing that campaign.

Q. In what manner did it subsidize the campaign against Lewis? A. Over a long period of time it subsidized it with contributions to the Communist Party for this specific work.

Q. To what extent? Do you have any idea to what extent? A. Well, the extent varied, depending upon the particular time. Sums ran from twenty-five to fifty thousand dollars at a time.

Q. Now, Mr. Gitlow, we have had some mention of the "Blue Blouses." Whether it is in testimony or argument here, I do not remember.

Anyway, what were the "Blue Blouses?" A. The "Blue Blouses" was a workers group organized in the Soviet Union, who were dressed in dark trousers or skirts with blue blouses, and whose forte was pantomime.

2399 Q. Well, can you tell us more about them, now? A. Yes, they were offered to the Workers International Relief in the United States to tour the country, and the funds realized from such a tour to be distributed on whatever basis the Political Committee decided or the Secretariat decided.

Q. As I understand it, they were furnished by the Communist International? A. That is right.

Q. And they were citizens of Soviet Russia? A. That is right, were not American citizens?

Q. And went back over there, after their tour? A. That is right.

Q. On the top of page 5—

Mr. LaFollette: This was a show troupe, was it?

The Witness: That was a show troupe, a Soviet Union show troupe.

Mr. LaFollette: Like a ballet, only this group was a pantomime group.

The Witness: That is right.

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2400 Q. Mr. Gitlow, is that your signature there, as acting executive secretary of the Party? A. It is.

Q. Now this was in June, 1928? A. That is right.

Q. That is the year that you ran for vice president, and Foster for president, on the Communist party ticket, is that right? A. That is right.

Q. Had you been in Moscow recently, at this time? A. I was in Moscow at the beginning of 1928.

Q. Did you discuss this coming political campaign? A. I did.

Q. In Moscow? A. In Moscow.

Q. Was anything said over there about finances? A. There was.

2401 Q. Will you tell the Panel what was said? A. The Executive Committee of the Communist International decided to contribute 35 thousand dollars to the election campaign of the Communist Party, in the United States.

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Q. Proceed, Mr. Gitlow. A. The Executive Committee made a decision to contribute 35 thousand dollars to help the campaign, the election campaign, of the Commu-

2402 nist Party in 1928, and when I left Moscow for return to the United States to be present at the nominating convention, which was held in New York City, I got instructions from the Executive Committee of the Communist International to stop over in Berlin and to pick out an advance of $3,500 for the American Communist Party.

Q. Did you do that? A. I did.

Q. Did you bring it back with you? A. I did.

I brought it back with me in cash, and turned it over to Jay Lovestone, who was then acting as the general secretary of the Communist Party.

Q. Is he still living, is he, as far as you know? A. He is still living, yes.

Q. Was it American currency or what? A. It was American currency.

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2415 By Mr. Paisley:

Q. Can you identify that document, Mr. Gitlow? A. That is a financial statement, monthly financial statement that was issued by the National Office of the Communist Party.

Q. Do you know what these two items refer to "Lenin's Student Expense Refund, $1,350" and "Negro Stu-

2416 dent Expense Refund, $710?" A. I do.

Q. What was it? A. That was money that was laid out by the Communist Party to finance the trip of members of the Communist Party who were selected for the Lenin University and the Far Eastern University. The Negro students went to the Far Eastern University, and the Lenin students to the Lenin School.

And the money that was laid out by the Party to finance their trip was refunded by the Communist International.

Q. How did that come into your possession, Mr. Gitlow? A. Those monthly financial statements were given to every member of the Political Committee and every member of the Central Executive Committee of the Communist Party.

Q. Did you turn that over to the Federal Bureau of Investigation? A. I did.

. . . . . .

Q. Mr. Gitlow, can you identify those documents 2417 that have just been handed to you? A. Yes, sir, these are all records of money received from Moscow, from the Communist International, and the manner in which the money was expended in the Party.

Q. How did these papers come into your possession? A. They came into my possession through the handling of this fund, as I already testified, when—

Mr. LaFollette: Which fund is that?

The Witness: With reference to the miners campaign.

Mr. LaFollette: All right.

The Witness: When Foster, and Lovestone, and other leaders of the Party, went to Moscow to attend the Sixth World Congress of the Communist International, in the summer, I think, of 1928.

By Mr. Paisley:

Q. And did you get receipts for some of the expenditures you made? A. I did.

Q. And do you see some of the receipts there, in that group of papers? A. I see the receipts, and a list of the moneys that were received, the date on which they were

received, and some of the money was kept in the custody of the National Office of the Party—all of this is recorded on different slips of paper here.

Q. When you would pay out money, would you
2418 take a receipt? A. When I paid out money I got a receipt for the same.

* * * * * * * * * * *

2422 (The document previously marked Petitioner's Exhibit 102-A received in evidence.)

By Mr. Paisley:

Q. Now there is a total there of four items, Mr. Gitlow, listed under the word "received."

You say this is in your own handwriting? A. This is in own handwriting.

Q. Can you interpret those figures for us? A. That is received from Nemser, who was the recipient of these funds when they came from Moscow and he turned over $20,300.

The Julius referred to here who turned over $1000 received from Moscow is Julius Heiman.

Foster turned over the balance of what he had on hand, of $3,252, and his stepdaughter, Manly, turned over the balance of what she had on hand, of what she kept, of $3,350, making a total of $27,902.

* * * * * * * * * * *

2423 Q. Well, how did you learn that it came from Moscow? A. The matter was reported to the Secretariat, and all these finances were handled by the Secretariat, and that is how I got to know about these transactions.

Q. What does the next group of figures mean, the ones marked "Paid out?" A. That is how the moneys were expended, and what happened.

Q. Did you pay $1,000 to Markus? A. I paid $1,000 to Markus, and then, for the conduct of the mining campaign, $5,179.56; I had on hand at the time I made this, $1500, and the National Office had of these funds $21,650.

Q. I didn't get that last: What about the National Office? A. The National Office had on hand, of these funds, $21,650.

Q. Who was Markus? A. Markus was the repre-
2424 sentative of the Communist International to the Communist Party of the United States assigned to do organization work in this country. To help.

Q. You say you gave him a thousand dollars? A. Yes, sir.

Q. Where is the receipt from Markus? A. Right on the back here.

* * * * * * * * * * *

2435 Q. I hand you two documents, Mr. Gitlow, photostats of which have been marked for identification Petitioner's Exhibits 103-A and 103-B, and I will ask you to tell the Panel what they are, if you know.

(The documents referred to were marked Petitioners Exhibits 103-A and 103-B for identification.)

Mr. LaFollette: May I ask, Mr. Turner, which one is "A"?

Mr. Turner: The one reading "Special delegation trip account" is 103-A, and the other is 103-B.

Mr. LaFollette: Very well.

The Witness: Yes, this is an expense—

Mr. Abt: Which exhibit are we talking about now?

Mr. LaFollette: Are you speaking of the one headed "Special delegation trip account"?

2436 The Witness: Yes, this is the special delegation trip account, expense account of the delegation that went to Moscow in 1929 to appeal against Stalin's decision on the Communist Party of the United States. And Lovestone raised some money to finance that trip, and then made a statement of the expenses which he turned over to me as the General Secretary of the Communist Party.

By Mr. Paisley:

Q. How much of that money did Lovestone turn over to you? A. $924.30.

Q. Do you remember where you were when he turned it over to you? A. I think we were either on board ship or in Europe already. I can't set the time exactly.

Q. Now, tell us about the other page, Exhibit 103-B. A. This was expense money handed to the different members of the delegation, and the amount of money they received and their signatures for the same.

Q. Do you know who distributed the money? A. I distributed the money, and the names are in my handwriting, with the sums next to them, and the signatures are below.

Q. You were then travelling as James Hay? A. That is right.

2437 Mr. Paisley: We offer both documents in evidence before we ask any questions about their contents.

Mr. Abt: May I ask one question with reference to 103-A?

Mr. LaFollette: Yes.

Mr. Abt: Whose handwriting do you say that is?

The Witness: Which is that?

Mr. Abt: 103-A.

The Witness: That is in the handwriting of Jay Lovestone.

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2438 Q. How many were there in this delegation? A. I think we were about ten.

Q. You went along? A. Yes.

Q. Lovestone? A. Lovestone—let's see if I can remember them all—there was Lovestone, myself—that is two—Bedacht was three, Eddy Welsh was four, White is five, Ella Reeves Bloor, six, Noral was seven, Huiswood was eight. There might have been some more, I can't think of any now. I think there was a fellow by the name of Miller from Detroit, making nine.

Q. You may refer to those signatures, if you want to, to refresh your recollection. A. And Meyerscough was the tenth.

Q. Will you look at the second page there? A. Yes.

Q. How about the second name, John— A. Jukubowski. That evidently is the name of one of the delegates who travelled on a false passport. The only ones who travelled on legitimate passports were William J. White and Otto Huiswood.

2439 Q. Did any of this money listed under "Money received" come from the Communist International? A. On this list?

Q. Yes. A. No. That was money raised—it was an extreme emergency and was raised very quickly and did not come from the Communist International, but was repaid by the Communist International.

Mr. LaFollette: Was repaid?

The Witness: Yes.

By Mr. Paisley:

Q. Who is this "Golos" who apparently loaned you two thousand dollars? A. Golos was a charter member of the Communist Party who belonged to the Russian Bureau of the Communist Party and was connected with the Technical Aid Society and headed the World Tourist Organization, and was also a member of the espionage organization of the Russian Government.

Q. Known as? A. I know him under the name of Golos.

Q. What was the espionage organization? A. Well, the GPU. He was a member of it.

Q. Do you note the next item there, Mr. Gitlow, "Marcus, fare, $222.31"? A. That is right.

2440 Q. Do you recall what that item was? A. He returned to the Soviet Union, and we supplied him with his fare back. He was the representative of the Communist International.

Q. Well, apparently that is a receipt of funds, $222.31? A. That is right.

Q. Going to make up this total of $3,173.05? A. Yes.

Q. That you had to spend on this trip? A. Yes, that was the return for Marcus' fare, who had gone back to Russia, and they made up this sum, out of which the expenses for the delegation were paid.

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2445 Q. Well, tell us about International Publishers, Mr. Gitlow.

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2446 The Witness: International Publishers is the publishing house of the Communist International in the United States.

By Mr. Paisley:

Q. Was it held out to the public as such? A. No. It was held out to the public as a legitimate publishing house. No ties with the Communist International.

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2462 Q. Mr. Gitlow, I notice the use of the word "Trotzkyism" in this document in several places.

Is that a word that occurred frequently in writ-
2463 ings circulated by the Party? A. Yes, sir, that occurred frequently in documents and theses and programs issued by the Communist Party when Trotzky fell in disfavor with the other top leaders of the Communist Party of the Soviet Union, and as a result of that Trotzky became a mark to attack, and attack very sharply, and the word "Trotzkyism" was created to signify a system of deviation from the official line of the Communist Party of the Soviet Union, and from the Communist International, and Trotzky, the great hero, became the target for abuse and attack throughout the International Communist movement.

Q. Would you say that it came to have that meaning to members of the Party generally? A. Yes, sir, sure.

* * * * * * * * * * *

2470 Do you recall your first visit to the Soviet Union, in 1927? A. I do.

Q. At that time, did you have any discussions with Joseph Stalin, himself? A. I did. I had a discussion with Joseph Stalin in 1927. The discussion took place at his office at the Headquarters of the Central Committee of the Russian Communist Party.

Q. And what was the occasion for your meeting with him? A. The occasion for my meeting with him is that Joseph Stalin wanted to have a personal interview with me, and to ask me a number of questions and to give his
2471 own personal opinions on affairs in the United States.

Q. And what was your position at the time? A. At this time, in 1927, I was sent by the Communist Party of the United States at the special request of the Communist International to attend the Plenary sessions of the Executive Committee of the Communist International.

I was a member at the time of the Polburo of the Communist Party of the United States and of its Central Committee.

Q. Was anyone else present when you had your discussion with Stalin? A. There was.

Q. Who else was present? A. Present was John Pepper and Jay Lovestone and I think Robert Minor. I am not sure.

Q. How long did the conversation last? A. Well, the interview with Stalin lasted about an hour and a half.

Q. What did you discuss? A. Well, Stalin addressed his questions to me on economic conditions in the United States, the number of salaried workers in the United States, on the possibility of a revolutionary situation in the United States, and so forth, a number of very pertinent questions concerning the economic, social, and political affairs of the United States.

2472 Q. Do I understand that you discussed the possible revolutionary situation in the United States? A. We did at that time.

Q. Did he have any suggestion that you remember? A. Yes, he was of the opinion that we faced no immediate revolutionary situation in the United States in 1927, and he was of the opinion that the Communist Party should make a very serious effort to get a foothold in the Trade Union movement of the United States, and also should work out a program for social legislation and conduct, a very energetic campaign on behalf of social legislation in the United States.

He said that this was essential in order to attract to the Communist Party a much larger membership, and to await a sharpening of the economic and social situation in the United States for future revolutionary activity.

Q. Now, you went back in 1928 again? A. Yes, sir.

Q. And it was in 1929 that you were finally expelled, was it? A. I was expelled in 1929.

Q. Were your relations with the Communist Internation and its officials, in 1928, good? Were you in disfavor at all? A. Not in 1928.

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2479 Q. Go ahead. You can tell what your associates in this leadership of the Party told you about what went on. Go ahead. As a result of the situation, which you have described, did any factionalism develop in the Communist Party of the United States, or had it theretofore existed? A. As a result of this situation there developed in the United States a very intense and bitter factional situation in the Communist Party, in which the Foster group conducted a campaign against the leadership of the Communist Party in the United States, that they were Bukharinites.

That came to a head in the calling of the convention of the Communist Party in 1929—the beginning of 1929, in February.

2480 Prior to the calling of that convention, the Executive Committee of the Communist International had

made certain decisions concerning the Communist Party of the United States.

When the convention was called into existence, the leadership in charge of the Party had secured 90 per cent of the delegates to the Sixth Convention of the Communist Party, which was held in New York City, and the Foster group had approximately ten per cent of the delegates to that convention.

On the eve of the convention, we received two representatives from the Executive Committee of the Communist International, with decisions which they claimed had the approval of Joseph Stalin.

These decisions were hinted to our Party before the Convention took place in reports which we received from our representative to the Communist International, Bertram D. Wolf, who claimed that the Executive Committee of the Communist International was considering proposals for the American Party which would virtually remove the present leadership of the Party from control of the Party organization.

When Mr. Dengel—

Q. Wait a minute. That is D-e-n-g-e-l, is it? A. That is right.

Mr. LaFollette: Who was he?

The Witness: He was one of the two represent-
2481 atives a member of the Communist Party of Germany.

Mr. LaFollette: Excuse me again. I want to ask you something. A few minutes ago you said that on the eve of the convention, "we received two delegates from the Communist International."

The Witness: That is right.

Mr. LaFollette: Identify for me who "we" is.

The Witness: I mean the Communist Party received.

Mr. LaFollette: Now may I ask you, do you mean the Secretariat, the Political Committee, the Executive Committee, or whom do you mean?

The Witness: When I speak of "we," these two delegates were sent to the convention of the Communist Party of the United States, and to the Communist Party of the United States.

Mr. LaFollette: And they arrived on the eve of the convention?

The Witness: They arrived on the eve of the convention, and Lovestone, Bedacht, Minor, and myself, received these two delegates.

Mr. LaFollette: All right.

By Mr. Paisley:

Q. One of them was Pollitt? A. The other was Pollitt, a member of the Communist Party of Great Britain.

2482 Q. Do you know whether he is still alive or not? A. Harry Pollitt is still alive, I think.

Q. Do you know what he is doing? A. He is a leader of the Communist Party of Great Britain.

Q. What about Dengel? Do you know anything about him? A. I don't know anything about him.

Q. All right, go ahead. A. The leading faction of the Communist Party of the United States conferred at length with Harry Pollitt and Dengel. There were times when our conferences with these two representatives lasted all night long, or 24 hours at a stretch.

The ones that conferred with the two representatives representing the majority at the convention consisted of myself, Jay Lovestone, Robert Minor, Max Bedacht, and Jack Sachel.

It became evident immediately that the delegates from the Executive Committee of the Communist International were carrying iron-bound instructions.

Mr. Abt: Mr. Chairman, I object and move to strike out. Let the witness tell what happened.

Mr. LaFollette: I think that is correct. State the facts from which you reached that conclusion. I mean, what they said, or what they did, or who they spoke to.

The Witness: They reported, at these meetings—

2483 Mr. LaFollette: This is Dengel and Pollitt?

The Witness: Dengel and Pollitt.

Mr. LaFollette: All right.

The Witness: —that Stalin was dissatisfied with the leadership of the Communist Party of the United States because they were supporters of Bukharin in the Communist International, and for that reason could not be trusted. He proposed that Jay Lovestone put himself at the disposal of the Communist International for work outside of the United States—in other words, that he should be removed from the affairs of the Communist Party of the United States, and work directly under the Executive Committee of the Communist International.

The same proposal was made for a member of the Foster faction, Alexander Bittelman.

In the composition of the Central Executive Committee that was to be elected, the instructions provided that a majority—the orders, rather, that Dengel and Pollitt gave us, provided that a majority of the Central Executive Committee shall be composed of the Foster group, and that William Z. Foster should be elected the General Secretary of the Communist Party, even though he had only ten per cent of the delegates at the convention, of the Party.

* * * * * * * * * * *

2486 Q. Mr. Gitlow, I believe we had reached the point
2487 where, at the convention, you had elected your officers, and so on.

Now will you proceed from that point, please, on this matter of your expulsion? A. From that point, after we elected the officers, we decided to elect a delegation to elect a delegation to proceed to Moscow to present the case of the Communist Party of the United States, and to appeal against the decisions made, which were presented to the convention by Phillip Dengel and Harry Pollitt.

We elected a delegation, which consisted of Jay Lovestone, myself, White, Ella Reeves Bloor.

* * * * * * * * * * *

Q. Is it the same group whose names were listed on the expense sheet? A. It is the same group whose names were listed on that sheet.

* * * * * * * * * * *

2501 A. In addition to that, the chairman of the committee of three was designated as the plenipotentiary of the Executive of the Communist International, with full powers over the Communist Party of the United States.

He was given specific power to nullify any decision that any committee, or any branch of the Communist Party of the United States made, or would make.

He was also given the power to expel any member of the Communist Party he wanted to expel, or he thought necessary to expel.

He was given power over all the press, and auxiliary organizations of the Communist Party—was given the power to remove any person from any job in the Communist Party.

He was also provided with a fund to carry on his work, and to see that the decisions were effectively carried out.

Then in reference to the Daily Worker, he was given an additional sum of $100,000, that in the event the Party lost control of the Daily Worker, this $100,000 was to be the means for establishing a daily newspaper for the
2502 Communist Party, loyal to the Communist International.

These were the organizational decisions that were made at the meeting of the Executive Committee of the Communist International, and accepted by the Executive Committee of the Communist International.

By Mr. Paisley:

Q. You at that time, I take it, had not been formally expelled? A. No, I was not yet formally expelled from the Communist Party.

Q. Well, did that end the hearings? A. The question of my expulsion was pending my return to the United States, and whether or not at that time I would or would not accept the decision of the Communist International in the address.

Q. Do you mean that you and Lovestone and the others who had opposed it, still had an opportunity to change your minds when you got back to the United States? A. That is right.

Q. Well, what happened after this decision was read by Molotov? A. After this decision was read by Molotov, Bedacht and Weinstone and Foster, who had voted in favor of the delegation, were permitted to return to the United States.

The others were kept in Moscow until the plenipo-
2503 tentiary head of the delegation had arrived in the United States to take charge of the affairs of the Communist Party.

. . . . . .

2524 Q. As I understand, your answer was that the Communist Party of the United States did send rep-
2525 resentatives to other countries? A. It did.

Q. Did it do that on its own, or otherwise? A. Sometimes on its own, and more often on instructions from the Communist International.

Q. And do you know of any individuals who were sent to any other countries, other than Soviet Russia, on instructions of the Communist International? A. I do.

Q. Would you name them? A. Well, there was Harrison George, H. W. Wicks, Earl Browder, William F. Dunne, and others.

Q. How about Zack, otherwise known as Cornfetter? A. He went to, I think, Bolivia.

Q. Do you recall any other representatives than those you mentioned in your testimony, who were sent to Moscow as representatives of the Party in this country? A. Well, I will try to record as many as I can remember.

Louis C. Fraina, John Reed, Nicholas Hourawich, Israel Amter, J. Louis Engdahl, Robert Minor, Max Bedacht, Harrison George, Earl Browder, H. M. Wicks.

. . . . . .

2526 Q. Did the Communist International ever send any money through the Communist Party of the United States to representatives in other countries?

. . . . . .

The Witness: Yes, the Communist International sent funds through the American Communist Party for transmission to the Communist Party of Mexico and the Communist Parties in South America, and to finance cer-
2527 tain activities in the Far East and particularly the activities of Earl Browder, who had an office in Shanghai.

Mr. Paisley:

Q. Did the Communist Party of the United States, during the time you were one of its members and leaders, contribute any money to the Communist International? A. During the time I was officially tied in with the Communist Party of the United States, we never contributed a single nickel to the Communist International.

Mr. Paisley: This might be repetitious. I don't think it is. But I will ask the specific question.

By Mr. Paisley:

Q. Did the Communist International contribute any money to the political campaign, in 1924, when you and Foster ran for vice president and president respectively? A. The Communist International contributed to that campaign 50 thousand dollars.

. . . . . .

2536 Cross Examination

By Mr. Marcantonio:

Q. When is the first time you heard about the
2537 Trade Union delegation that was to go to the Soviet Union, Mr. Gitlow? A. It was somewhere around 1927, I think.

. . . . . .

2538 Q. But a delegation was finally organized, you say, by the Communist Party; is that right? A. That is right.

. . . . . .

2539 Q. The membership of the delegation, was that communist? Were the members of that delegation communists? A. The actual members of the delegation were not members of the Communist Party.

. . . . . .

Q. Then, who were members of the Communist Party? A. The technical staff and the head of the technical staff, Dunn, was a secret member of the Communist Party.

Q. So you say the technical staff were members of the Communist Party; is that right? A. Practically all of them.

Q. Practically all of them? A. Yes.

Q. And Mr. Dunn, you testified, I believe, was the secretary of the staff, is that right, of the delegation? A. That is right.

. . . . . .

2540 Q. If I recall your testimony correctly, you say that the Communist International sent somebody over here to get this delegation established; is that correct? A. Yes, they sent someone to conduct a campaign for getting of the delegation organized.

. . . . . .

Q. I see. That man's name was Purcell; is that right? A. That is right.

. . . . . .

2547 Q. The fact, though, is that the International Federation of Trade Unions was not a Communist organization? A. It was not a Communist organization, though it had Communist forces inside of it.

. . . . . .

2553 Q. Coming back to Purcell, what position did he hold in the British Trade Union Congress? You say you don't know? A. I said I didn't know., I don't recollect.

Q. Do you know what position he held in the International Federation of Trade Unions? A. I don't recall.

Q. Do you know if Mr. Purcell came to attend the American Federation of Labor Convention here in 1925?

A. That—now you refresh—that was one of his
2554 reasons for coming here, too.

Q. So that now you have two reasons for him coming here? A. Yes, sir.

Q. One as a Communist International Agent to organize— A. That is right.

Q. Just a moment.

Mr. LaFollette: Let him finish the question.

By Mr. Marcantonio:

Q. —to organize this Trade Union delegation to the Soviet Union, and second, to attend the American Federation of Labor Convention, is that right? A. That is right, at which Convention he made a strong plea for the Soviet Union.

Q. And he came here, did he not, as a fraternal delegate to the American Federation of Labor Convention? A. That is right.

Q. As a matter of fact, was not Mr. Purcell president of the British Trade Union Congress in 1924? Do you know? A. That I could not tell you.

Q. Was he not president at the time he visited the United States, of the International Federation of Trade Unions? A. He may have been. I cannot tell you at this time.

Q. Was he or was he not a member of the British House of Commons at that time, as a labor member? A.

2555 That I don't recall.

Q. Would it refresh your recollection if at this time I read the introduction given to him by President of the American Federation of Labor, which described the various offices that he held?

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Mr. Marcantonio: For the purpose of the record, I

2556 am now reading from the report of the proceedings of the Convention of 1925, American Federation of Labor, page 143.

"President Green: Now, fellow delegates,"—I will skip a lot of the introduction. I simply want to read that portion in which he describes the next speaker, Purcell.

Mr. LaFollette: This is another page. Will you read that into the record, please?

Mr. Marcantonio: Page 139. "The two fraternal delegates from Great Britain are Brother A. A. Purcell and Brother Ben Smith. Brother Purcell will be the first speaker. He has long been engaged in Trade Union work in Great Britain. He is a member of the Furniture Workers Association, is an organizer of that Association. He is now a member of the General Council of the British Trade Union Congress, and last year served with honor and distinction as its president.

"He was recently elected, from a coal-mining constituency, as a member of the British Parliament.

He is the president of the International Federation of Trade Unions.

"There are honors that have been placed upon him by the working people of Great Britain and the working people

of the European Continent. Surely this ought to serve as a splendid introduction to this Convention and to the American people. Without any further remarks, I feel highly pleased that I am permitted to present to you
2557 this morning, Fraternal Delegate, A. A. Purcell."

By Mr. Marcantonio:

Q. Now, does that refresh your recollection as to the positions that Mr. Purcell occupied in Great Britain, and in the International Federation of Trade Unions? A. I take it for granted that if he received that introduction from William Green, that he held those positions.

. . . . . .

2564 Q. Is it not a fact that the Secretary of that delegation, known as the American Trade Union delegation to the Soviet Union, was Albert F. Coyle? A. Albert F. Coyle may have been the Secretary to that delegation, but the actual one who did all the secretarial work and drew up the report for the delegation was Robert W. Dunn, and Albert F. Coyle was also one who worked very closely with the Communist Party, got instructions from the National Office of the Communist Party, and has a long record of association with the Communist Party and with the Soviet Union.

. . . . . .

Q. And you said that Mr. Dunne was a secret member of the Communist Party, didn't you? A. I certainly did.

. . . . . .

2569 Q. Do you know who George S. Counts is? A. I do.

Q. He was Chairman of the Liberal Party in New York City, wasn't he, about a year or two ago? A. Yes.
2570 he was connected with the Liberal Party.

Q. Do you know whether or not he was a member of that Technical Staff? A. George S. Counts was a member of that Technical Staff, and at the time that he was a

member of that Technical Staff, he was strongly pro Soviet and collaborated very closely with the leadership of the Communist Party.

. . . . . .

Q. Was Rexford Guy Tugwell a member of that Technical Staff? A. He was.

Q. Was Paul H. Douglas, who is now United States Senator from the State of Illinois, a member of that Technical Staff? A. He was.

2571 Q. Was he a Communist? A. No, he was not.

Q. Was Rexford Guy Tugwell a Communist? A. No, he was not.

Q. Was Carlton Washburn a Communist? A. I cannot recall.

Q. Was he a member of the Technical Staff? A. If you are reading from that report and they put him down there, he was one of the members.

. . . . . .

Mr. Marcantonio: Do you recall any other members of that Technical Staff?

The Witness: I can't, but if I had the report before me, I could go through all the names.

By Mr. Marcantonio:

2572 Q. I show you a copy of this report.

. . . . . .

2573 Q. Mr. Witness, I now show you exhibit marked for identification CP-L, and ask you to look at it. And I ask you whether or not you can identify that document? A. I can.

Q. What is it? A. That is the report of the Trade Union Delegation to the Soviet Union.

. . . . . .

2580 Q. Now, Mr. Witness, I direct your attention to that portion of Exhibit CP-1, which is Page VI, with the subheading "Technical and Advisory Staff."

I will read the names under that subheading:

J. Bartlett Brebner, Ph.D., Assistant Professor of History, Columbia University, Oxford University, University of Tampa.

Was he a member of the Communist Party? A. I don't know whether he was or not.

Q. I now read the second name: Stuart Chase, Director, Labor Bureau, Inc., and Certified Public Accountant, Massachusetts Institute of Technology and Harvard University, author "Tragedy of Waste," and so forth.

Was he a member of the Communist Party? A. He was not a member of the Communist Party, but he col-

2581 laborated closely—

. . . . . .

2592 Q. Would it refresh your recollection, as to what Mr. Purcell said—do you know what Mr. Purcell said at the American Federation of Labor convention? A. I do not.

Q. You do not? A. Not at this time, I don't.

Q. Did you know at that time, in 1925? A. I read about it at the time.

Q. Would it refresh your recollection, then, if I read a couple of paragraphs from these proceedings, as to what Mr. Purcell said?

. . . . . .

2594 The Witness: Yes.

By Mr. Marcantonio:

Q. So that now you do recall what Mr. Purcell said? A. Yes, sure.

. . . . . .

2597 Mr. Paisley: May I ask him just one question going to the weight of it?

Mr. LaFollette: Yes.

Mr. Paisley: As I understood you, Mr. Gitlow, you read from that book there, and as I understand you answered "yes."

The Witness: That is right.

Mr. Paisley: What does that mean, that you have read the speech, or that it appears to be the speech you read in a newspaper, or what?

The Witness: It refreshes my recollection as to what he said.

Mr. Paisley: Were you there when he made the speech?

The Witness: No, I was not there.

Mr. Paisley: But it refreshes your recollection as to what you read?

The Witness: That is right.

Mr. Paisley: In a newspaper?

The Witness: That is correct.

Mr. Paisley: Purporting to be a report of the speech?

The Witness: That is right.

Mr. Paisley: I see. All right.

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2599 Mr. LaFollette: Will you read that part which has been indicated, Mr. Gitlow?

The Witness: This is Purcell's remarks:

"I have been to Russia"—

Mr. Marcantonio: May the record indicate that this is Purcell's speech at the A.F.L. convention in 1925.

Mr. LaFollette: If it doesn't already show that, it may. Proceed.

The Witness: "I have been to Russia. There I have seen the workers assuming vast responsibilities and duties, carrying through the organization of society under frightful difficulties. As a workman I am proud of the genius for organization and the essential grit of things which my class in Russia has displayed.

"Just as your President sent that warm and helpful letter on behalf of the Chinese Workers, demonstrating thereby a desire to help those Chinese workers in their difficulties, so I want you to approach the question of relation with the workers of Russia. Let the same generous spirit prevail. The times we live in are too big, too fraught with fate, to permit of little prejudices, barring the way to human relationship.

"Russia is a very big place—the Union of Socialistic Soviet Republics occupies one-sixth of the land surface of the globe. It is an enormous factor in the world—a 2600 tremendously powerful factor in the life of the world.

Just recently I read in the Press that a great business concession amounting to millions of dollars was granted by the Russian Government to one of your leading firms. Many American capitalists and financiers have been to Russia endeavoring to set up business deals. There is illimitable wealth in Russia.

"The soil of Russia is rich, the mineral resources of Russia are enormous, the timber, flax, hides and raw materials of Russia generally are plentiful. Given a few good harvest years and Russia will become one of the wealthiest countries in the world.

"I have seen the foundations of the biggest electrification scheme in the world being laid down in Russia. The Russian people are a great people—strong, patient, hard-working and clever. And they number 150 millions. These people, these workers and peasants are building up a new economy and a new life, keenly and rapidly adopting to their use all the latest developments in science and industry, the most up-to-date machinery, the most modern and technical devices.

"I say that you workers of America, have much to learn from Russia. We must not be afraid of new ideas. It has often struck me that while the Americans have been the most advanced—the most receptive—in ideas concerning mechanical inventions and business organizations, they

2601 have been most slow in accepting new social and political ideas.

"I do hope that from now on, the organized workers of America will establish the closest fraternal relations with the organized workers of Russia. Just as the General Council of the Trades Union Congress, representative of the whole Trade Union movement of Britain, has sent delegations to Russia, so I hope and trust the American Federation of Labor will do the same.

"Do not be afraid of being called names. Were Abraham Lincoln, Sam Gompers, or Gene Debs, those great sons of the American people, ever afraid of being called names, or being reviled, maligned, and persecuted?"

By Mr. Marcantonio:

Q. One other question: Do you know whether or not this report was shown to the members of the technical staff, whether they were aware of its contents? A. I never received the report that it was.

Q. You don't know? A. I don't know.

Q. And yet, these members of the technical staff were active with this delegation, were they not? A. Some were, some were not.

Q. Well, you said that they surrounded the delegation, did you not? A. Some did. Some were very active with the delegation.

2602 Q. You don't know whether or not they were aware of the contents of the report? A. All of them, no.

Q. And you still say, now, that Mr. Purcell, member of Parliament, and so on, was here as an agent of the Communist International? A. I do.

. . . . . .

2618 Did you discuss this case with ex-Communist Party members? A. With ex-Communist Party members?

Q. Yes. A. Yes, I discussed it with ex-Communist Party members.

Q. With whom? A. I discussed the case with Benjamin Mandel, an ex-Communist Party member.

Q. Before you go further, who is Benjamin Mandel? A. Benjamin Mandel is working with the—at the present time he is working, I think, in a research capacity for the special committee set up by the Senate on subversive activities.

Q. He is working on Senator McCarran's Staff, is he not? A. I know a committee was elected by the Senate and he is working for that committee.

Q. Is that the committee of which Senator McCarran is the chairman? A. It is.

Q. And he is working for that committee? A. That committee.

Q. In a research capacity? A. I think so.

2619 Q. When did you discuss this case with Mr. Mandell? A. I discussed this case last night with him.

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Q. Was Mr. Kornfedder present when you discussed it with Mr. Mandel? A. He was present in the room, but he did not participate in the discussion.

Q. So there were three of you in the room at that time? A. Oh, more than three.

Q. Who else was in the room? A. Well, there was Forrest Davis and his wife.

Q. Forrest Davis? A. Yes.

Q. Is he an ex-member of the Communist Party? A.

2620 No, he is not.

* * * * * * * * * * *

2628 Q. All right. We come to last night. You say you did discuss this case with Mr. Mandel last night? A. Yes.

2629 Q. What did you tell him? A. I told him of the procedure that was following here, of the testimony

I gave, the number of weeks, and the strain of giving this testimony and so forth.

Q. Did you tell him that you needed his testimony to corroborate yours? A. No, I did not know he was going to be a witness.

* * * * * * * * * * *

2834 Q. I now ask you, Mr. Witness, if you were asked these questions and if you made these answers. I am reading from page 724 of the transcript of May 7:

"Q. Those minutes seem to me very largely dealing with the miners situation in the anthracite coal fields.

Had the Communist International at that time indicated any interest in this situation?

"A. The Communist International had indicated great interest in the miners' situation in the United States, and had instructed the Communist Party to carry on a campaign among the members of the United Mine Workers for the purpose of defeating the presidency of John L. Lewis, and it went to the extent of subsidizing that campaign."

2835 Were you asked that question and did you make that answer? A. I was and I did.

Q. Were you asked this question, and did you make this answer:

"Q. In what manner did it subsidize the campaign against Lewis?

"A. Over a long period of time it subsidized it with contributions to the Communist Party for this specific work."

Were you asked that question and did you make that answer? A. I did.

Q. Were you asked this question and did you make this answer:

"Q. To what extent? Do you have any idea to what extent?

"A. Well, the extent varied, depending upon the particular time. Sums ran from twenty-five to fifty thousand dollars at a time."

Do you remember being asked that question and making that answer? A. I did.

Q. Then the transcript shows that there was an offer of the exhibit, the minutes of the Political Committee of
2836 January 18, 1928, that Mr. Abt objected to, that Mr. LaFollette made a ruling, and the Petitioner's exhibit was marked for identification and received in evidence.

Now, you testified before the so-called Dies Committee in 1929, did you not? A. I did. Not in 1929.

Q. 1939? A. Yes.

Q. Do you recall making this statement, page 4557 of the proceedings of those hearings:

"So we started a campaign against John L. Lewis. We were supported very handsomely by Moscow in that campaign. I remember personally two installments of funds for this campaign, in which we got at one time $50,000, and another time $50,000, making a total of $100,000."

Do you recall making that statement? A. I don't recall making it, but it is in line with what I testified here.
2837 Q. If you don't recall, I will show you the testimony before the Dies Committee on page 4557, and ask you if it refreshes your recollection, that portion that has a bracket on the side of it.

Mr. Paisley: Recollection as to what?

Mr. Marcantonio: As to whether or not you made that statement, Mr. Witness.

The Witness: I made that statement.

By Mr. Marcantonio:

Q. I now read from page 123 from a book allegedly written by the witness, "The Whole of their Lives," and I will ask you, Mr. Witness, if you recall making this statement:

"When the $100,000 was spent, Moscow sent more money—subsidies to continue the fight—subsidies for special miners' papers—subsidies to hold national conventions of progressive miners to bribe miners' officials and to pay for an army of Communist organizers in the mining fields before the fight was over, in the year 1928, when the communists organized their own miners union—the National Miners Union—Moscow had spent over a half million dollars to smash Lewis and the Communist Party in-
2838 creased that sum by an additional $200,000," and so on.

Do you remember making that statement? A. I do.

Q. Did you testify under oath before the Dies Committee? A. I did.

Q. And you testified here that everything you stated in both of your books was true, did you not? A. I did.

* * * * * * * * * * *

2839 Q. I now read from page 727 of the transcript of May 7, 1951:

"Q. Had you been in Moscow recently, at this time?
"A. I was in Moscow at the beginning of 1928.
"Q. Did you discuss this coming political campaign?
"A. I did.
"Q. In Moscow?
"A. In Moscow."

Were you asked those questions and did you make those answers? A. I did.

Q. "Q. Was anything said over there about finances?
"A. There was.
"Q. Will you tell the Panel what was said?
"A. The Executive Committee of the Communist International decided to contribute 35 thousand dollars to the election campaign of the Communist Party, in the United States."

Were you asked those questions and did you make those answers? A. I did.

Q. At the bottom of page 728 of the transcript of the same day, did you make this answer:

2840 "A. The Executive Committee made a decision to contribute 35 thousand dollars to help the campaign"—

A. I did.

Q. —"the election campaign, of the Communist Party in 1928, and when I left Moscow for return to the United States to be present at the nominating convention, which was held in New York City, I got instructions from the Executive Committee of the Communist International to stop over in Berlin to pick out an advance of $3,500 for the American Communist Party.

"Q. Did you do that?

"A. I did.

"Q. Did you bring it back with you?

"A. I did. I brought it back with me in cash, and turned it over to Jay Lovestone, who was then acting as the general secretary of the Communist Party."

Were you asked those questions and did you make those answers? A. I did.

Q. Now, you testified in the case of Harry Bridges, did you not? A. I did.

Q. Do you remember being asked questions and making answers at that hearing? A. I don't remember the

2841 questions, but you can read them, maybe it will refresh my recollection.

Q. No, but you were asked questions, and made answers to questions? A. Yes.

Q. Referring to page 837 of the transcript of the record, Volume II—this is a record filed in the Circuit Court of Appeals, Mr. Paisley.

Mr. Paisley: Yes sir.

By Mr. Marcantonio:

Q. Were you asked these questions and did you make these answers:

"Q. Is it owned and operated by the Communist Party?"

The answers will reveal what we are talking about here.

"A. It was owned and operated by the Communist Party from the beginning up to the present time."

Referring to the Daily Worker.

"Q. Did you ever bring any money from Moscow for use by the Daily Worker?

"A. Yes, I brought money here in 1928.

"Q. In 1928?

"A. Yes.

"Q. How much?

2842 "A. I brought an initial $3,000 of a fund of $35,000, which was donated by the Communist International for our Presidential campaign that Year."

Do you remember being asked those questions and making those answers? A. I don't remember, but the answers are the kind of answers I would have given.

Q. That you would ordinarily give? A. Yes.

Q. Now, do you remember this question:

"Q. Did you bring any other moneys?

"A. No, I personally never did."

Do you remember that answer? A. If it is in there.

Q. Well, it is in there. A. But it would be my answer.

Q. I will show it to you. I ask you if it refreshes your recollection? A. It doesn't refresh my recollection, this particular answer.

. . . . . .

2845 Q. Then, Mr. Witness, would you say that the amount in here is an error, and that it has always

been $3,500? Is that your testimony? A. That is right. That is my testimony.

Q. That is your absolute and unchangeable testimony at this time? A. That is right.

Q. $3,000? A. That is right.

Q. And you never said anything else? A. No.

Q. And, therefore, you say that this amount here, of $3,000, is an error? A. That is right.

Q. And incorrectly reported? A. That is right.

Q. Well, let's see. Did you testify about this particular matter in the case of Lauer versus Butterworth, that is the University of Washington Case? A. I did.

Q. And you testified on those? A. I did.

Q. I now read from page 823, the following state-
2846 ment, page 823 of your testimony, Mr. Witness, in the transcript of the proceedings of November 12, 1948, before the Faculty Committee on Tenure and Academic Freedom, in the case of Edward H. Lauer, Complainant, versus Joseph Butterworth, et al., Respondents, held at Walker Ames Room at Farrington Hall, Volume 9 of the testimony.

Did you testify in that proceeding? A. I did.

Q. Do you recall making this statement:

"And I myself brought over a sum, for starting the campaign in 1928, the Presidential campaign in 1928, I brought over the initial sum of an allotment of $50,000, in the sum of $5,000 in American bills. So that is the manner in which the expenses were paid by Moscow, of the American Communist Party."

Do you recall making that statement? A. I do not.

* * * * * * * * * *

2849 Q. Now, Mr. Witness, you were under oath in your testimony in the case of Lauer versus Butterworth, were you not? A. I was.

Q. And you now say that the amount that you mentioned in that testimony was $3,500? A. I do.

Q. And did you say that the initial sum was $50,000 or $35,000? A. $35,000.

Q. $35,000? A. Yes.

Q. And the sum was $3,500 all the time? A. That is right.

2850 Q. All right, let's see. You wrote about this in your book, "I Confess," did you not? A. I did.

Q. I now call your attention to page 496 of your own book, "I Confess," and I ask you if you made this statement:

"Of course, the seeds of that totalitarianism already existed during the Lovestone-Gitlow regime. For example, I returned from Moscow to attend the 1928 Presidential convention of the Party with $5,000 in my jeans, as the first installment of a Moscow contribution of $35,000 to our Presidential campaign."

Do you recall writing that? A. If it appears there, it is an error.

Q. Well, you say "if it appears there." I will show it to to you and ask you if it refreshes your recollection as to, whether or not—now get the question—as to whether or not you wrote it? A. I wrote the book, but I don't recall writing "$5,000." It is $3,500."

Q. Is there anything else in that book you don't recall writing? A. There were a few errors in the book.

Q. Mention them. A. I can't mention them at this time.

2851 Q. But you say this is an error, the $5,000? A. That is right.

Q. Did you ever state at any other time that it was an error? A. I was never asked that question.

Q. You have read the book, haven't you? A. I have.

Q. You have read it—it has been called to your attention, your own book, several times, has it not? A. That is the first time that particular item was called to my attention.

Q. But you testified, in the Butterworth Case, before the Dies Committee, and here, about this item? A. I testified before the Dies Committee and before this hearing, about this item, and before you brought up the Bridges Case on this item, and the Butterworth Case.

Q. And now you say that the $5,000, in your own book, is an error? A. That is right.

Q. You read the proof of your book, did you not, at the time it was printed? A. I did.

Q. This was quite an important item in your book, was it not? A. It was.

2852 Q. In fact, it was the only time you would say you ever carried any money from Moscow to the United States? A. That is right.

Q. So it was quite an important incident in your career, wasn't it? A. It was.

. . . . . .

2853 Q. Mr. Witness, did you discuss the testimony that you gave during the recess? A. I did.

Q. What phase of it did you discuss with him? A. I discussed all phases of it.

Q. You discussed every phase of it with him? A. Yes, sir.

Q. Are you straightened out, now, as to anything you want to change? A. There is nothing I want to change.

Q. You still say that your own book, and the record of your testimony in Lauer v. Butterworth, and in the Bridges Case, did not represent your testimony on that particular item of $3500? A. Some parts do, some parts don't.

Q. I am talking about the 35 hundred dollars versus the five thousand dollar figure.

Does it represent your correct testimony, on that point? A. I think I have answered all those questions.

Mr. Marcantonio: He qualified it, Mr. Chairman.

Mr. LaFollette: Yes, but that question is not quite intelligible to me, Mr. Marcantonio. Go back and ask

2854 it again.

Mr. Marcantonio: All right, I will withdraw the question.

By Mr. Marcantonio:

Q. Was your testimony as to the 35 hundred-dollar item correct in Lauer vs. Butterworth, as shown in the transcript of that hearing? A. The transcript is wrong.

Q. That is all I want to know.

Was it right or wrong with respect to that particular item in the Bridges case? A. What was right or wrong? I don't know what you are talking about.

Q. With respect to the 35 hundred dollars item:

Mr. LaFollette: The transcript.

By Mr. Marcantonio:

Q. Was the transcript right or wrong? A. It was incorrect with reference to the $3500.

Q. And the portion in your book, which says $5,000, is that right or wrong? A. It is incorrect.

Q. Did you make a memorandum to the FBI on this subject, in any manner, shape or form? A. I don't recall.

* * * * * * * * * * *

2860 Q. I now read from the transcript of the hearing, page 825, Mr. Witness, beginning with the question by Mr. Paisley:

"Q. Proceed, Mr. Gitlow."

Did you make this answer:

"A. In addition to that, the Chairman of the Committee of three was designated as the plenipotentiary of the Executive of the Communist International, with full powers over the Communist Party of the United States."

A. I did.

Q. Then I skip the next two paragraphs, that I don't believe are relevant for this purpose, and then continuing the answer, did you make that statement:

2861 "He was given power over all the press, and auxiliary organizations of the Communist Party, was given the power to remove any person from any job in the Communist Party.

"He was also provided with a fund to carry his work, and to see that the decisions were effectively carried out.

"Then in reference to the Daily Worker, he was given an additional sum of $100,000, that in the event the Party lost control of the Daily Worker, this $100,000 was to be the means for establishing a daily newspaper for the Communist Party, loyal to the Communist International."

Did you make that answer? A. I did.

Q. Is that statement true? A. To the best of my knowledge, it is true.

Q. Well, you said you heard him make that decision? A. I did.

Q. You are certain in that he said $100,000 was to be turned over for the purpose of establishing another newspaper in the event that your group lost control of the Daily Worker? A. To the best of my recollection that is what was said.

Q. Is there anything about that recollection that you want to tell us has been changed now, since you testified on direct examination? A. No, there is not.

2862 Q. Your group did not retain control of the Daily Worker, did it? And so the money was not transmitted, was it? A. That I have no knowledge of.

Q. To your knowledge it was not transmitted, was it? A. I know nothing about that. I was out of the Party.

Q. Now you testified about this matter, with respect to the Daily Worker—I withdraw that question.

Rather with respect to the 1929 meeting, which you have described here on page 826, as to the decision, you testified in 1941 about it before the Rapp-Coudert Committee, did you not? A. I may have.

Q. Do you remember whether or not that you did? A. I don't recall.

Q. Do you recall making this statement—and I am now reading from page 1845 of the proceedings before the Rapp-Coudert Committee, a committee of the New York State Legislature investigating public schools in the City of New York. The date of the hearing is June 4, 1941.

Mr. LaFollette: Was the witness under oath?

Mr. Marcantonio: I was going to ask him that question. I believe I did before, but I will ask him again—I mean on the other matters.

Mr. LaFollette: Yes. I don't recall.

Mr. Marcantonio: All right.

By Mr. Marcantonio:

2863 Q. Were you under oath when you testified before the Rapp-Coudert Committee? A. I was.

2864 Q. Do you remember making this statement:

"In 1929, when I was expelled from the Party, a representative was sent to the American Party with extraordinary powers. This representative was a Russian, and was sent personally by Joseph Stalin and Molotov. He was given a quarter of a million dollars because they expected a serious split in the American Party, and he was given the power to do anything he desired to do with the American Party."

Do you recall making that statement? A. I do.

Q. Do you recall mentioning the figure "a quarter of a million dollars"? A. I do.

Q. The stenographer in the case of this record did not make a mistake, as to your testimony? A. I don't think so.

Q. On that particular instance, at any rate? A. Not on that particular instance.

Q. Do you recall writing about this instance in "I Confess"? A. I wrote about that incident in "I Confess."

Q. I now read to you from page 565 of that book and ask you if you made this statement, reading some intro

2865 ductory matter for the purpose of helping refresh your recollection, first, and then I will ask you if you made this whole statement.

I start on page 564, bottom of the page.

"But even this arrangement was not a sufficient guarantee for Stalin. He proposed that the Russian chairman of the committee of three plenipotentiary powers over the Secretariat, the Political Bureau, the Central Executive Committee and all the districts of the Party, that this single individual have the sole right and power to make decisions which would have the full weight of Comintern authority back of them and would have to be obeyed without appeal. It was also decided to help the Party's fight against us with all the resources at the command of the Comintern.

Following that meeting, Bedacht was called in for a private conference at which the strategy of the fight in America was worked out, and the decision made to send the Party an initial sum of $50,000, with which to finance the fight."

Do you recall making that statement? A. I do.

. . . . . .

2868. Q. All right. Did you, in either one of your two books, "I Confess" or "The Whole of Their Lives," ever mention a figure of a hundred thousand dollars? A. I don't recall now. I may have.

Q. Well, you may have. I show you the two books and ask you to show me. You should be able to find there

2869 very easily where you write about this incident.

Show me where you mentioned a hundred thousand dollars.

. . . . . .

The Witness: Here is a part: "A supplementary decision was made by Stalin on the Daily Worker, which provided that if the Daily Worker fell into the hands of the opposition, Williams was to be supplied with upwards of

one million dollars to launch a new daily communist paper."

. . . . . .

2878 Mr. LaFollette: Mr. Gitlow, I would like to ask you this:

In any of the conversations which you have had with Mr. Mandel, with reference to the conduct of this case, have you discussed with him your opinion or evaluation of the conduct of any member of this panel during the hearing?

The Witness: I discussed the conduct of this case, I discussed the attorneys in the case, I discussed the members of the Panel.

Mr. LaFollette: You discussed the members of the Panel?

The Witness: That is right.

Mr. LaFollette: And their conduct during the conduct or sessions of these hearings?

The Witness: I did.

Mr. LaFollette: Mr. Gitlow, let me ask you this:

Would you have discussed the matter of the conduct of the Panel in this hearing, any of them, with Mr. Mandel, had he not occupied the present position which you

2879 know he occupies?

The Witness: I would have discussed it with him, because he is a friend of mine, over a long period of time, interested in the matters that I am interested in, and whenever I am in Washington I discuss matters with him.

Mr. LaFollette: And do you or do you not know that the question of the confirmation of the members of this Board, including, of course, the members of the hearing Panel, is undecided at the present, by the Senate Judiciary Committee?

The Witness: I knew of that fact.

Mr. LaFollette: Do you or do you not know that Mr. Mandel is on the payroll of the Senate Judiciary Committee?

The Witness: I know he is on the payroll of the Senate Judiciary Committee.

Mr. LaFollette: Mr. Paisley, my personal reaction is these are very very unpleasant answers to hear from this witness.

2924 Q. Was the representative of the Communist International ever an American? A. Never.

Q. I didn't get the answer. I am sorry. A. The representative of the Communist International to the Communist Party of the United States was never an American.

Q. Was he a member of the Communist Party of the United States? A. One became a member of the Communist Party of the United States.

Q. Once they became a member of the Communist Party, they ceased to be members of the Communist International? A. No.

Q. Is it your testimony now that a member of the Communist Party of the United States could at the same time hold office as a representative of the Communist International to the Communist Party of the United States;

2925 is that your testimony? A. Every representative of the Communist International to the Communist Party of the United States, when he landed in this country, became a member of the leading committee of the Communist International and functioned on that committee as a member of the Communist Party.

Q. I now ask you, did he become a member of the Communist Party of the United States? A. One became, for a time, a member of the Communist Party of the United States. Only one representative, and that was John Pepper.

Q. And at the time he was a member of the Communist Party of the United States, was he still a representative of the Communist International? A. He was not.

Q. He was not? A. No.

He was assigned by the Communist International to membership in the Communist Party of the United States, and to work with the Communist Party.

Q. I want to get this straight. Then when he became a member of the Communist Party of the United States, he ceased being the representative of the Communist International; is that your testimony? A. Yes, yes.

. . . . . .

3013 Q. Now, have you met Mr. Mandel since the recess last night? A. I did.

Q. This is the fifth time you have met him since I started cross examining you, isn't it? A. I don't recall whether it is the fifth or the fourth, or the sixth, but I met him last night.

. . . . . .

3020 Q. Have you discussed these proceedings with any member of the Judiciary Committee of the United States Senate?

. . . . . .

3021 Mr. LaFollette: I think that as the Presiding Member of the Panel I intruded this line of questioning
3022 into the case.

So that my own thinking may be made clear for everybody to know, I feel pretty much the same way about this witness discussing my conduct in the hearing room with Mr. Mandel, under the circumstances, as I would if I were a nisi prius judge, in an elective office, and a political boss had the right to control my nomination or renomination.

I would resent it very much. I don't know that it necessarily proves, of itself, that there was an attempt by this device to intimidate me.

In a sense, I do not know that it is material. Were I in the position that I have enumerated, and since I am in this position, I can only remember, and I think each member of this Panel remembers, that I was sworn to do my duty.

I repeat that I personally would resent it, and that I do resent it. I also say that I think that I am capable of attaching such credibility and weight to this witness' testimony as should be despite this conduct.

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3024 Mr. LaFollette: All right let me make a statement.

Let the record show that I have been requested by my colleague, Mr. Brown, to make the record doubly sure—which I thought it was—that the sentiments which I expressed with reference to my attitude towards this conduct, are not his:

And let the record further show, without request, that they should not be imputed to my colleague, Dr. McHale. They are my own personal feelings of what I consider to be proper, normal reaction to the conduct of this witness.

* * * * * * * * * * *

3033 Q. Now, Mr. Witness, the questions I am going to ask you at this point are with respect to your opinion of the Communist Party and the Communist leadership, not of today, but the Communist Party and the Communist leadership during the period when you were a member.

Now, would you not say that the Communist membership, and the leaders of the Communist Party, sincerely believed in their position—I am talking about that period now. A. Well, you would have to let me know what particular position.

Q. Well, did they take the viewpoint that the most important thing in life was to change the economic system? A. They took the viewpoint—to generalize; it is very difficult to be specific because there are nuances as far as every leader in the Communist Party is concerned—but they took the general position, one, that capitalism was a decadent system of society, that it was in its last stages; two, that the most significant event in the history of mankind was the communist revolution that happened in Russia,

that it set the pattern for a new system of society for replacing the capitalist system of society. While they recognized that, in their opinion, capitalism was a dying society, they nevertheless took the position, which was the position of the Communist Party, that capitalism as a society, and the governments which maintained it had to
3034 be destroyed, that that destruction was only possible through the use of force and violence in overthrowing the system.

Essential in overthrowing the system, the first essential in overthrowing the system, was overthrowing the governments that supported that system.

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Redirect Examination

3043 By Mr. Paisley:

3044 Q. I show you, Mr. Gitlow, Communist Party Exhibit number one, and direct your attention to the personnel listed there, under the heading "American Trade Union Delegation to the Soviet Union."

I notice that Mr. Marcantonio did not ask you about six individuals listed under the heading "Research and Secretarial Staff."

Do you know whether or not those individuals were members of the Communist Party at that time? A. It was reported to us that this staff was made up entirely of Party members, and the following were communists: Stanislava Piotrowska, that I know of—

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3046 The Witness: It was reported by Jay Lovestone to me in the national office, and also to the Secretariat, that all the members of the research and secretarial research staff were members of the Communist Party.

Of that number I know were definitely members of the Communist Party, Lois Perlmutter, Sara Ragozin, and Stanislava Piotrowska, of the University of Keiv, Warsaw.

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3049 Q. Now you testified, as I remember, on cross examination, that you do not know who signed the report, but you did know how it was drawn up and its final disposition.

Do you recall giving that testimony? A. I do.

Q. How was it drawn up, and what was its final disposition? A. It was drawn up by Dunne, submitted to the Secretariat by Lovestone, the report was gone over, and after it was approved, it was printed, ordered printed.

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3050 Q. Do you know, Mr Gitlow, whether there is any truth in the assertion in that book there, that the individual members paid their own way? A. There is no truth in that assertion and there was never a financial statement issued by the Committee.

Mr. LaFollette: Which committee is that? The Secretariat, or the committee—

The Witness: The Trade Union Committee itself.

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3060 Will you state, please, how well you knew Mr. Mandel before you came here to testify in this case? A. Mandel and I have been personal friends ever since 1922.

Q. Was he a member of the Communist Party while you were? A. He was, yes.

Q. Were you actively associated with him in the Communist Party? A. I was.

Q. Had you been with him socially before you came here this time? A. Do you mean how recently, socially?

Q. Anytime in the past before you came here? A. Oh yes, on many, many occasions.

Q. How long have you known Kornfedder? A. I knew Kornfedder from either 1918 or 1919 on.

Q. Was he a friend of yours? A. He was.

Q. Associated with you in the Communist movement? A. He was.

Q. Before you came here to testify? A. He was.

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3095 **Joseph Zack Kornfedder** took the witness stand, and having been duly sworn, was examined and testified as follows:

Direct Examination

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3098 A. In 1927 I was amongst those selected to go for additional training in Moscow, at the Lenin School.

Q. How long did you stay in Moscow? A. I stayed in Moscow from October, 1927, till April, I believe, 1930.

Q. And where did you go from Moscow? A. From Moscow I went to South America.

Q. In what capacity? A. As a representative of the Communist International.

Q. And how long did you stay in South America? A. I stayed in South America from May or June, 1930
3099 till October, 1931.

Q. A little better than a year? A. Yes, sir.

Q. And where did you go after you left South America? A. I returned to the United States.

Q. And did you continue your membership in the Communist Party when you returned to the United States? A. I did.

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3106 Q. Were there any special qualifications which a member had to have in order to be eligible for training in Moscow? A. Yes, there were.

Q. What were those qualifications, if you know? A. The individuals selected for training were to be not older than 35 years of age, and must have been active in the Communist Party for at least five years, and be more than average in ability.

Q. Who set up these qualifications, if you know? A. They were set up by the Comintern.

Q. And thereafter communicated to the Party of the United States? A. Yes, sir.

Q. Now initially, does the Party in the United States select the persons for training in Moscow? A. Yes.

. . . . . .

Q. During the time when you were on the Central
3107 Committee of the Communist Party of the United States, did the Party originally select persons whom they intended to send to Moscow for training? A. Yes, sir, they selected them, as a recommendation.

Q. What do you mean by "as a recommendation?" A. They recommended several individuals to go for that training, but the recommendation was not definite until these individuals were approved in Moscow.

. . . . . .

Q. Now when you left the United States to go to Moscow, did you have an American passport? A. Yes, I did.

Q. Did you apply for that passport under your own name? A. No, I applied under a different name.

Q. Do you recall what name you used? A. To the best of my recollection the name used on that passport was Fochs.

Q. Did you bring any identifying papers, or any other documents with you when you made application for a passport? A. Yes, I had the citizenship papers of
3108 Fochs, to make the application for the passport.

Q. At that time you were not a citizen? A. At that time I was not a citizen.

Q. And who supplied you with these papers if anyone? A. The papers were given me by George Mink.

Q. Let's stop there for a minute, and I will ask you who is George Mink? A. George Mink at that time was the Communist Party's waterfront leader in New York on the New York waterfront.

Q. And he supplied you with the necessary citizenship papers and other documents necessary for you to apply for a passport? A. Yes, sir.

. . . . . .

Q. And the passport was thereafter granted? A. Yes, sir.

Q. In the name of Fochs? A. Yes, sir.

Q. From what port did you leave? A. I left from the Port of New York.

Q. And do you recall the route that you took to get to Moscow? A. Yes, I went over France to Germany to Berlin. Then in Berlin I contacted the Communist Party Headquarters and turned over my passport to an individual designated for that purpose, and he, within a matter of
3109 two or three days, supplied me with all the necessary papers to enter the Soviet Union.

Q. Did that include a Soviet visa? A. Yes.

Q. Was this visa then stamped right into your passport? A. No, the visa was on a separate sheet of paper.

Q. Was there any purpose in not stamping your visa into your passport, as far as you know? A. Yes.

. . . . . .

Q. Did you have any discussion with any person in Moscow concerning this visa? Either any official of the Soviet Government, any member of the Communist International, any leader of the training school? A. Yes, I did.

Q. Did you inquire as to why the visa was not stamped into your passport? A. Yes, I did, when I surrendered the passport.

Q. And what were you told? A. The individual in charge of the Secret Department of the Comintern looked through it as to whether a mistake had been made by stamping the visa into the passport, and then he explained the idea as to why such a thing is not done.

3110 Q. What was the explanation that he gave you? A. The explanation was that if the passport were stamped with the visa, then in any further travels for which the passport might be used later on, it would disclose that the individual had been in Moscow a certain length of time, which was considered not good for the purposes of using that passport later on.

Q. Did you pay your own transportation expenses when you went from New York to Moscow? A. No, the expenses were paid by the Communist Party.

Q. How do you know that? A. Well, I got the money from Jack Stachel, who was then righthand man to Jay Lovestone, I think in charge of the Organization Department.

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3112 Q. Were financial reports made at the meetings of the Central Committee? Were the questions of the Party's finances discussed at Central Committee meetings? A. Yes.

Q. From those discussions would you know whether the Party would be in a financial position to lay out the money to send these people to Moscow, that you have mentioned? A. Well, this question was not involved, because the money was paid by Moscow.

Q. How do you know that? A. I know that from my stay in Moscow, after I got there.

Q. And when you were in Moscow you learned that—was it the Comintern, the Communist International, had sent the money? A. That is right.

Q. You learned there that the Party sent money to the Communist Party of the United States for the purpose of paying the transportation expenses of members of the Communist Party to go to Moscow for training purposes, is that correct? A. Yes, sir.

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3113 Now, Mr. Kornfedder, when you left the United States for Moscow, did you know for how long a period of time you would stay in Moscow? A. Yes.

Q. How long a period of time was that? A. Three years.

Q. Three years? A. Yes.

Q. Now let's get down to why you were in Moscow. Did you attend any of the training schools? A. Yes,

3114 I attended the Lenin School.

Q. While in Moscow did you learn of the existence of any other type of training schools? A. Yes.

Q. Can you tell us what they were? A. Yes, there was the Western University, the Eastern University, the Academy of Red Professors, and then there was a special section of the Fronze Military Academy for Training Communists.

Q. Can you tell us, if you know, the distinctions or differences between these various schools, or what their specialties were, or anything about them? A. Yes, sir. At the Western University—well, they were all colleges for training in political warfare, but there was a difference.

The Lenin School took in trainees from the more advanced countries, Germany, Austria, France, England, the United States, Canada, and so on.

The Eastern University took in Communists for training from China, Korea, Siam, and other Asiatic countries.

The Western University took in Communists for training from the semi-agrarian countries, like the Balkans, the Balties, countries like that.

The Academy of Red Professors was a training school for theoreticians for the Communist movement.

3115 Q. Does that complete your answer? A. Yes, that covers it.

Q. Now you stated that you attended the Lenin School? A. Yes.

Q. Can you describe the type of courses which were taught to you at the Lenin School, or the Lenin Institute? A. Yes. The training included economics from the Marxian point of view, based upon the role of the working class in the processes of production, the method of political warfare known as Leninism, the structure, character and method of organization of a Party like the Communist Party, and then there were some subsidiary courses in the methods of organization and operation in organizing factory workers or operating inside of existing labor unions.

Also methods of organization amongst agricultural workers and farmers; and methods of organization of what is in this country known as Fronts, but at that time were called conveyor belt organizations, and at the end, there was three months' course of a military nature in techniques and methods of insurrection.

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3117 Q. Now you stated that you were taught that the organizational structure of the Communist Party is highly centralized.

I wonder if you would explain that a little further? A. Yes, the Communist Party methods and structure taught in those schools was a military type of political organization, with an established chain of command, and high discipline, with the addition, which differs from the field of military organization, that the lower units would have considerable leeway in discussing local tactical problems.

Q. You say it was built along military lines? A. Yes, sir.

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3118 Q. You stated that you were taught, or given some courses in the techniques of insurrection and seizure of power.

Can you describe what you were taught in those courses? A. Yes. The courses on insurrection and seizure of power included preparation phases and then actual planning of the seizure of a city, or several cities, how to form troops for that purpose, or forces, what to do immediately
3119 after the seizure, and how to consolidate power after seizure.

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Q. Now, Mr. Kornfeder, you say you were taught methods of forming combat groups in connection with these courses.

Can you describe or tell us what these methods were for the formation of these combat groups? A. Well, combat groups would be groups that are selected from amongst

3120 those Party members who either had previous training with arms, had been in the military forces, or that had been taught the use of arms and who had shown, in various types of fighting, prior to the civil war, the courage, to be selected for these kinds of groups.

The usual detachment of this kind of groups would be five men. They would be organized into command units of five groups, with one captain, and according to the plan that would be laid out as to what to take first, or second, at the time of insurrection in a city, they would be assigned to their objectives.

The objectives would have to be cased prior to action, so that each group would know the physical layout of the objective to be seized.

There would, of course, be a central command for any city, which would direct the operations of all these troops. Practical methods were taught on the basis of actual insurrections that had taken place in the past, either in Russia or Germany, or other countries.

Q. Now, were you taught anything concerning what conditions are necessary to exist before a successful revolution could be accomplished? A. Yes sir.

Q. What were those conditions? A. The conditions would have to be a major crisis in the country, either
3121 after a defeat in war, or an economic and political crisis. If I remember right, Lenin's formula on the subject was that the ruling classes would not be able to rule as usual, that the masses would not be able to live as usual, and that there would have to be a competent, sufficiently well organized Communist Party to take advantage of the situation.

Q. What role would the Communist Party play in such a situation? A. The Communist Party is the center for organizing such an insurrection.

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3125 Q. Now, Mr. Kornfeder, during your attendance at the training school in Moscow, did you engage in

any other activity while you were in Moscow? A. Yes, I did.

Q. What else did you do? A. Well, I was a member of the Anglo-American Secretariat of the Communist International.

Q. Will you explain what the Anglo-American Secretariat of the Communist International was, as you understood it at that time? A. The Anglo-American Secretariat was a subsidiary set up in the headquarters structure of the Communist International, which dealt with affairs of English-speaking Communist Parties. On the Secretariat
3126 were representatives of the Communist Party of the United States, and Canada, and England, Ireland, Australia, and so on.

It received the reports coming to Moscow from these parties, discussed them, prepared recommendations for the higher bodies of the Communist International, and so on.

Q. And you were a member of this Secretariat? A. Yes.

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3127 Q. In your attendance at the Lenin Institute, did you ever receive courses on the trade union movement? A. Yes, that was one of the subjects.

Q. Will you describe what you were taught regarding the trade union movement at the Lenin Institute? A. Well, that comprised the matter of how to organize communist groups inside factories, or labor unions, how these
3128 groups were to prepare themselves for meetings of local unions, how to take advantage of certain grievances that the workers may have for the communist party's purposes, how to lead the activities in a strike, or towards a strike, and how to control a union once the communists are in control of it.

That is in brief——

Q. During the course of your instruction, were there any lectures as to the roles of the Communist Party in the event of a war between the United States and the Soviet Union? A. Yes.

Q. Will you describe what you were taught to be the role of the Communist Party in such an event? A. The role of the Communist Party in such an event was to work for the defeat of the country, in support of the Soviet Union.

Q. Was there any particular relation in that regard to the labor union movement? A. Yes, the relation was to carry on agitation and propaganda in such a way as to interfere with production and transport of munitions and war supplies.

Q. Now, when you left Moscow, I think you stated you went to South America? A. Yes, sir.

Q. Specifically, to what countries did you go?
3129 A. Colombia and Venezuela.

Q. Who sent you to these countries, if anyone? A. I was sent there by the Presidium of the Communist International.

Q. For what purpose? A. In Colombia it was a matter of reorganizing a badly functioning party, and to teach them the methods of communist organization, and in Venezuela it was to organize an underground party from scratch.

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3130 Q. Do you know of any specific individual? A. Yes, Charles Crumbein was—that is of the American communists, Charles Crumbein was sent for activities outside of the United States for a period of time, and Rudolph Baker was sent to Korea for a time.

Q. What nationality was this Rudolph Baker? A. He was a Yugoslav.

Q. And he was sent to Korea? A. Yes.

Q. In what capacity, if you know? A. Well, he went there as a representative of the Communist International.

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Q. Now, we have got you down in Colombia and Venezuela. I may have asked this before, but I will ask you

again: How long did you stay down there? A. I came to Colombia in June, 1930, stayed until, I believe, April, 1931. Then I went to Venezuela.

3131 Q. Were you required to take any special training in addition to your attendance at the Lenin Institute for this position in South America? A. Yes.

Q. What kind of training were you required to take? A. Well, there was instruction in the secret department of the Comintern on how to use codes for communication, either in letters or cables, and also how to set up a radio station for short wave communications.

In addition to that, I met with the head of the Latin-American Secretariat every day for at least an hour, to brief me on politics in South America. His name was Ercoli Togliatti, the present leader of the Italian Communist Party.

Then I met, for two hours every day, the two specialists of the Red Army who were specializing on methods of guerilla organization and guerilla warfare in agricultural countries.

Q. Mr. Kornfeder, were you told before you left Moscow how you would be financed, how you would be supported, how your activities would be suppported while you were in South America? A. Yes.

Q. What were you told? A. I had an appropriation of $15,000 for the first six months for these activities, that I was sent to carry out.

3132 Q. Did you take that money with you when you left Moscow? A. Some of it I took with me, and other sums were sent to me later.

Q. Directly from Moscow? A. They did not come directly from Moscow. They came to New York, first, and were sent from New York to Bogota, Colombia.

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Q. Mr. Kornfeder, you stated that the money from 3133 Moscow was sent first to New York and then sent to you down in Bogota, Colombia? A. Yes sir.

Q. Do you know who sent it to you from New York? A. Yes.

Q. Who was it? A. It was sent to me by Earl Browder.

Q. Who was Earl Browder at that time? A. He was then the General Secretary of the Communist Party.

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3134 Q. Now let me get you back to Moscow, again, Mr. Kornfeder, and consider your membership in the Anglo-American Secretariat.

I recall that you stated that you received reports from the American Party in your official capacity as a member of the Anglo-American Secretariat. Is that correct? Did you state that? A. Yes.

Q. In those reports, or from those reports, did you become aware of a dispute in the leadership of the
3135 United Mine Workers of America?

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The Witness: Yes.

By Mr. Lenvin:

Q. Now, do you know the leading participants in that dispute? A. Yes, I think I remember the participants. It was a dispute inside the United Mine Workers between the forces led by John L. Lewis and the ones led by the Communist Party together with certain dissenting elements that were fighting John L. Lewis at the time, specifically John Brophy and Alexander Howard and several others, and the Communist Party was very much interested in that dispute. It had an organization in the field to carry on its activities in connection with that dispute.

3136 Mr. LaFollette: The Communist Party where, Mr. Kornfeder?

The Witness: In the United States.

By Mr. Lenvin:

Q. Did the Communist Party ever recommend any action to be taken regarding this dispute, while you were a member of the Anglo-American Secretariat? A. Yes.

Q. Do you recall what that action was?

Mr. LaFollette: Excuse me, I would like to know now, when you have got a man in Moscow, whether you are referring to the Communist Party of the United States or of Soviet Russia.

Mr. Lenvin: When they recommended any action which they communicated to Moscow which he would learn as a member of the Anglo-American Secretariat in the normal course of his business.

Mr. LaFollette: I understand that, but I would like to know from the question whether you were speaking of the Communist Party of the United States or the Communist Party of Russia, in this question. If the Communist Party recommended something, you said,

Mr. Lenvin: The Communist Party of the United States, did it recommend or make requests to the Comintern?

Mr. LaFollette: All right.

3137 The Witness: Yes, there were recommendations and requests. The recommendations were in the form of minutes of the Political Committee, that would come to Moscow, and would, of course, be available to the members of the Anglo-American Secretariat, and which dealt with policy to be pursued in this fight inside the United Mine Workers. The requests usually would relate to sums of money to finance the fight.

By Mr. Lenvin:

Q. Now, on this request for sums of money, were you consulted? A. Yes.

Q. Do you recall what specific sum, if any, was requested? A. The request I recall, and which in my opinion was solicited, was a request for $50,000.

Q. Who consulted you? A. There is in the Comintern a special commission on subsidies. The ones that were present at the time were Pianatzky, then Melnichansky, who was at the time representing the council of the Russian Trade Unions, and Losovsky.

They were the three that I recall were present on that occasion, because the matter dealt with an appropriation for Communist activities in the labor unions.

Q. What transpired at that meeting? A. Well,
3138 Losovsky expressed an opinion that this may be a request by the then Lovestone leadership to use funds of the Communist International for factional activities, even though formerly they asked for it in order to carry on activities inside of the United Mine Workers.

So since I represented the Foster faction, which opposed Lovestone, I was asked whether, in my opinion, this was a pretense to get funds for a faction fight instead of for activities in the United Mine Workers.

Q. What did you recommend? A. I recommended that they give an initial appropriation of $25,000, because there was a fight going on in the United Mine Workers, and then check up, as to whether these $25,000 were properly used for the purpose requested.

Q. Would you know whether or not your suggestion was adopted? A. As far as I know, yes.

Q. Would you know whether or not the money was then actually sent? A. Yes, as far as I know, it was sent.

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3143 Q. Did you have occasion to hear the decision while you were in Moscow?

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The Witness: Yes, I heard the decision. I was there when it was made.

By Mr. Lenvin:

Q. What did you hear? What was the decision made? A. The decision was to reorganize—to purge the Communist Party of the United States of the Lovestone leadership and all its followers.

3144 Q. Was there any decision also made as to who was to take Lovestone's place, as leader of the Communist Party of the United States? A. Yes.

Q. Do you know what that decision was? A. Yes, the decision was that Foster—well, first it was decided that Foster was to be the General Secretary, and then that was changed to Browder.

Q. Browder was to be the General Secretary? A. Yes, sir.

Q. Would you know where Earl Browder was at this time? A. He was in China.

Q. Was the decision to make him the leader of the Party arrived at while he was in China? A. Yes.

Q. Would you know whether or not he was then summoned to Moscow? A. That is right. He was summoned to Moscow, and he came to Moscow.

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3145 Q. What was Browder doing in China? A. He was at the time a member of the Pan-Pacific
3146 Bureau of the Comintern, assigned to activities in China.

Q. Do you know a man by the name of Max Bedacht? A. I do.

Q. Who was he when you knew him? A. Max Bedacht was then a member of the Central Committee of the Communist Party of the United States, and a member of the Political Bureau.

Q. Was he in Moscow at the time the decision was handed down regarding the factional dispute in the United States? A. Yes, he was.

Q. Was he assigned to any leadership position in the Party, as far as you know? A. Yes, he was made a member of the Secretariat, and was to replace the former Lovestone leadership.

Q. Do you know a man by the name of Robert Minor? A. Yes, I do.

Q. Do you know who he was in this period, 1928-1929? A. Yes, he was also a member of the Central Committee and the Political Bureau.

Q. Did he, as far as you know, receive any position in the Party as a result of the decision in the factional dispute in the United States? A. Yes, he was also made a member of the Secretariat to replace the former Lovestone leadership.

3147 Q. Before the decision was made, would you know whether Minor was a supporter of the Foster or the Lovestone faction? A. He was a supporter of the Lovestone faction.

Q. How about Bedacht? A. Bedacht was also a supporter of the Lovestone faction.

Q. How about Browder, would you know? A. Browder was a supporter of the Foster faction.

Q. Was Minor in the Soviet Union at the time this decision was handed out? A. No, he was not.

Q. Do you know where he was? A. He was back in the United States.

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3169 Q. What did they tell you might happen if the Lovestone faction retained a majority of the membership in the Party? A. Well, amongst the things that it was decided to do, was to reorganize the Party completely, and if necessary create a new Party out of those that would accept the decision of the Communist International, and if necessary, to create a new daily paper from funds that Moscow would provide, and the same thing in reference to the Jewish daily paper of the Communist International.

That was in case they would not succeed to break down the Lovestone faction, and that said faction would retain control of the top machinery of the Communist Party in spite of the decision of the Communist International.

Q. Now I want to get you back to the United States again, Mr. Kornfedder. We will have to go back to the year 1921 or so.

In that period, around 1921, did you know a man by the name of John Pepper? A. Yes.

Q. Did you know him by any other name? A. Yes, Joseph Pogany.

Q. Did you know his nationality? A. Yes, he was a Hungarian.

Q. Do you know what he was doing in the United States?

A. He was here as a representative of the Communist International, at the beginning.

3170 Q. General representative? A. Yes, sir.

. . . . . .

Q. Now directing your attention to the period of

3171 the early 1920's, can you then state briefly the Trade Union policy of the Communist Party at that time? A. Well, at the very beginning the policy was in favor of supporting and infiltrating the IWW—that is the Industrial Workers of the World—but very early—and by that I refer to 1921—the policy was to infiltrate the American Federation of Labor and the Railroad Brotherhoods.

That line of policy continued until 1928.

By Mr. Lenvin:

Q. All right. Let's stop there.

Did you then know, at that time, let's say between 1921 and 1928, a man by the name of Scott? A. Yes, sir.

Q. Who was he? A. Scott was a representative of the Red Labor Union International.

Q. What was that, the Red Labor Union International? A. The Red Labor Union International was a central body of Communist-controlled Labor Unions, on different continents. It functioned at the Trade Union Department of the Communist International.

Q. And whom did you say Scott was? You testified as to that. A. Scott represented the Red Labor Union International in the United States at that time.

3172 Q. Did you have occasion to speak to or confer with Scott about that time? A. Yes.

Q. In connection with your official duties as an official of the Communist Party? A. Yes, I did.

. . . . . .

3173 Q. Why were you conferring, and holding these conversations, which you said you did, with Scott? A. I was then a member of the Central Committee in charge of the Communist Party's Labor Union activities, and I conferred with him because he represented the international central organization, the Red Labor Union International.

Q. Well, why would you—I still don't—all right.

Did you know of an organization known as the Trade Union Educational League? A. Yes.

Q. Do you know when it was first established? A. The Trade Union Educational League was first formed in 1921.

Q. Do you know who was responsible for the establishment of the Trade Union Educational League? A. The Communist Party, on instructions from the Communist International.

Q. Do you know how the Trade Union Educational League was financed? A. Yes.

3174 Q. How was it financed?

Mr. Abt: Let's find out how he knows, Mr. Chairman. This man does a lot of things, but we do not know how.

Mr. Lenvin: I don't mind asking him.

By Mr. Lenvin:

Q. How do you know? A. The initial setup was a subsidy——

Q. Just a minute, the question was, how do you know how the Trade Union Educational League was financed? A. As a member of the Central Committee, as a result of my conversations with Scott, and his reports to the Central Committee, I know.

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Q. Well, now, tell us how the Trade Union Educational League, then, was financed? A. It was financed in its initial stages by a subsidy of the Communist International.

Q. How do you know that? A. I know it because Jensen——

Q. Who? A. Well, that was his real name, Jensen.

3175 He went here under the name of Scott. Jensen came over with the amount for that purpose.

Q. Do you know how much the amount was? A. The appropriation was a hundred thousand dollars, and he came with half of that, fifty thousand dollars.

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3176 Q. Mr. Kornfeder, while you were in Moscow, you stated that in addition to attending the Lenin Institute you were a member of the Anglo-American Secretariat. Did you hold any other position in any other organization in Moscow? A. Yes, I was on the same type of Secretariat in the Labor Union International, known as the Profintern.

Q. And in such position, would you receive reports from the United States as to Labor Union activities? A. Yes, sir.

Q. Now you stated, Mr. Kornfeder, that in 1921, the policy, the Trade Union policy, was infiltration, did you say? A. Yes, sir.

3177 Q. Infiltration of the Railroad Brotherhoods? A. Infiltration of the American Federation of Labor and the Railroad Brotherhoods.

Q. How long did that policy continue? A. Until 1928.

Q. Was there a change in that year? In policy, that is? A. There was a change in emphasis.

Q. Can you explain the change? A. The change was to concentrate the main forces of the Communist Party upon organizing outside of the American Federation of Labor, and especially in the large basic industries.

Q. Now in 1928 you were in Moscow? A. Yes, sir.

Q. Is that right? A. That is correct.

Q. And you just testified that you were a member of the Anglo-American Secretariat and of the Profintern? A. Yes.

Q. And in such positions, did you learn the reason for

Q. The reason for the change in policy about which you have just told us? A. Yes, the Communist Inter-
3178 national changed its policy at that time on a world-wide scale, and that applied also to the United States.

In the United States there was a special reason in the fact that the large and basic industries had never been organized, and the Communist International was always impressed with organizing those industries.

So when the change of general policy came about, in its application to the United States, it meant to concentrate all forces, or most of the forces, in organizing the big industries.

Q. You testified that this was then a change in policy in the Trade Union activities of the Communist Party, is that right? A. Yes, sir.

Q. As a member of the Anglo-American Secretariat of the Profintern, were you in communication with leaders of the Communist Party in the United States? A. Yes.

Q. This change of policy, was that communicated by you to anyone in the United States? A. That was communicated, through the Profintern, and the Comintern, to the United States, yes, sir.

Q. How do you know? A. Well, I saw the instructions before they went out.

Q. Now this organization that you talked about,
3179 Trade Union Educational League, is that still in existence? A. No.

Q. When did it go out of existence, if you know? A. The Trade Union Educational League went out of existence in 1928.

Q. Did you have anything to do with the demise of the organization? A. Yes, I was in favor of its demise. And whatever I could do, in Moscow, I did.

Q. Was there any organization established to substitute or take the place of the Trade Union Educational League? A. Yes.

Q. What was the name of that organization? A. The name of the new organization was the Trade Union Unity League.

Q. What is the difference between the two, if any? A. The difference between the two is that the Trade Union Educational League operated only inside of established unions—either the American Federation of Labor or the Railroad Brotherhoods—and was not a dues-paying organization.

It was supposed to educate the members of these unions, from the inside, in favor of communist policies.

The Trade Union Unity League was set up as a rival federation to organize new unions in large industry in unorganized industry, to set them up as local unions in
3180 great national bodies, to collect dues, call strikes on their own initiative, and so on.

Q. Now before I go any further, Mr. Kornfeder, I would like to know if you had occasion to learn anything regarding the organization setup of the Red International of Labor Unions? A. Yes.

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3182 Q. Now, you have previously testified that there was a change in trade union policy of the Communist Party instituted in 1928.

How long did that policy which you described as being instituted then continue? A. Till about 1934.

Q. And was there a change in that year? A. Yes.

Q. Can you describe the change? A. The change was again a part of an international change of policy, which had its effects on the United States—the so-called popular front.

So the change in the trade union field was to reemphasize, again, activity inside the American Federation of Labor and the railroad brotherhoods.

Q. How did you personally become aware of these shifts or changes in policy? Trade union policy, that is.

Mr. Lenvin: Let me withdraw that question.

By Mr. Lenvin:

3183 Q. This change that you mention as occurring in 1933 or 1934, rather, how did you become aware of that change? A. I became aware of it by pressure on me from the Central Committee to shift the active forces in a somewhat different direction, of giving more time to infiltration in the A. F. L. unions, and of assigning some of the active forces there, and so on.

Q. Did you have any conversations with anyone regarding these shifts or changes in trade union policy? A. Yes, the first thorough conversation I had on it was with Gerhardt Eisler.

Q. When was that? A. That was in 1933.

Q. Who was Gerhardt Eisler? A. Gerhardt Eisler was then the representative of the Communist International in the United States.

Q. Where did you have this conversation with him? A. In Cleveland, Ohio.

Q. Did you have occasion to discuss this change in policy with any leaders of the Communist Party in the United States? A. Yes, I discussed it also with Bill Dunn, with Earl Browder, and Foster.

Q. Where did you discuss this matter with Earl
3184 Browder? And when? A. I think I discussed the matter with Browder at a large meeting of the Central Committee in New York, also in 1933, I believe.

Q. Were you on friendly terms with Earl Browder at that time, in 1933? A. Oh, yes, we were close political friends for a long time.

. . . . . .

3185 Q. Now, coming back to your testimony that you had a conversation with Gerhardt Eisler, in Cleveland, in 1933, what was the substance of that conversation, do you remember? A. Well, there were several items that were the subject of the conversation. One I already men-

tioned, of more emphasis upon infiltration into the American Federation of Labor, and another was that he wanted at the same time much more activity in the basic industries in Ohio, specifically he wanted me to call a strike at the Fisher Body Plant, in Cleveland, and I said it was impossible. There wasn't enough organization.

I insisted that a mass meeting be called. He claimed that all the American leaders underestimated the willingness of the American workers to fight. So, since he was the top boss, I called the meeting, and the meeting turned
3186 out just as I told him. It flopped.

Q. Was that the first time you ever met Gerhardt Eisler? A. No, I had met him before, in Moscow.

Q. When? A. I believe in 1928 or 1929.

Q. Do you know what he was doing in Moscow then? A. He was in Moscow then as part of a delegation from the German Communist Party.

Q. Now, you have said that he was the Communist International representative in the United States. How do you know he was the Communist International representative in the United States? A. Well, he told me so himself, plus I knew of it before he came there.

Q. How did you know that? A. Oh, by members of the Central Committee passing through Cleveland and stopping there.

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3190 Q. Was there a national convention of the Communist Party held in Cleveland in 1934? A. Yes, sir.

Q. Did you attend that convention? A. Yes, I was a delegate.

Q. Did you speak at that convention A. I did.

Q. What was the subject of your talk? A. The subject was my disagreement with the new switch of policy which then was being effected.

Q. Is there any procedure whereby a person indicates his desire to make a speech, on the convention floor, at a convention of the Communist Party? A. Yes.

Q. What is the procedure? A. You ask the Presidium of the convention, specifically the chairman, for time to speak.

Q. Did you adopt that procedure before you spoke at the convention in Cleveland, in 1934? A. Yes, sir.

Q. Was there any objection raised to your speaking? A. Yes. Gerhardt Eisler, who sat right there in the convention—of course, only those that knew who he was knew that he was there—warned me against speaking. He said
3191 if I voice disagreement, it will have very serious consequences for me.

Q. Did you understand what he meant by that term "serious consequences"? A. Yes, I think I did.

Q. What did you understand that he meant by it? A. I understood by that that I may be removed from all positions in the Party, and possibly expelled.

Q. You got that warning, and despite that warning did you speak on the convention floor? A. I insisted on speaking, yes.

Q. Do you recall the substance of the talk that you made on the convention floor at that time, in 1934. A. In a general way. I indicated my disagreement with the new switch of policy, specifically in the labor union field. My opinion was that in the United States, where most of the big industries were unorganized, the emphasis in organizing these industries into unions outside of the American Federation of Labor should be continued.

Q. Did anyone speak after you at this convention, on the same subject? A. Yes, indeed.

Q. In agreement with you? A. No. All the members of the Political Bureau, and many others, after that,
3192 kept on a barrage against me and what I said, including what I hadn't said which was sort of a verbal political lynching of me after that.

Q. Were there any consequences flowing from your speech on the convention floor? A. Yes.

Q. What was it? A. A member of the Central Committee, by name of Jack Johnstone, came to me in the name

of the Political Bureau and in the name of Gerhardt Eisler, and said that if I do not make a statement to be published in the Party press repudiating my views, and endosing the new switch in party policy, I will be removed from all positions, I won't be able to engage in any activities without permission of the Political Bureau, and they give me sixty days to do that, and if I don't, I will be expelled.

Q. Now, after that conversation or communication with Johnstone, did you remain in Cleveland? A. I remained in Cleveland a few weeks, and then I returned to New York.

Mr. LaFollette: I would like to have the time of the convention and the time of this conversation fixed, if you can.

By Mr. Lenvin:

Q. Do you recall the month of the year in 1934 in
3193 which the convention was held? A. I think the convention was in April, 1934.

Mr. LaFollette: April of 1934, is that right?

Mr. Lenvin: That is correct.

By Mr. Lenvin:

Q. And how long thereafter did you have this conversation with Johnstone that you referred to? A. Immediately after the adjournment of the convention.

Q. Now, do you know when that was? How long did the convention last? A. The convention, I think, lasted a week or ten days.

Q. You say from Cleveland you went to New York. About when was that? A. That was about three or four weeks after the adjournment of the convention.

Q. Did you have occasion to meet with Eisler again in New York? A. Yes.

Q. When? Do you recall? A. I think the last time I met him was in July.

Q. Of 1934? A. Of 1934.

Q. Did you have a conversation with him at that time? A. Yes.

Q. Do you recall the substance of your conversa-
3194 tion with Eisler then? A. The conversation related to the text of the statement I was supposed to make for publication, repudiating my views, and endorsing the views of the Political Bureau of the Party.

Q. How many times did you meet with Eisler, in New York, in July of 1934? A. I believe twice.

Q. Can you recall where these meetings were held? A. One was held in a park, on the lower west side of New York—I don't recall the name of the park—and the other one was held, I believe, in Foster's apartment in the Bronx.

Q. At which meeting did you discuss the statement which you were supposed to make? The meeting in the park or the meeting in Foster's apartment? A. At both.

Q. Which came first? A. At both.

Q. Which meeting came first, the one in the park or the one in Foster's apartment? A. The one in Foster's apartment. I may be mistaken and that meeting was at somebody else's apartment, I don't recall. But one was on the inside, and the other one was in a park.

Q. You discussed, you say, the text of your state-
3195 ment. Did Eisler agree on the text of your statement? A. No.

Q. Then what happened? A. Well, there was one more effort to make me agree to the text of a statement by Foster, at Foster's apartment, and since no agreement was reached, I subsequently turned in my Party book, together with a number of others that quit at the same time with me, and the next thing I saw was about a half-page statement in the Daily Worker expelling me and several others.

Q. From the Party? A. From the Party.

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3197 Q. Mr. Kornfeder, do you know an Alexander Trachtenburg? A. I do.

Q. Do you know what position he held during the period of your membership in the Communist Party? A. He was the head of a publishing outfit known as
3198 International Publishers.

Q. Do you know how he obtained that position? A. Yes.

Q. Will you tell us how?

Mr. Abt: We ought to have how he knows, Mr. Chairman.

Mr. Lenvin: I don't mind asking him that question, Mr. Chairman.

Mr. LaFollette: All right.

By Mr. Lenvin:

Q. How do you know how he obtained the position with International Publishers? A. I know it from Moscow. He was made the representative of the Soviet publishing establishment, which had branches in various countries, and in this country it was known as the International Publishers. The decision as to who that should be was made from Moscow in consultation with the Political Bureau in the United States.

Q. While you were a member of the Central Committee of the Communist Party, did you ever learn anything about the operation and finances of International Publishers, Inc.? A. I don't recall anything while I was in the United States.

Q. Then did you learn anything regarding its operation and finances while you were in Moscow?

3199 A. Yes.

Q. What did you learn? A. That the deficits of the International Publishers——

Q. That the what—I am sorry, I didn't hear you. A. That the deficits of International Publishers were made good by the Soviet Publishing House.

Q. Either while a member of the Central Committee of the Communist Party or while you were in Moscow, did you learn anything regarding the operation and function of the Workers Library Publishing Company? A. Yes.

Q. What did you learn? A. Workers Library Publishers was a pseudonym for the agitation and propaganda department of the Communist Party.

Q. Was it a self-sustaining operation? A. Yes, it was a Party operation entirely.

Q. Financed wholly by the sale of its publications? A. It was partly financed by the sale, and mostly by the Central Committee of the Communist Party.

Q. What is the distinction, if any, between the International Publishers Company and the Workers Library Publishing Company? A. Well, the main distinction is that the International Publishers publishes the more sub-
3200 stantial books used in the communist movement, like the works of Lenin, Stalin, and others, for the theoretical education of the Party members and sympathizers; and the Workers Library Publishers publishes the smaller stuff, small pamphlets, a nickle, a dime, or thereabouts, in order to reach the strata that would not read heavy literature.

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3204 Q. Did you learn of any subsidies for special activities coming from Moscow, during your attendance at any Central Committee meetings of the Commu-
3205 nist Party? A. No, those subsidies would not be reported at Central Committee meetings.

Q. Now, you did testify that the Party was financed, in part at least, by subsidies from Moscow? A. Yes, sir.

Q. Is that correct? A. Yes.

Q. Now I ask you, where did you get that information? A. Well, I have the information as to the subsidies from my membership in the Anglo-American Secretariat of the Communist International, and of the Profintern, and from attending meetings of the Secretariat of the Communist International, and the appropriation commission of the International, when it dealt with American affairs, and from the organization department of the Communist International, and the agitation and propaganda department of the Communist International, each of which at one time or another had as a subject, recommendation as to subsidizing

certain activities which then would be cleared by the commission which made the final authorization on it.

I was privileged to attend some of these, because I was recognized in the Communist International, as the representative of a faction in the Party which was in favor, at the time, in Moscow. That is how I happen to know about subsidies for the Daily Worker, for activities amongst
3206 the railroads, for activities in the maritime field, and various other fields.

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Q. In relation to your answer as to subsidization for special activities, Mr. Kornfeder, did you learn, either while you were a member of the Central Committee, or while you were attending the Central Committee meetings, or while you were in Moscow, whether there ever was a subsidy for the Daily Worker? A. Yes.

3207 Q. Do you know the amount?

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3208 The Witness: The subsidy in 1929 was 30 per cent of the Daily Worker's cost of publication and distribution.

By Mr. Lenvin:

Q. Do you know of a publication known as the "Jewish Freiheit?" A. Yes, sir.

Q. What do you know about that publication? A. Well, it is a daily Jewish paper of the Communist Party.

Q. Do you know whether that paper ever received any subsidy from the Communist International? A. Yes.

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3210 Q. How do you know that a subsidy was received by the Jewish Freiheit?

Mr. LaFollette: At the time of its foundation, I think was his testimony.

The Witness: Yes. The subsidies received by the Freiheit at the time of its foundation, I knew at the time it was

received because at one time, in the very early stages, subsidies from Moscow were reported. At that time the Central Committee was a very small one.

Later on they were not reported.

The subsidy about the Freiheit I know specifically from Alexander Bittelman, and when I did get to Moscow, my knowledge about it was confirmed there from additional information.

3211 Mr. LaFollette: From what information?

The Witness: About the subsidy.

Mr. LaFollette: Yes, was confirmed by what information?

The Witness: Was confirmed by information in the Communist International.

Mr. LaFollette: I see. Was that information, information in writing that you saw, or how did that confirming information come to you?

The Witness: No, it comes from those that handled the assignment of subsidies for various activities in the Communist Party in the United States.

Losovsky knew about it.

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Q. Did you ever have a conversation regarding the subsidy either to the Daily Worker or to the Freiheit with leaders of the Communist Party?

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3212 The Witness: As to the Freiheit, I only know the subsidy at the very beginning. I don't recall anything past that.

As to the Daily Worker, I know the Daily Worker was subsidized continuously, since its foundation. I know it from Moscow, I know it from Browder, I know it

3213 from Foster—the Daily Worker would have been out of business a long time ago without the subsidies from Moscow.

Mr. LaFollette: And this is during the period of your membership in the Party? Is that the extent of this information?

The Witness: Yes.

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3220 Q. Mr. Kornfeder, on Thursday, you had been mentioning several times "Comintern" and "Communist International."

Will you tell the Panel just what is the Communist International?

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3221 A. The Communist International is the worldwide organization of all the Communist Parties in various countries. Its headquarters are located in Moscow.

Q. When you were in Moscow during the years 1927 to 1930, did you learn anything regarding the organizational set-up of the Communist International? A. Oh, yes.

Q. Will you tell us the organizational set-up of the Communist International? A. The organization set-up is providing various departments, secretariats, bureaus and commissions. There are certain basic departments like organization department, agitation and propaganda department, youth department.

These departments have interlinked with corresponding departments in the various communist parties.

Then there is secretariats. The secretariats are to supervise the policies of the various communist parties; for instance, there is an Anglo-American Secretariat, a Latin-

3222 American Secretariat, a Far East Secretariat, and West European Secretariat, and so on.

Then there are field bureaus outside of Moscow which directly interlink with the Moscow headquarters, such as the Caribbean bureau of the Comintern, the Pan-Pacific bureau of the Comintern, the South American bureau of the Comintern: These bureaus direct the Communist Parties on a continental or semi-continental scale.

This, in the main, is the inner structure of the Communist International headquarters in Moscow. This is where departments and bureaus have jurisdiction over the same de-

partments from the various Communist Parties. That is, the organization department of the Communist International designs the organization strategy and its tactics for the Communist Parties and transmits them through the organization department, let's say, of the Communist Party of the United States.

The same with the agitation, propaganda department and the other departments. There is the activities specialized along certain fields.

That, in brief, would explain the internal set-up.

Q. You mentioned several of what you called "field bureaus." You mentioned several geographical areas of field bureaus.

Is there a North American field bureau of the Communist International?

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3223 Q. When you learned of the international set-up of the Communist International, was there a North American Bureau, similar to the South American Bureau, the Latin-American Bureau, one of that type? A. No, there was no North American Bureau, but the Political Bureau of the Communist Party of the United States for a time acted in that capacity.

Q. For what parties? A. For the parties in Canada, Cuba, Mexico and smaller groups down to the Panama Canal.

Q. Were you ever in the building which houses the Communist International? A. Yes, I was there many times.

Q. How large a building would you say it was? A. Oh, it was the size of the old State Department Building here in Washington.

Q. About how many employees, would you say, were working in that building? A. About 1200.

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3224 Q. Were you ever taken on tours through the building houses of the Communist International? A. Oh, yes.

Q. By whom? A. Well, I had the standing pass of entry and went through the floors many times on business. I was also shown through it by the head of the Anglo-American Secretariat.

Q. Did you ever talk with any of the leaders of the Communist International regarding their finances? A. Yes.

Q. From those conversations, did you learn how the Communist International was financed? A. Yes, I did.

3225 Q. How was the Communist International financed? A. The Communist International was financed in two ways: One, by the Communist Party of the Soviet Union, that is as far as disbursements in rubles were concerned; and by the Soviet Government as far as foreign currency payment of subsidies were concerned.

Q. During the years that you were in Moscow, did you continue your membership in the Party in the United States? A. No. I was transferred into, after six months, into membership of the Communist Party of the Soviet Union.

Q. Were there any special assessments made upon you as a member of the Communist Party of the Soviet Union? A. Yes. There was a Communist International assessment that the members of the Communist Party of the Soviet Union had to pay.

Q. You stated earlier that the Communist International employed approximately so many hundreds of people. How were these people paid, by whom? A. The employees in the building were paid through the organization department of the Communist International, who handled the finances. That is where they got their weekly pay in rubles. Those that worked for the Communist International outside had to be paid in foreign currency, either dollars,

sterlings, marks or francs, and they were paid
3226 usually through the various field bureaus of the Communist International.

Q. During your stay in Moscow, Mr. Kornfeder, did you pay your own expenses? A. No.

Q. How did you support yourself while you were in Moscow? A. Well, the Lenin School provided all the necessities as far as accommodations, food, dormitories, and so on, plus each trainee got 54 rubles a month for incidental expenses.

Mr. Lenvin: Now, I apologize to the Panel, but we find it necessary to go back to about 1919 because the Attorney General wishes to make clear to the Panel and on the record the various steps leading to the emergence of the Communist Party.

Mr. LaFollette: I want to clear up something before you go back to that period.

I think you answered Mr. Lenvin that for a period of time during which you were in the Party, the Political Bureau of the Communist Party of the United States served as the North American Bureau. Can you tell me as definitely as you can, what was that period of time in years?

The Witness: From the early 20's, about 1921, until 1932.

Mr. LaFollette: Thank you.

Mr. Lenvin: May I ask one other question in regard to that, please, Mr. Chairman?

3227 Mr. LaFollette: Yes.

By Mr. Lenvin:

Q. What happened after 1932? A. Well, there was set up a Caribbean bureau of the Comintern, which took over the supervision of all the countries south of the Rio Grande down to the Panama Canal and the Canadian Communist Party before that became autonomists of the American Communist Party and was under direct supervision from the Moscow headquarters and the Anglo-American Secretariat of the Communist International.

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3246 Q. Mr. Kornfeder, during your years of membership in the Communist Party, what use was made of this document in the Communist Party?

3247 Mr. LaFollette: This is Exhibit 8 now?

Mr. Lenvin: This is Exhibit 8.

The Witness: This was a basic document, to which references were made very often and we were told in the Central Committee that Lenin, himself, had made the draft for this document, at the Second Congress.

It was used continuously and was available to the membership in the Communist Party for quotations, references and so on.

By Mr. Lenvin:

Q. It was considered an important document? A. Yes.

Mr. LaFollette: By whom were you told these facts which you related while you were in this position in the Party?

The Witness: By the then delegate who had returned from the Second Congress, which was Louis Fraina.

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3250 Q. What was the status of the Communist Party
3251 in 1921 after its convention at which it adopted that name? A. In 1921 the Communist Party was still the underground organization.

Q. What do you mean by an underground organization? A. Well, the Party did not function in the open. It carried on its business in secret meetings. We did not have any open headquarters. It did not publish its official organ for free distribution in public and so on and so forth.

Q. How long did it continue as an underground organization? A. It continued as an underground organization until, oh, about the end of 1922.

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Q. Mr. Kornfeder, did you ever know of an organization known as the Worker's Party? A. Yes, I did.

3252 Q. When was it formed? A. The Workers Party was formed at a convention held in New York towards the end of 1921.

Q. Were you present at that Convention? A. Yes. I was a delegate.

Q. Will you tell the Panel the background and circumstances leading up to the formation of the Workers Party?

A. The Workers Party was formed as a result of instructions from the Communist International, ordering the Party to emerge into the open. In the letter addressed by the Communist International to the Party, at the time it was pointed out that in the Communist International the Party could carry on its activities in public and it is not necessary to continue to function as a strictly underground organization in this country. So as a result of that, this convention which led to the formation of the Worker's Party was organized.

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3253 Q. Mr. Kornfeder, did the two parties exist side by side? A. Yes, they did.

Q. How were they distinguished? A. The underground Party, who controls the legal Party, was called No. 1 in Party language and the open Party was called No. 2. It was thus referred to in all communications and references of the underground Communists and on other occasions.

Q. How long did this state of affairs continue? A. It continued until the end of 1922 or the early part of 1923.

Q. What happened then? A. Then the No. 1, the underground, by instructions by the Communist International, was completely liquidated as a Party and only what they called an underground apparatus remained, not the Party.

Q. Did the Workers Party continue in existence?

3254 A. The Workers Party then became the Communist Party.

Q. What was its title? A. At the first convention in 1921 it was called the Workers Party. Then at a subsequent convention a few years later the name was slightly changed by putting the word "Communist" in brackets between "Workers" and "Party" so that it read "Workers [Communist] Party."

Q. How long did that continue, the name of "Workers [Communist] Party?" A. That continued, I believe, until 1925.

Q. What happened then? A. Then the word "Workers" was dropped and it became the Communist Party.

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3262 Q. During your membership in the Communist Party, were you required to read the Daily Worker, The Communist, and other official papers of the Communist Party? A. Yes.

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3265 Q. You have testified previously that the Communist Party has from time to time received certain instructions and directions from the Communist International.

Now, I ask you, do you know of any instance when the Communist Party ever deviated from or refused to comply with such direction?

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3266 The Witness: I know of no instance where the Communist Party deviated from the instructions of the Communist International and those instances where there was a tendency to deviate, in each case, the leaders of the Communist Party here were either expelled or removed from leadership.

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3279 Q. Mr. Kornfeder, during your stay in Moscow, did you come to know who were the leaders or the heads of the Communist International? A. Yes, I did.

Q. Will you state it, please? A. Well, the first head of the Communist International was Nikoli Lenin.

Mr. Abt: Just a moment, Mr. Chairman. If we are going to have this, let's have it by dates. I don't know whether the witness is talking about when he was there, before he was there, or after he was there, or what.

Mr. LaFollette: I think it would be better as you testify as to who were the heads, if you identify the period to which you are referring. Proceed.

The Witness: Nikoli Lenin was the head of the Communist International beginning with 1919 and 1920.

3280 He was followed by Gregory Zinoviev.

This was from 1920 to 1924, and then Nikoli Bukharin, that was from 1924 to 1928, and from 1929 to the time I left, it was Molotov.

By Mr. Lenvin:

Q. Did Lenin, at the time he was head of the Communist International, hold any position within the Communist Party of the Soviet Union? A. Yes, he was the head of the Political Bureau and the Central Committee of the Communist Party of the Soviet Union.

Q. Did Zinoviev, when he was head of the Communist International, hold any position in the Communist Party of the Soviet Union? A. Yes, he was a member of the Central Committee, and Molotov was head of the Politburo of the Communist Party of the Soviet Union.

Q. When Bukharin was head of the Communist International, did he hold a position in the Communist Party of the Soviet Union? A. Yes, he was also a member of the Central Committee of the Communist Party of the Soviet Union and the Political Bureau of the same party.

Q. When Molotov was head of the Communist International, did he hold any position in the Communist Party of the Soviet Union? A. Yes. Molotov was, also, a member
of the Political Bureau and the Central Committee
3281 of the Communist Party of the Soviet Union.

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Q. What was the relationship of the Communist Party of the Soviet Union, if any, to the Communist International? A. The relationship of the Communist Party of the Soviet Union to the Communist International was one of a leading party. That is the Communist Party of the Soviet Union was recognized as the leading party in the Communist International. None of the affairs of the Communist Party of the Soviet Union were ever considered for decision by any of the bodies of the Communist International.

Its affairs did not come for determination before
3282 any of the departments of the Communist International except such as the Politburo of the Communist Party of the Soviet Union may care of its own will

to submit for endorsement to the Executive Committee of the Communist International.

That was the special relation of the Communist Party of the Soviet Union within the Communist International. It was the leader of it, not subject to the Communist International orders or discipline.

Q. Was there any other Communist Party in the world, as far as you know, that would hold a similar position or have similar status as the Communist Party of the Soviet Union? A. No.

Q. Did you know a man by the name of Manuilsky? A. Yes, I do, indeed.

Q. Who was he? A. Manuilsky was the Secretary of the Executive Committee of the Communist International and the representative of the Politburo of the Communist Party of the Soviet Union on the Executive Committee of the Communist International.

Q. Do you know what position he holds today? A. Yes.

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3285 Q. Mr. Kornfeder, when you were a member of the Communist Party, did you know Jack—sometimes I think you used the name Jacob Stachel? A. Yes, I do indeed.

3286 Q. Was he a member of the Party when you were in the Party? A. He was a member of the Party and a member of the Central Committee of the Communist Party.

Q. And when you were in the Communist Party, did you know William Foster? A. Yes, I did. He is now Chairman of the Communist Party.

Q. Do you know what position he held approximately during the 1930's?

Mr. Abt: Just a moment. What period are you asking about?

Mr. Lenvin: In the early 1930's during his membership.

Mr. Abt: Prior to 1934?

Mr. Lenvin: Yes.

The Witness: He was a member of the Central Committee of the Communist Party and its Politburo and in charge of the Communist Party's Labor Union activities nationally.

By Mr. Lenvin:

Q. Was he ever in Moscow? A. Yes, he was.

Q. Did you know Alexander Bittelman? A. Yes, I know Alexander Bittelman.

Q. Was he ever in Moscow? A. Yes, he was in Moscow. I met him there.

Q. Can you tell me what positions, if any, he may
3287 have held within the Communist Party during the period from 1930 to 1934? A. He was a member of the Central Committee of the Communist Party and a member of the Politburo.

Q. Do you know a man by the name of Williamson? A. John E. Williamson? Yes, I know him.

Q. Who was he during that period, 1930 to 1934? A. I became acquainted with him mostly when he was District Organizer of the Communist Party in Ohio.

Q. Was that during the time that you have testified that you were in Ohio as an official of the Communist Party? A. That is right.

Q. Do you know Carl Winter? A. Yes, I know Carl Winter.

Q. Did you know him in the years 1930-1934? A. Yes, I did.

Q. Do you know what position he held within the Communist Party, if any? A. He was one of the leading members of the Party. What position he exactly held then, I don't recall at this moment.

Q. Do you know John Gates? A. Yes, I know John Gates.

Q. Do you know what position, if any, he held within the Party during the years 1930-1934? A. He was a
3288 leading member of the Communist Party and formerly a leader of the Young Communist League.

Q. Do you know Irving Potash? A. Yes, I know Irving Potash.

Q. Do you know what position he held in the Communist Party during the course of your membership? A. Yes. He was at that time a member of the District Committee of the Communist Party in the York District and one of the leaders of Communist Parties working in Labor Unions.

Q. Did he ever go to Moscow? A. Yes.

Q. How do you know? A. I arranged for him going there.

Q. Do you know Gus Hall? A. I know Gus Hall as a Party member. I don't recall what office he held at the time.

Q. Do you know Henry Winston? A. No, I don't think so.

Q. Do you know Claudia Jones? A. Yes.

Q. Will you tell us who she was? A. She was a Party member engaged in activities amongst the Negroes.

Q. Do you know Claude Lightfoot? A. Yes, I know Claude Lightfoot.

3289 He was in the Lenin School at the same time as I was.

Q. I am sorry, I didn't get the last of you reply. A. He was in the Lenin School at the same time as I was.

Q. Did you know Bill Schneiderman? A. Yes, I know Bill Schneiderman.

Q. Who was he? A. He was a member of the Party. What office he held at the time, I don't recall.

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3290 Cross examination.

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3428 Mr. LaFollette: Will you ask him the question again, and it will be very helpful to me, Mr. Witness, if you will just answer the question.

The Witness: Yes, Mr. Chairman, if this individual asks me——

Mr. LaFollette: Will you keep still?

The Witness: Well, I can't.

Mr. LaFollette: Will you answer the question that is asked you? Please ask him the question.

The Witness: I can't answer when I am bludgeoned.

Mr. Lenvin: May I address some remarks to the witness?

Mr. LaFollette: I wish you would take him out and admonish him.

3429 The Witness: I will not reappear here again.

Mr. LaFollette: That is very interesting. I find myself in the position where I am not sure that I can do anything about a contumacious witness. I am entitled to do something about a contumacious counsel. I am not even sure of just what support I would get.

Mr. Paisley: Mr. Chairman——

Mr. LaFollette: I am not charging you. Go ahead.

Mr. Paisley: May I suggest a recess, a cooling off period?

Mr. LaFollette: I think it would be an excellent time to have a cooling off period at which time, perhaps, some explanation would be given to this witness that he is to answer questions and it is the province of this Panel to determine what implication is to be put on them.

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Mr. Lenvin: Mr. Chairman, the witness has asked me to state that he did not intend any discourtesy towards the Chairman in his answer, but that his feelings had been exicited and exasperated by the charges made by counsel for the Respondent as to his having committed certain crimes, but he did not intend any discourtesy to the Chairman.

Mr. LaFollette: Mr. Witness, the statement made through your counsel is accepted.

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3442 Mr. LaFollette: I think that objection is a proper one. He can get right down to it and ask him how much money he has made by testifying for the Government. That is about as far as it goes.

There is another matter, before I hear these legal arguments.

Mr. Kornfeder, I want to say to you again that you are a witness in this proceeding, not a lawyer. You asked me something. I am considering whether or not your request will be made. I have no objection to that. I do not consider it orderly or proper or within the province of

3443 a witness to address himself to opposing counsel and I am admonishing you again for doing it and I want the record to show that at this time, when this occasion occurred, Mr. Marcantonio, Counsel for Respondent, was addressing the Panel in an ordinary tone of voice, was addressing no remarks to counsel, and there is no occasion whatsoever or an excuse to be offered for this continued injection by the witness of his own arguments with Counsel and if we cannot proceed without this, either the Presiding Member of this Panel is going to retire or the witness is going to retire.

The Witness: I am quite willing.

Mr. LaFollette: I shall ask the Board to authorize me, on that remark, to request a citation of contempt of this witness, unless there is an apology made within two minutes by him personally, not through Counsel. It is now one minute after 12 o'clock.

The Witness: If you tell me why I should make an apology, I will make one.

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3444 Mr. Paisley: Mr. Chairman, I would like to say this, that I am satisfied that the witness meant no disrespect to this Panel. I think he has been provoked and aggravated, but I am sure he meant no disrespect to this Panel.

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3446 Mr. LaFollette: I am going to make a statement. Any member of the Panel, when I have finished, is free to register his dissent and is requested to do so for the record.

It is my opinion that we cannot conduct an orderly hearing in this case unless a witness obeys implicitly the direction of the Presiding Member of the Panel; that this includes a continuation, by any witness, of conduct which is contrary to that about which he has been admonished by the Presiding Member of this Panel, on behalf of the Panel; that it is my opinion that the conduct of this witness, after we reconvened this morning and after an apology had been stated for him through his counsel and had been accepted, evidenced a determination on the part of this witness to continue the conduct about which he had been admonished and about which unquestionably he had been admonished by his counsel.

That question of whether this Panel may have available to it processes necessary to obtain a citation for contempt is a matter for the Board to determine. That issue
3447 is not now before us.

It is my opinion that the Board has the power, in the case of continued conduct which clearly disrupts the orderly conduct of the hearing, which violates an admonition of the Presiding Member of the Panel not to repeat certain conduct, which has the effect of preventing and disturbing an orderly conduct of these proceedings as the Presiding Member of the Panel construes such proper conduct to be, to authorize this Panel, in the case of this witness from now on or any other witness who may appear for the Petitioner or the Respondent and request the witness, to request that the witness be removed from the hearing room by the marshal and to order the testimony of that witness stricken from the record.

We will leave it the responsibility of Counsel to control the conduct of their witnesses. If the Panel so acts and does so order the testimony stricken, the right will be reserved to the Party, as to which the witness has testified against, and as to which his testimony has been stricken, to petition the Panel for the right to permit the witness to again return to the witness stand and for a reversal of

the Panel's ruling that the witness' testimony shall be stricken from the record.

That is all I have to say. If any other member of the Panel would like to dictate a record, he may do so.

Miss McHale: I concur with that statement.

3448 Mr. Brown: Of course, I agree that orderly procedure must be maintained in the hearing room at all times, however, having considered this matter in the light of all the circumstances surrounding the incidents to which Mr. LaFollette refers, I am not able to share the views which he has expressed with regard to the conduct of this witness.

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3483 Mr. LaFollette: With reference to the written material submitted to the Presiding Member of the Panel by Mr. Abt on behalf of the Respondents with reference to the positions held by Mr. Manuilsky, this material, if you wish, Mr. Abt, may be marked for identification at this time.

The offer at this time will be rejected.

Out of deference to the admonition given to the Presiding Officer of the Panel by Mr. Paisley yesterday, I will not say anything about the reasons for it.

(The document referred to was marked for identification Respondent's Exhibit CP 6)

Mr. Abt: I think we are entitled to know the grounds.

Mr. LaFollette: I am very sorry. I think I must confine myself to conduct which is pleasing to the Petitioner's counsel and which is concurred in by a member of the Panel, Mr. Brown.

Mr. Abt: I would simply like the record to show, Mr. Chairman, that the failure of the Panel to state the ground on which it is rejecting the offer places the Respondent in quite an impossible position. We don't know whether the

Panel is rejecting the offer on the grounds that no
3484 foundation has been laid to show and establish the authenticity of the information submitted.

If that is the ground for its rejection, then we will simply have to use our ingenuity to find ways of authenticating it.

If there is some other ground of objection that can be cured by establishing the authenticity of the information, then if we believe it is important to put this matter in evidence, and we do, we will have to find some other way of doing it, but we would be playing a guessing game here unless there is at least a brief statement of the grounds on which the offer is being rejected.

Mr. LaFollette: I have nothing more to say, Mr. Abt.

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3486 I have also reached a conclusion with reference to my role in these proceedings.

I have reviewed the record of yesterday and I recall vividly the facts which occurred in the hearing room yesterday, particularly yesterday afternoon, from which I have reached the conclusion that while it is a matter which does not rise to the dignity of contempt, there is very evidently a disdain for the Presiding Member of this Panel and his method of conducting this case on behalf of the Chief Counsel for the Petitioners, which quite evidently is being transmitted to the Petitioner's witnesses.

Much has been written about the difficulty of Judge Medina in conducting an orderly hearing. It must be remembered that factual action of witnesses there which was judged to be contumacious and of counsel was by people on behalf of whom there was no public opinion or public support.

In this proceeding, also factually, we recognize, or I do, that there is great public support for anything which the petitioner here proposes, which makes it impossible for me, notwithstanding the stalwart support which I received from my colleague, Dr. McHale, yesterday, to feel that I can conduct these hearings in a way which will be consistent with orderly procedure.

I do not believe that I will be able to exercise any control over any witnesses submitted by the petitioner and

3487 I think if I cease to exercise the prerogatives of presiding we will have a much more orderly process and there will be no delays by any statements made by the Presiding Officer, which seems to be so offensive.

Also, we will have a speedier hearing, I am sure, because the Panel Member, Mr. Brown, whom I have asked to preside from now on, has already evidenced the remarkable capacity to make speedy and immediate rulings upon all objections presented to this Panel.

The fact that they almost uniformly amount to a sustaining of any position taken by the Petitioner and a rejection of any position taken by the Respondent is purely coincidental, I am sure.

However, I cannot continue to preside in the face of the position, sustained by Petitioner's witnesses, of Petitioner's Chief Counsel, and the obvious concurrences in that position of the member of the Panel who sits on my right, Mr. Brown.

Therefore, I announce that from now on, I will not announce any rulings of the Panel and I request Mr. Brown to take this place.

If he desires to conduct the hearings from the position he now occupies, he may do so.

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3496 Mr. Abt: Mr. Chairman, there are two preliminary matters which we would like to present before we proceed with cross examination.

First, I would like to call the Panel's attention to the fact that as appears now from the record, and particularly the record of the proceedings on May 24, the last sitting of the Panel, the Panel now sits without a chairman, as far as the record is concerned.

Mr. LaFollette: I will dispose of that now Mr. Abt. I will read into the record the following memorandum dated June 1, 1951, Memorandum to Hearing Panel——

"The original hearing Panel, designation dated April 5, 1951, naming Members LaFollette, Brown and McHale as

the Panel selected to conduct the current Communist Party hearing, is continued in full force and effect, and such Panel is requested to continue to conduct the current hearing referred to, with Member LaFollette continuing to act as the presiding member of the Panel." Signed, Seth Richardson, Chairman.

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3498 Mr. Marcantonio: I object to any further proceedings in this matter and I base my objection on the language contained on page 1793, by the Chairman of the Panel, 1793 of the hearings, transcript of the hearings, dated May 24, 1951.

Mr. LaFollette: The objection is overruled. You may proceed with your cross examination.

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3543 Q. Did you discuss with him what you were going to say here? A. No. I know Mandel for thirty years. He knows what I know. We don't need to discuss it.

Q. Did you discuss the nature of the Panel before
3544 whom you were appearing? A. I asked——

Mr. LaFollette: I am going to deny that and grant your objection. I don't believe the chair was correct in interrogating Mr. Gitlow on that question. I have done it. I don't retract from that interrogation. But I don't believe we need to continue it. I will stand on that.

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3545 Q. When was the last time that you saw Mr. Mandel? A. The day when this hearing was adjourned, before I left for Detroit.

Q. You went from here to Mr. Mandel's office, or did you phone him first? That was on May 24 when we adjourned, correct? A. Yes.

Q. What did you do, call him up? A. I met him at the cafeteria at the House Building.

Q. Was that by accident or pre-arrangement? A. No, we usually eat there.

Q. Did you have an appointment with him? A. Yes, I called him up.

Q. When did you call him? A. Oh, shortly after this hearing adjourned.

Q. So that you phoned him right after the chairman announced the adjournment until June 4, isn't that
3545-A correct? A. Yes.

Q. You went to a telephone booth outside here and you made a call, isn't that right? A. Yes.

Q. And you called up Mr. Mandel, did you not? A. That is right.

Q. Did you tell him what happened here? A. No, we did not discuss what happened.

Q. You didn't discuss it over the phone at all, as to what happened here that morning?

Mr. Lenvin: He answered.

The Witness: Not over the phone, we did not.

By Mr. Marcantonio:

Q. You did not. And so you made a luncheon appointment with him over the telephone, is that right? A. Yes.

Q. And that is all you said over the telephone, you just had a luncheon appointment with him? A. I told him that the hearing adjourned unusually early and he asked why, and I said, "Well, I can't tell you over the telephone," so I met him later on.

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3547 Q. You met Mr. Mandel at lunch, correct? A. Yes.

Q. Did you discuss what transpired that morning with Mr. Mandel? A. Yes, I told him the hearings were adjourned for ten days and that the chairman threatened to resign as chairman from the Panel.

Q. That is all you told him? A. That was substantially what we talked about.

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3555 Q. Mr. Witness, at any time in your conversations with Mr. Mandel and at any place did you ever discuss the conduct of the Board or the members of the Panel in this case?

Mr. Lenvin: I object. It is wholly irrelevant.

Mr. LaFollette: That objection will be sustained.

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3559 Q. Have you ever given any instructions—you say as a result of what you learned in Moscow you gave lessons here in this country, did you not? A. Yes.

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3708 Q. At page 1560, do you remember being asked this question by Mr. Lenvin:

"Q. In view of Mr. Abt's statement, I ask Mr. Kornfeder if he has ever seen this particular issue of 'The Communist' dated March 1, 1921? A. Yes, I have. This is the official organ of the then completely united Communist Party of America."

Do you recall being asked that question and making that answer? A. Yes.

Q. Then, do you recall Mr. Lenvin saying he didn't have photostats at that time and that before he would introduce it he would show it to the chairman. Then it was marked for identification, and then the Chairman made a ruling on having it marked for identification and a ruling in connection with the photostats and that document that you identified was then admitted into evidence and it became Petitioner's Exhibit 123.

3709 That was the document that you identified as the official organ of the then completely united Communist Party of America, is that correct, Mr. Witness? A. Yes.

Mr. Marcantonio: May I have Petitioner's Exhibit 123?

By Mr. Marcantonio:

Q. Then you recall Mr. Lenvin saying the following:

"Mr. Lenvin: In view of Mr. Abt's previous statement, Mr. Chairman, I will now read from page 2 of this Exhibit, entitled 'Resolutions adopted by C. P. Convention, February, 1921,' sub-heading 'Resolution on Acceptance of the 21 points for affiliation with C. I.

" 'Communist Party of America, Section of the Communist Party of America, assembled in its special convention held in February, 1921, hereby reaffirms its position as an integral part of the Communist International. Special Convention, in conformity with the conditions for admission, adopted by the Second World Congress of the Communist International, and after discussion and due deliberation, endorses and adopts unanimously on roll call vote the 21 points for affiliation with the Communist International as binding upon all the delegates present and for its entire membership without any reservations.' "

3710 Do you recall Mr. Lenvin reading this to the Panel here after you had identified Petitioner's Exhibit 123 as the official organ of the then completely united Communist Party of America? A. I don't recall him reading it. I recall the item.

Q. You recall the item and you recall having identified it as an organ of the then completely united Communist Party of America. Look at it. Tell this Panel if that is an organ of the then completely united Communist Party of America? A. Yes; as far as I know, it is.

Q. You still say that it is? A. Yes.

Q. All right. Now, Mr. Witness, start with the first column on the left, right here, read to the Board this paragraph here, commencing with the word "after." A. "After waiting in vain for the United Communist Party to comply with the mandate of the Communist International to hold a joint convention upon the basis of proportional representation with the Communist Party, in order to effect unity between these two parties, a convention was called by the C. E. C. in compliance with 21 points for affiliation with the Communist International and to revise its program and

constitution in conformity with the thesis and statutes of the C. I."

3711 Q. Now, do you still say that this is the organ of the completely united Communist Party, of the then completely united Communist Party of America? A. No, I am in error.

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Redirect Examination

3737 Q. When you applied for a passport in 1927, did you swear falsely? A. Yes.

Q. Why? A. My instructions were to obtain a passport under somebody else's citizenship papers.

Q. Did you make any false statements in your application for a passport when you applied for one in 1930 to go to South America? A. No, not to my knowledge.

Q. Mr. Kornfeder, did you teach at any Communist Party schools? A. Yes.

Q. Can you identify the school and the date when you taught? A. I taught a course in what then was known as the Workers School in New York at the National Party headquarters on the subject of communist labor union tactics and the strategy and, also, on the subject of Leninism.

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3741 Q. What did you teach regarding your course in communist labor union strategy tactics? A. Well, under that course I taught how to organize secretly, instead of unorganized plants, how to form groups inside of labor unions for the purpose of getting control of such labor unions, how to prepare for a strike and how to carry on a strike after a strike is called out. That, in brief, was the substance of that course.

Q. And what did you teach regarding Leninism? A. Leninism, I taught the main doctrines of Lenin which called for the complete and total overthrow of all existing social institutions, the Government, the existing organizations that support the Government, the complete elimination of

the present state structure and its substitution by a dictatorship led by the Communist Party.

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3772 **William Odell Nowell**

was called as a witness on behalf of the Petitioner,
3773 and having been duly sworn, was examined and testified as follows:

Direct examination.

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3774 Q. So that you were a member of the Communist Party from approximately the middle of June, 1929, until December of 1936; is that correct? A. That is correct.

Q. Now, at the time that you joined the Communist Party, where were you employed? A. I was employed by the Ford Motor Company.

Q. Where? A. Detroit, Michigan.

3775 Q. And what particular unit or branch of the Communist Party did you join? A. I was assigned to—my recollection is that it was Unit 3, Shop Unit 3, as a Ford shop unit.

Q. Mr. Nowell, what is meant by "shop unit"? A. A shop unit is a group of Communist Party members employed in industry.

Q. At the time that you joined the Party, that is the Communist Party of the United States, did you take an oath or pledge of membership? A. I did.

Q. Do you recall the substance of that pledge? A. Yes, I do.

Q. Will you give us the substance of that pledge, please? A. The substance, as I recall it, is that I would carry out the line of the Communist Party, carry out assignments that were given to me at all times and at all times adhere to the principles of the Communist Party and the Comintern. That is the essence. The exact wording, I am not sure.

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3787 Q. In the organizational structure, and in actual practice, in what manner is authority and discipline imposed on the membership of the Communist Party?

. . . . . .

3788 The Witness: All lower committees in the Communist Party are subordinate to the higher committees, therefore, in actual practice authority descends upon the membership from the top.

Q. How far from the top, sir? What is the main organization from which the authority and discipline flows down? A. In the National Party during my membership, the main authority was the Central Committee. Above it stood the Executive Committee of the Communist International which was the top authority.

. . . . . .

3818 Q. Let's get this straight. What does TUUL stand for, sir? A. That is Trade Union Unity League.

Q. And what was the Trade Union Unity League? A. It was a national parent organization affiliated with the Red International Labor Unions in Moscow.

Q. And you say that the Automoble Union, Workers Union, that you belonged to was a member of the TUUL? A. It was.

Q. How do you know that? A. I represented the Auto Workers Union at the founding convention of the TUUL in Cleveland, Ohio, in 1929.

Q. I think you have explained, but I didn't get it straight. What was, rather, the TUEL? A. That was the Trade Union Educational League, a similar national organization, national parent to which various independent Communist-controlled unions were affiliated. It was an organization controlled by the Communist Party.

Q. What instructions, if any, did you receive in connection, as to your duties and the purpose of organizing the TUUL, in substance?

Mr. Abt: The witness has not testified that he did take part in organization the TUUL.

Mr. LaFollette: I think he said he attended the
3819 founding convention of the TUUL. I understood him to say that. Go ahead.

Mr. DeNunzio: That is what I thought.

The Witness: In the early summer of 1929, we received instructions from the Central Committee of the Party to prepare the groundwork for the organization of the TUUL. National organizers were sent out to assist the districts in preparing the groundwork for this convention, which was the founding convention of the TUUL.

There was an elaborate program worked out prior to the convention, which was adopted at the convention and later published. It outlines the entire program of the TUUL. There is too much detail to it to go into it here. The central idea was to organize industrial workers in the basic industries.

Q. What kind of industries? A. In the basic industries.

Q. Very well. A. And to maintain hegemony in these unions and to use them as schools of Communism and as a means of bringing economic pressure and collapsing the National Economy and facilitating, that is in aiding and facilitating the revolution, the proletarian revolution.

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3821 Q. You have stated that the TUUL was affiliated in some way with the Red International. Is that right? A. That is correct.

Q. How do you know that, sir? A. I personally have reported to the Red International of Labor Unions in Moscow for my union and for the TUUL in the Profintern.

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3844 Q. During your membership in the Communist Party, did you join any other organization, in addition to those that you have already testified to, on orders, requests or instructions from any member or officer of the Communist Party of the United States? A. I did.

Q. What other organizations? A. I joined the Workers Educational Association which was in charge of the cultural activities.

Q. Give us the date, please, at what time. A. I joined that association around the latter part of 1929 or first of 1930.

Miss McHale: I didn't get the name of the association.

The Witness: The Workers Educational Association. This association was in charge of the workers camp, an immigration organization operated by the Communist Party.

By Mr. DeNunzio:

Q. A workers camp? A. Yes.

Q. What kind of a camp was that? A. It was a
3845 camp operated for immigrational purposes ostensibly, but was used to bring people closer to the Communist Party, to supply them with entertainment and lectures and various types of recreation.

Q. Where was this camp situated? A. It was located at 12 Mile and Halstead Roads outside of Detroit.

Q. Was that located near or in the City of Detroit? A. Near the City of Detroit.

Q. Now, did you hold any office in the Workers Educational Association camp which brought you in connection with this camp? A. Yes, I did.

Q. What office did you hold? A. I was president of the Workers Educational Association, that is, the Michigan chapter, and Director of Cultural Activities for the workers camp.

Q. As an officer, what were your duties in connection with this camp? A. My duties were to carry out the educational program, arrange lectures, secure speakers, hold forums, prepare campaigns. Generally that covered my work as cultural director.

Q. Did you have occasion to visit the camp? A. I did.

3846 Q. During what period of time? A. Oh, from 1930 up through 1936.

Q. 1930 through 1936? A. Except for about a year and a half when I was away.

Q. How often did you visit that camp, if you recall? A. Almost weekly.

Q. Would it be during the mid-week or weekends, or when during the week? A. Mostly weekends.

Q. On the occasion of your visit at the camp, was there other attendance, other individuals, other people at the camp? A. Yes, there were.

Q. What was their purpose there? A. Well, the larger number were there for recreational purposes. Also quite a number from the communist-controlled organizations were there in addition to cultivate the new-comers for political purposes.

Q. During your visits to this camp, were there any speeches or lectures in connection with any political activities? A. Yes, there were.

Q. Can you give us the nature or the substance of any one of those speeches? A. I don't know whether I recall the specific words——

3847 Q. The nature. A. —of the speech. Most of the candidates that had been run for office came there and spoke. We frequently had speakers from the national office of the Communist Party, speakers from the communist-controlled trade unions and sometimes outside speakers who were not members of the Communist Party.

Mr. LaFollette: May I interrupt you, Mr. DeNunzio?

Mr. DeNunzio: Yes sir.

Mr. LaFollette: When you say "most of them were political candidates," you mean political candidates of the Communist Party or candidates of any party who might be running in the Detroit area?

The Witness: Just the candidates running on the communist slate.

By Mr. DeNunzio:

Q. Mr. Nowell, on the occasion of your visit to this camp, did you notice any emblems or flags on display at the camp? A. I have seen flags there on occasions.

Q. Are you able to describe to us at this time those flags or emblems that you may have see there? A. We had the American flag, we had the Red flag on some occasions, decorations, and some other emblems. I don't recall just the exact nature of them.

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3849 Q. Will you please describe the Red Flag that you saw on occasions at that camp? A. The flag was a solid red background with a hammer and sickle in the center.

Q. A sickle? A. A hammer and sickle in the center.

Q. Do you know of what nation that flag was? A. Yes, I do.

Q. What nation? A. The Soviet Union.

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3860 Q. Mr. Nowell, let me ask you, do you know at whose direction the Red flag was displayed at that camp? A. No, I don't know who was directly responsible, that is the person, but we had what we called an anti-militarist group.

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3861 The Witness: I know who kept the flags and were responsible for putting them up. I was going to say
3862 that an anti-militarist group which the Party maintained was in charge of putting up those flags and I do know who was in charge of that.

Mr. LaFollette: All right. Who was that?

The Witness: I don't know that they put this flag up. I was not there when it was raised.

Mr. LaFollette: Who was in charge of this group?

The Witness: George Sleigh; John Marr, and another active worker in the group was Ed Goldheimer.

Other members of this group—I don't recall all of the names—but I knew them by sight.

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Q. Now, do you know the purpose for displaying the Red flag of Russia at these camps?

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3864 The Witness: I do know the purpose from experience, for the reason that the flag was raised.

By Mr. DeNunzio:

Q. Keep your voice up. A. I say I do know why it was raised.

Mr. LaFollette: How do you know?

The Witness: On my return, before I went to Russia as a delegate in 1929, I carried—that is when I went I carried a flag from my union to the workers of an automobile plant in Moscow. Jeanett Pearl who was National Organizer of the friends of the Soviet Union gave me thorough instructions as to the purpose of this exchange of flags. It was a Red flag with the Auto Workers emblem rather than the hammer and sickle. I brought back a huge flag, almost as large as one of those windows, a red velvet flag with a hammer and sickle in the center. I used that flag at lectures on Russia, so my experience in the exchange of these flags and using the Red flag is that it was used to bring people nearer to the Communist ideology, to make friends for Soviet Russia. In other words, emblem signifies the fatherland of the working class in Communist parlance or Communism as practiced in Soviet Russia, so it was an invitation
3865 for them to come closer to or come into the Communist Party. It was designed to influence them towards Communism.

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3878 Q. Do you know whether or not the Daily Worker was an official organ of the Communist Party? A. Yes, it was the official organ.

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3893 Q. Mr. Nowell, did there come a time when you did arrive in Russia? A. There did.

Q. And after arriving in Russia, what did you do as a delegate? A. I personally, together with the other members of the delegation, went into a conference with the representative from the American Communist Party in Russia.

Q. What was the name of that representative? A. His name was John Ballum.

Q. Is that "u-m" or "a-m?" A. "U-m."

Mr. Abt: "U-m."

By Mr. DeNunzio:

Q. And do you know what Communist body—yes, what Communist body in the United States he represented
3894 at the Communist International? A. He was the representative from the Communist Party of the United States to the Communist International, at least one of them.

Q. On the occasion of this conference of the American delegates with Mr. Ballum, did you discuss anything in connection with trade unions? A. Yes, I did.

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The Witness: He informed me, and that was my first meeting with Mr. Ballum, he informed me that he was a member of the Trade Unions and had represented the TUUL and the old TUEL in the Red International Unions in Moscow.

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Q. Did you meet at that time any other American representatives of the Communist Party in Russia? A. I did.

Q. Can you name any of those for us, that is, in
3895 addition to the members who traveled as U. S. Delegates? A. I met—one may say these are representatives. They were students in the Lenin School, some of whom were serving in the Communist International and on certain bureaus.

I met Harry Haywood, who was serving on the International Negro Bureau of the Communist International. I met William L. Patterson, who was a student in the Lenin School at the time. I met Celia Parinsky from the American Communist Party. She was our interpretor. And several other students from the American Communist Party in the Far Eastern University.

Q. You have mentioned the name of William Patterson. Is that the same William Patterson who is now the National Secretary of the Civil Rights Conference? A. Yes, it is the same Patterson.

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3954 Q. Mr. Nowell, what purpose did that pamphlet serve the members of the Party? A. This pamphlet, being the Thesis and Resolutions of the Seventh Convention, was the prime authority in the program policy and tactical orientation for the period between 1930 and 1934.

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3968 Q. What was the nature of the discussion that you had with Mr. Stachel? A. Well, Stachel began the discussion. He approached me after the convention and told me that it was unfortunate that I had made the kind of speech that I did, that I had been recommended, and was a candidate for the Central Committee of the Party, and they were forced to remove my name because my speech did not conform to the program and policy of the Communist International on the negro question.

3969 He went on to state that his reason for supplying me with the latest point of view of the Comintern, in the series of articles that had appeared before the convention, was that I would not fall into such an error.

I stated to Stachel that I had expressed my honest point of view. Perhaps I was not clear on the question, but I spoke what seemed to me to be the proper orientation towards this question in the so-called black belt, as well as the problems of negroes in the northern states.

That was the gist of the conversation that took place between myself and Stachel.

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3972 Q. I show you what has been marked for identification Petitioner's Exhibit 134——.

(The document referred to was marked Petitioner's Exhibit 134 for identification.)

By Mr. DeNunzio:

Q. —I show you what purports to be a bound volume of the publication known as "The Communist" for the period of January through June, 1931, and I direct your attention to the article appearing in the February, 1931, issue of "The Communist," and I further
3973 direct your attention to page 153 of that issue, and ask you whether or not you have seen a similar issue of "The Communist" containing the same article, that is, an article with the identical text? A. Yes, I have seen a similar issue containing this resolution, this same text.

Q. What is the title of that resolution? A. The title is "Resolution on the negro question in the United States."

Q. And will you read the next line, which is in italics? A. The next line reads, "Final text, confirmed by the Political Commission of the E. C. C. I."

Q. And as a member of the Communist Party, what significance did the confirmation by the Political Commission of the E. C. C. I. have to you? A. That confirmation meant to me that the Executive Committee of the Communist International passed this resolution.

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3974 Q. Mr. Noweli, was there any difference in the
3975 theory expressed in the second resolution, from the theory expressed in the first resolution?

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3977 The Witness: There is no difference in the fundamental theory. That is, that the negroes in the Black Belt of the south constitute a nation, but the second resolution goes much further and is critical of a certain, what we learned to be, incompleteness of the first resolution, and the use of terminology which the latter resolution deems misleading, and basically, theoretically erroneous.

That one word I want to refer to is "race." The
3978 Comintern became very critical of the use of that term in theorizing on the negro question, following the Fourth Congress of the Communist International.

The resolution, here, which I studied and taught, states that the negro question, in the United States, is a national question, rather than a race question, that the basis of this question is the agrarian problem—that is the problem of agriculture, of backwardness and medieval remnants in agriculture, and the exploitation of these remnants, as the resolution indicates, by finance capital.

Thus it contends that in the basis for its strategy, in dealing with this problem in the south, must involve tactics applicable to the agrarian revolution.

Therefore, the negroes having certain economic conditions in common, and a certain territory in common, where it is said that they constitute a majority, a certain culture in common, and of similar racial origin, which has resulted in their being more or less delineated as a separate group, has produced, the resolution contends, the basic characteristics of nationality as opposed to race.

Therefore, the second resolution rejects the designation of race, as basic, in the analysis and treatment of the question.

It also plays down industrialization in the South which the previous resolution emphasizes, and on which later

3979 the Party split with Jay Lovestone and others, the latter of whom held the theory that industrialization would liquidate the backward areas of the South, indicating that the problem there could be solved after a democratic fashion rather than through rebellion and revolution. At least the Comintern read that into it.

The third difference is that while the first revolution puts forward the demand for self-determination, it does not specifically state that the Communist Party shall demand, or demands, self-determination up to the point of separation, unconditionally.

This resolution, the last one, demands unconditional autonomy—separation, or secession, and the establishment of a separate negro government in the Black Belt of the South.

However, it, as the former resolution, but in a manner more elaborate, states that in case this rebellion should occur as a part of the Proletariat revolution and self-determination should be achieved as a result of this whole process, and the conclusion of such a rebellion and revolution should establish a Soviet America, it would be the duty of Communists to urge the negro republic to become a part of Soviet America.

If no such revolution has occurred, that is no such Proletarian revolution has occurred, the Communist Party of the United States shall support the rebellious gov-
3980 ernment of that republic in its opposition to the Government of the United States, destined to weaken the Government of the United States, and aid the Communist Party in the precipitating and executing the Proletarian revolution.

These are essentially the differences in those resolutions.

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Q. Mr. Nowell, are you familiar with the origin of the second resolution? A. I am familiar with it.

Q. Where did it originate? A. That resolution was drawn and passed by the Executive Committee of the Communist International.

Q. How do you know that? A. At the 1930 Plenum, which was held in New York around August, or at least the latter part of 1930, the Central Committee had the resolution.

My recollection is—and I am reasonably certain that my recollection is correct—that it was announced, and discussed the matter personally with Jack Stachel, that the completed text of the resolution had arrived.

This latter resolution took the place of the former,
3981 as a continuation of the line of the Communist International on the negro question in the United States.

I further confirmed the source of this resolution in Moscow, in 1931, when I was a student in the International Leninism School, studied the resolution there as a part of the national and colonial question.

I also discussed it at length with Otto Kuusinen, Secretary of the Communist International, head of the Anglo-American Commission, who edited the resolution.

So from my own experience in dealing with the E. C. C. I. and its members, I know that this resolution was drawn and passed by them, and sent to the American Communist Party, to be carried out.

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Q. During your membership in the Communist Party, was the program for the self-determination of the negroes in the United States ever repudiated or abandoned
by the Communist Party of the United States?
3982 A. No, it was not.

Q. During your membership in the Party, were any steps taken by the Communist Party to implement this program? A. Yes, definite organizational steps were taken to implement this program, and execute it in practice.

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3994 Q. Mr. Nowell, you testified earlier that you also made a trip to Russia in 1931, is that correct? A. That is correct.

Q. When, in 1931, did you make the second trip? A. I left the United States in the later part of August, if I remember correctly around August 26, and arrived in Russia in September, the first of September.

Q. What was the reason——

Mr. Marcantonio: I didn't get that.

Mr. DeNunzio: August 26, 1931.

By Mr. DeNunzio:

Q. What was the reason for your second trip? A. I was sent to attend the International Lenin School.

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3996 Q. Did any individual or individuals tell you the purpose of sending you to the Lenin School? A. Yes. Yes, they did.

Q. Who were those individuals, if you remember? A. Ralph Baker, who was then National Organizational Secretary, explained to me why I was being sent, and Earl Browder explained to the students as a group, why they were being sent to the International Lenin School.

Q. What did they say was the reason for you being sent to the Lenin School? A. Browder explained to me, along with——

Q. Who was that? A. Browder.

Q. All right. A. Browder explained to me, along
3997 with others, that we were being sent to the International Lenin School to be trained as professional revolutionarists, as Party leaders, that the revolutionary movement was growing, that the world's economic crisis was intensifying, that revolutionary situations were developing in a number of countries, and that this demanded that the Party pay particular attention to the development of leadership and raising the political and idealogical leadership of its membership to compete with this objective political situation.

He went on further to state that it would be our duty, on our return, to apply what we learned there in the lines

of socialism to the condition in the United States for the ultimate overthrow of American capital, the American Government, and the establishment of a Soviet America.

Baker gave more technical instructions. He told me that I particularly was being sent because they thought I needed some clarification on certain questions. That while I had certain qualities that the Party admired and which could be very useful to it, they felt that I would gain a great deal by studying there for a year or a year and a half, and that he wanted me to commend myself to the job they had for me there and try to make the best possible use of my studies.

Q. Did others from your district make the same trip with you? A. Yes, there were several others.

3998 Q. From your district? A. Yes.

Q. Were there students from other districts, if you know? A. Yes, there were students from several other districts, also.

Q. And did you travel in a body? A. We did.

Q. In a group? A. Yes, we traveled on the same boat. In that sense, we traveled in a group.

Q. From what port did you embark to make the trip? A. New York.

Q. And who made the arrangements for your passage to Russia? A. Irvin Potash was placed in charge of arrangements for the delegation, and he did make the arrangements and secured tickets and so on.

Q. Did you pay for your own passage? A. I did not.

Q. Do you know whether or not other members of your group paid for their pasage? A. I don't know definitely, but I am sure they didn't.

Q. Do you know who paid for your passage to Russia?

A. I do know that the Central Committee paid our

3999 fares. They dispensed the money for the tickets.

Q. How do you know that? A. I was told, personally mentioned the fact that the expenses, the instructions of the District were, that the Central Committee would pay the expenses of the students.

I was also told again in New York by Baker, and I understand each student was also told the same, that since the Committee was paying our fares, that we were responsible to it in our conduct and in our studies, to make good in our studies abroad.

Q. You mentioned the name Irving Potash. Who was Irving Potash? What position did he hold with the Communist Party? A. Potash at that time was a member of the Central Committee, and of course the Party. He was also a Trade Union leader there in New York, which is not a Party organization directly, and if I remember correctly he was also a member of the Trade Union Commission of the Central Committee, and a member of the National Board, along with me, of the TUUL.

Q. Mr. Nowell, did you testify in the New York trial of the eleven Communists? A. I did.

Q. Was Irving Potash one of the eleven defendants?

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4001 The Witness: Yes, he was.

By Mr. DeNunzio:

Q. And is he the same Potash who made arrangements for your trip to Russia? A. Yes, he is the same person.

Q. Mr. Nowell, do you remember the names of any of the other students who made this trip with you? A. Yes, I remember some of them.

Q. Would you name them, please?

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The Witness: As I recall, Charlie White, George Hewitt, from New York, Sam Nessin, from New York, Beatrice Siskin, Phillip Raymond, John Marr, William Brown—there were approximately 30 in the delegation. Some I know under aliases, and I don't know their correct names.

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4002 Q. Mr. Nowell, was there any member of the Communist Party who was in charge of your group, enroute to Russia? A. Yes, there were.

Q. Was there more than one? A. Yes, there were three, in fact.

Q. Then will you name them, giving their official positions, on the occasion of this trip? A. Potash was in charge. He was the head of the committee in charge. He was assisted by Beatrice Siskin or Beatrice Shields and another member whose name was John Scoven. That is an alias. I have forgotten his correct name.

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4003 Q. Before embarking on the ship, did you receive any instructions from any members or officials of the Communist Party as to your behavior enroute to Russia? A. Yes, we did receive such instructions.

Q. And from whom? A. From Mr. Potash.

Q. And will you give us the nature of those instructions, as to what your behavior should be? A. Well, he instructed us not to use our correct names as he couldn't be sure who was on the boat and he wanted our identity and our destination concealed, as nearly as possible, that in port we should not go out together in large groups—at least not more than two—to beware of strangers, not to talk to strangers
4004 about any political subjects, and to not attend any public meetings, and to come in at a reasonable hour, to be sure not to get embroiled in anything that might make our identity known to the police.

Those were essentially the instructions—oh, and more, not to associate together on the boat, to keep apart as much as possible and not talk with strangers.

Q. And in conformity with those instructions did you use a name other than your own name? A. I recall that I did pick up some sort of a name for the passage. I don't recall just what it was now.

Q. You don't recall which name you used? A. Not on the boat. I recall the name I used later, in Russia, but for the passage I just simply didn't use my own name. I chose some name at random.

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4010 Q. Do you know if the Anglo-American Secretariat was responsible to any higher authority in connection with administering the Lenin School? A. Yes, it was.

Q. To what authority was it responsible? A. It was responsible to the Executive Committee of the Communist International.

4011 Q. How do you know that? A. I knew that from contact with both, in the solution of certain problems that arose in the course of my studies at the International Lenin School.

I worked closely with the Anglo-American Commission throughout the year and four months that I was in the school, and at the conclusion, or near the conclusion of the term, I sat with the Anglo-American Commission and the Political Secretariat of the E. C. C. I., and participated in the drawing of a resolution for the American Communist Party.

This resolution was designed to end the factional situation that had arisen in the Lenin School and in the American Communist Party.

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4014 Q. What subjects were you taught at the Lenin School? A. We were taught Marxism and Leninism, Marxian Economics, history of the labor movement, trade union and strike strategy, history of the Communist International, and its organizational structure, history of the Communist Party of the Soviet Union, history of the American Communist Party, the national and colonial question, international propaganda, and we were taught certain practical subjects.

We studied the structure at first hand of the Soviet system in Russia, its economic structure, and the theory and practice of Soviet economy, both theoretically and practically.

We also studied the science of civil warfare, also a practical subject.

I believe that covers most of the subjects we studied.

Q. As an American student, were you taught any subjects which had special application to the United States?

A. Yes, we did study such subjects.

Q. What subjects were those? A. Well, most of our subjects—in fact all, as far as possible—were what the
4015 school heads term "nationalized." Not only did we study the theory of Marx, Lenin and Stalin, and other Communist leaders, and the program of the Communist International, but we adapted it to the particular conditions of the United States, in accordance with instructions and documents of the Communist International, analyzing the economic and political conditions in the United States.

Hence, in the science of civil warfare we took into account the particular political and economic conditions of the United States, the culture of the people, the terrain, the whole of the history of this country and the history of the Communist Party; and up to the moment political analyses of feelers to determine the degree of political maturity of the revolution in the United States.

Therefore, in this elaborate practical subject, the science of civil warfare, we were taught to adapt that particularly; both politically and militarily, to the conditions prevailing within the United States, with the object of actually destroying the economic system in the States, and establishing the dictatorship of the Proletariat.

Q. Specifically, what were you taught in the course in civil warfare? A. Well, as a continuation of our theoretical studies, most of which in themselves were a science of class warfare, in fact they were a science of class warfare, we were taught how, in theory and also in practice, to
4016 convert economic strikes into political strikes, and thence into general strikes, that would lead, if the political conditions were mature, to rebellion and uprisings, and could possibly precipitate the revolution.

In actually carrying out the revolution, we were taught the military details, both in legal warfare, and in guerilla

fighting: how to carry through, in the capturing of cities, through the building of barricades, barricade fighting, sniping, hand grenade throwing; we were taught code—secret code—and we were drilled in gas mask drills, target practice, we were taught to sabotage, how to take over the system of transportation, or sever it to make it useless to the legitimate government forces, to seize the food supply to feed the guerilla fighters, and how to deflect, as a continuation of our work started in the armed forces, deflect detachments of the Army to fight with the insurgents and the guerilla fighters, and could combine illegal warfare with legal warfare.

Also, we were taught the value of, and how, to take and hold hostages, capture arsenals and how to arm communist supporters, and to utilize communications system or make it useless for anyone else who wanted to use it, and even controlling or destroying the food supply, the water supply, and whatever proved to be the better tactic in waging total revolution for the capture of power.

4017 These were some of the major tactical measures that we were taught in the science of civil warfare.

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4022 Q. All right, Mr. Nowell. Now, directing your attention to the time in which you were a student in the Lenin School, did any of the subjects which you studied involve the negro question in the United States? A. Yes.

Q. What was the nature of the subject or subjects, concerning the negro question in the United States? A. It was taught as a part of the national and colonial question.

Q. And what were you taught specifically, concerning the program for self-determination of the Negro in the United States?

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4023 The Witness: We were taught; in the International Lenin School, that the Negro question in the United States was a part of the colonial question, differing from

the classical colonial problem in some respects, but generally of the same character; that the foundation of the colonial problem was the agrarian problem and imperialist exploitation by the mother countries, mother imperial countries.

Therefore, the basic demand and necessity and struggle of the colonial people, that the communists must lead, was for the right of self-determination, for national independence from the mother countries, and that we were to establish a hegemony over these movement, and to break and to help these colonial countries break themselves away from the mother countries, and thereby to weaken those countries and aid the Proletariat and the Communist Party in those countries to precipitate and carry through with a proletarian revolution and the establishment of a communist dictatorship.

Therefore, the Negro question in the United States—this applied also to the Negro question in the United States, because it was of the same general character as the colonial problem.

4024 Mr. LaFollette: Who taught the course in Russia?

The Witness: There was a Russian instructor who taught that course. I don't recall his name now.

Mr. LaFollette: Proceed, Mr. DeNunzio.

By Mr. DeNunzio:

Q. Did you at any time, during the course involving the negro question, state any views concerning the self-determination program? A. I did state my views on the question.

Q. And were the views which you expressed in classes substantially the same as the ones you had expressed at the seventh communist convention? A. They were essentially the same.

Q. Were you in favor or opposed to the program for the self-determination of the Negro? A. I was opposed to self-determination for the Negroes in the United States.

Q. Did any of the other students in the American section express their views in connection with the negro question? A. Yes, some did. Others sympathized, although they didn't express themselves openly.

Q. Did any of those students hold the same view you have? A. Many of the students of the American Lander group held similar opinions as mine.

Mr. LaFollette: We will rise until 3:15 at this time.

(Recess taken.)

4025 Mr. LaFollette: Come to order, please.

Proceed, Mr. DeNunzio.

By Mr. DeNunzio:

Q. Mr. Nowell, why were you and some of the other students opposed to the program for the Negro question in the United States? A. I can only speak for myself in this case, otherwise it would be hearsay.

I do know why the others said they were opposed to the self-determination, but——

Q. Well, state why you were opposed? A. —but I will just state my own position.

Having studied the Negro problem in the South ever since my youth, being a Southerner myself, I understood it, and I still understand it fairly well.

I studied all of these so-called characteristics of nationality, I compared the Negro question in the United States with that of certain colonial countries, like Jamaica, Africa, China, India, and various other colonial countries, and I found distinct differences, and certain peculiarities about the Negro question in the United States that does not or did not then, nor does now, exist among the colonial peoples.

Major among these is this: that Negroes, even in the southern part of the United States are distributed about among the remainder of the population in a way that
4026 you cannot say that they are in any separate or distinct territory.

Secondly, the culture of American Negroes is basically American. It varies in some respects, but is basically American. Religion, language, more or less common territory, and even economic circumstances are pretty generally the same. The system of land tenure is not only limited to Negroes. It is also true of a large number of white farmers in the South.

Therefore, I did not feel, on the basis of a scientific analysis of this economic problem, and the other so-called national characteristics, or those things that constitute national characteristics, that they were sufficiently prominent to warrant a demand or a movement for separation and secession from the territory of the United States and the establishment of a separate government.

Further, I concluded that the policy of the Communist Party, insisting mechanically on such an end, would lead to the setting up or the attempt to set up a buffer state, almost in a pincher between two major portions of American territory. It would be an antagonistic buffer, constituting a minority, as it does, and used after a revolutionary fashion could do nothing more than provoke racial warfare and bloodshed and national chaos, and would lead to the sacrifice of hundreds of thousands, no doubt, of lives of colored and white Americans in futile combat for
4027 an attempt to achieve some revolutionary end dictated from Soviet Russia.

Mr. LaFollette: Excuse me, may I ask you just one thing? Was your word "feudal" or "futile?"

The Witness: "Futile."

Mr. LaFollette: All right.

The Witness: Therefore, sensing the danger inherent in this sort of strategy, and these tactics, and seeing the way that satellites are used and sacrificed by the Soviet system——

Mr. Abt: Objection, and move to strike, Mr. Chairman.

The Witness: —I could see——

Mr. LaFollette: Objection overruled.

The Witness: —I could see the parallel, between the use of this problem in the South, and the way that I had seen not only individuals but large sections, even of Communist Parties and nations, sacrificed futilely to protect the interests of the Communist hierarchy.

4029 Q. As a result of your views and expressions concerning the Negro question during your attendance at the Lenin School, was any action taken against you while you were in Russia? A. Yes.

Q. What action was taken?

Mr. LaFollette: Mr. DeNunzio, do I understand that the witness has testified that he stated these views which he has just stated now? That he stated them in Russia?

Mr. DeNunzio: Not these views. His opposition. That was my question.

Mr. LaFollette: All right. Go ahead.

Mr. DeNunzio: That was part of the reason for

4030 his opposition.

Mr. LaFollette: Let me ask you, Mr. Nowell. Did you state, to any of your fellow students, or did you state publicly, any of the facts which you have just related in your answer to your next previous question?

The Witness: I did.

Mr. LaFollette: While you were in Russia?

The Witness: I did, in essence.

Mr. LaFollette: All right.

The Witness: Perhaps not in as systematic a fashion as I am stating them here, but in essence I stated them.

Mr. LaFollette: All right. Go ahead, Mr. Witness.

The Witness: I was charged in an indictment and tried, in Russia.

By Mr. DeNunzio:

Q. What was the nature of the charges brought against you? A. I was charged with being in opposition to the line of the Communist International and the Central Com-

mittee of the American Communist Party on the Negro question.

Q. And by whom were the charges made? A. The charges were first made by the Bureau of the Lenin School, the Political Bureau, on instructions from and in collaboration with, representatives of the Communist International.

4031 Q. Did any representatives from the Communist Party in America participate in the charges filed against you? A. Yes, sir. Both in the original charge and the elaobration of those charges, and the further hearings, occurred after the first hearing or trial.

Q. Now directing your attention to the original charges, what members of the Communist International participated in the charges against you? State their names, if you recall them. A. A. Mangulin, of the Anglo-American Commission participated; Gerhardt Eisler, of the Anglo-American Commission, participated; Clarence Hathway, of the Anglo-American Commission, participated; Mrs. Irene Browder, wife of Earl Browder, participated.

Later, Joseph Piatnitsky himself, Organizational Secretary of the Communist International, participated.

And other members of the Central Committee of the Communist Party of the United States, who came to Russia.

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4032 Q. How many charges were filed against you, Mr. Nowell? A. The original charge was elaborated into a series of at least two other charges, derived from the original charge.

In the first place, I was accused of a theoretical, political error, because of my disagreement with the political theory, practice, and policy of self-determination.

In the second charges, it was developed that I had pursued this so-called erroneous cause to the point where I was organizing factional support of my policy, my point of view.

And in the last analysis, and as a part of this second charge, because a number of other students of the Lenin School supported me, some of whom were colored, and some of whom were white, they charged that I organized a Negro group in support of my policies, not mentioning the fact that a large number of white students also supported me, and that this constituted Nationalism, Negro Nationalism.

So these were the two later charges that were developed out of the original charge.

Q. You say that Clarence Hathway participated in the charges filed against you?

Who was Clarence Hathway? A. Hathway was a representative from the American Communist Party to the Communist International.

Q. What position did he hold in the Communist International? A. He was American representative there, and a member of the Anglo-American Secretariat.

Q. Did Gerhardt Eisler participate in the charges? A. He did.

Q. Was he a representative to the Communist International? A. He was.

Q. Do you know what Communist Party, what nation he represented? A. At that time he represented the Communist Party of Germany.

Q. Do you know whether or not Morris Childs participated in the charges preferred against you? A. He did.

4034 Q. Who was Morris Childs? A. Morris Childs was a member of the Lander Secretariat of the Comintern. He was from the American Communist Party, and at that time was associated with Jack Yteschenko, who was OGPU Chief of Police of the School.

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4035 Q. Do you recall the names of any other representatives to the Communist International who participated in the charges filed against you, besides the ones that you have already mentioned? A. Yes, I do.

Q. Name them, please. A. There was Bill Lawrence.

Q. Bill who? A. Bill Lawrence. That is an alias. I knew him under that alias. Beatrice Siskin. A fellow by the name of Yarris. I have forgotten his first name. Mintz. Professor of Philosophy. Peters.

Q. What is Peters' first name? A. William Peters. That is an alias, but it is one of the aliases he used.

Q. What position did he hold in the Communist Party? A. He succeeded Robert Minor as a representative from the American Communist Party to the Communist International.

Q. Was Robert Minor there at the time? You say he succeeded Robert Minor? A. Yes, he succeeded
4036 Minor, but Minor remained in Moscow.

Q. And what Communist Party did he represent? A. Minor represented the American Communist Party in the Communist International, succeeding Clarence Hathway.

Q. Can you recall any others who participated in the charges filed against you? A. Yes. Amy Schecter of New York, who was——

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The Witness: Overegaard; Otto Huiswood, representative from the American Communist Party to the Red International of Trade Unions; Earl Browder, Secretary of the Communist Party of the United States at that time; Harry Heywood, Member of the Central Committee
4037 of the American Communist Party.

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Q. Did Jack Stachel participate in the charges filed against you? A. Yes, Stachel did participate.

Q. And what part did he take in the charges that were filed against you? A. Stachel, together with Brow-
4038 der, Gerhardt Eisler, and Harry Heywood, prosecuted the charges in a series of trials that were held, to mobilize the student body, which had been split on this issue. They made their speeches within the nature of a

prosecution. That was the type of participation that they took.

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4049 Q. Did you meet any other Russian communists who were representatives to the Communist International whom you later met in the United States? A. Yes, I did.

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4050 The Witness: One was Gerhardt Eisler, whom I had met in Russia in 1931 and 1932.

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4051 Q. Well, did there come a time when you met Gerhardt Eisler in the United States? A. There did.

Q. And when did you meet Eisler in the United States? A. In the summer of 1933.

Q. Where did you meet him in the United States? A. I met him in the Party offices of the Communist Party in Detroit, Michigan.

Q. At the time that you met him, was he using the name of Eisler? A. No, he was not.

Q. What name was he using? A. He was using the alias, Edwards. However, in conversation, since I had known him about——

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4054 Q. Now, directing your attention to the occasion when Earl Browder was in Russia, do you know whether or not he made any speeches before any bodies, other than the discussions which took place concerning the charges filed against you? A. Yes, he did make other speeches. At least one that I know about.

Q. Were you present? A. I was.

Q. Where was the speech made? A. It was made in the Communist International.

Q. Do you recall the nature of that speech? A. I do.

Q. Would you give us the substance of it, as you remember it? A. The speech dealt in substance with the Far

East, as it affected—as a part of the International situation Browder stated that his report was made for the
Central Committee of the American Communist
4055 Party. He went on to analyze the progress of the depression in the United States, and generally the political and economic situation, and related it to the world situation.

Then he dealt at some length with what he called the "crystalization of an axis between Britain, the United States and Japan in the Far East," for the purpose of launching an attack against Soviet Russia.

That constituted the essence of his speech.

Q. Were any of the other American students present at the time when he made this speech? A. Yes, the entire American student body was present, except a few who were out on vacation.

Q. One more question: Do you know whether or not members of the Communist International were present at the time that he made his speech? A. Yes, some were, at least. Joseph Piatnitsky was present, Otto Kuusinen was present, Gerhardt Eisler was present.

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4062 Now, how do you know that this was a report being made for the Central Committee of the American Communist Party? A. Browder announced,
4063 when he took the stand in the Communist International, that he was making this report for the Central Committee of the Communist Party of the United States, a report which he had previously delivered before the Central Committee in the United States.

Q. On the occasion of this report, and in your presence, did anyone respond to his report? A. Yes, the Communist International, that is Kuusinen and Piatnitsky, and other members of the Executive Committee of the Comintern, had a conference, and they assigned the representative from the British Communist Party to rebut Browder's report, that is certain portions of it considered erroneous by

the Executive Committee of the Communist International.

Q. And do you recall the name of the British representative who was chosen to respond to the speech of Mr. Browder? A. I was trying to think of his name. At the moment, I don't. At the moment, I don't recall his name, I know him quite well, but his name slips me.

Q. You don't recall his name? A. For the moment, I don't.

Mr. DeNunzio: May I have this document marked Petitioner's Exhibit 135 for identification?

Mr. LaFollette: It may be so marked.

(The document referred to was marked Petitioner's Exhibit 135 for identification.)

4064 By Mr. DeNunzio:

Q. Mr. Nowell, I am going to show you what has been identified as Petitioner's Exhibit 135, which is a bound copy of the publication known as "The Communist" for the period January through June, 1932, the issue of April, 1932——

Mr. Abt: April or May?

Mr. LaFollette: The photostat is May, Mr. DeNunzio.

Mr. DeNunzio: I am sorry, it is May.

By Mr. DeNunzio:

Q. May, 1932, and I direct your attention to the article appearing on page 392, and ask you whether or not, during your membership in the Communist Party, you have seen a similar copy of "The Communist," containing an article with the identical text as that shown there? A. Yes, I have seen the issue, and the text.

Q. Will you read the title and what follows, before the text itself? A. The title is "Japan, America and the Soviet Union." The subheading reads: "Extracts from the speech of Earl Browder at the Plenum of the Central Committee, April 17, 1932."

4091 Q. While a student in Russia, did you pay your
4092 own living expenses? A. I did not.

Q. Who paid them? A. They were paid by the Communist International and the Russian Government.

Q. How do you know that? A. Well, we lived on Soviet property, as our dormitories.

Mr. Abt: Pardon?

Mr. LaFollette: As our dormitories.

The Witness: Our dormitories were on Soviet property. They were rent-free.

We ate in the school cafe or dining hall, and that was free. We were paid 50 rubles a month by Soviet citizens. Our traveling expenses were paid by the Russian Government and our expenses were paid by th Communist International and the Russian Government.

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4094 Q. From whom did the fifty rubles a month come, that you received? A. We were paid by the school cashier, in the school's Secret Department.

Mr. Abt: In the School's what?

The Witness: Secret Department.

Mr. LaFollette: Secret Department. The School's Secret Department, S-e-c-r-e-t.

By Mr. DeNunzio:

Q. Did the other students receive the same monthly stipend that you received? A. They did.

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4139 The Witness: Notably, as I testified to yesterday, or as I said in my testimony yesterday, near the conclusion of the term at the Lenin School, I was called into the Anglo-American Commission by Otto Kuusinen, Secretary of the Communist International, to draft a resolution on the American question.

When the draft was completed, we took it to the Political Secretariat of the Executive Committee, and completed it.

4140 The Presidium, including Kuusinen, Manuilsky, Piatnitsky, Losovsky, and others, voted on the resolution in my presence, and instructed the American representative to carry out—to send a copy of this resolution to the Communist Party of the United States, and that this resolution be carried out. In answer to my question that a copy be sent to the Lenin School, and one to the District Committee of the Freunze District, of the Communist Party of Russia, Piatnitsky's answer to me was that "The decisions of the Comintern are binding, and this is why we are here, and I am going to send this document to the America Communist Party and if the Lenin School wants one they can have one."

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4142 Q. On the occasion when you were a student at the
4143 Lenin School in Moscow, were you taught anything concerning the Communist theory of State? A. I was.

Q. Will you state what you were taught? A. I was taught the Leninist concept of the State. In that analysis of a State, as given to us in lectures, it was stated that the state arises as a result of irreconcilable class contradictions in society, and stands as a force in society, designed to force a reconciliation of class contradictions.

The conclusion reached by our instructor—and he frequently referred to the text—was that if such contradictions as he outlined could be reconciled peacefully, there would be no need for the State.

Therefore, he concluded that the State was an instrument of force, designed to force the will of one class on another. This was the elemental and lasting role of the State. Of course, he went on to develop the Communist concept of the State under more modern conditions, under the conditions of what he termed "imperialism," where the state becomes intertwined with—in fact, becomes the executive committee of the capitalist class, the instrument in the hands of the so-called capitalist class to suppress the

working class, to force its will upon the working class, which was exploited in capitalist industry, under
4144 various conditions in capitalist society.

Therefore, his conclusion was that, in order to abolish the capitalist system, it was necessary, firstly, to abolish and destroy, completely, the capitalist state machinery—that is, the armed forces, the executive leaders, the Congress, and the President—all of those who made up the personnel and the other segments of the State, and that this theory of the State was the key to the theory of the dictatorship of the Proletariat, which would replace the capitalist state, and which would destroy the remnants of capitalist economy and establish socialism.

That is generally what I was taught as regards the State—both the capitalistic and the socialistic State.

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4146 Q. During your attendance at the Lenin School, as a student, were you taught anything in connection with the form of Government existing in the United States?

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4147 A. Yes, I was taught that the Government of the United States was no exception to the government of other capitalist states, and in fact, the theory expounded by what the communists termed as such renegades of communism, were completely unfounded—notably, the theory supposedly advanced by Jay Lovestone, and his group, that American capitalism was an exception and was stronger than other capitalist states, and thereby dealing with it would require different tactics.

Our instructor went on to quote from the text of Lenin, "The State And Revolution," wherein he states that British and American capitalism, particularly since the world war—World War I—have entered into—as well as Europe—the bloody days—I don't know whether that is the exact term used or not—the days of imperialism, and also have international imperial ambitions.

These are his words now, in essence, as I continue: that the government of the United States was the executive committee of the capitalist class within the United
4148 States and was subject to the same laws of growth and development and decay as all capital states, and that the proletarian revolution dictatorship of the Proletariat was necessary, and equally as inevitable in the United States as in other capitalist countries, and that it would be our duty, as communists, to work for the overthrow of the Government of the United States and establishment of the dictatorship of the Proletariat, in the form of the Soviet, and under the hegemony of the Communist Party of the United States and the Comintern.

By Mr. DeNunzio:

Q. And were the other students attending classes with you taught the same theory, concerning the Government of the United States? A. They were.

Q. Did you, in turn, teach the same theory in the United States, at the Detroit Workers School? A. I did.

Q. Mr. Nowell——

Mr. LaFollette: Excuse me a minute. Mr. Nowell, were these other students taught matters with reference to the states from which they came, or were they taught also an analysis of theories about the Government of the United States? I am not sure what you meant by your answer.

The Witness: Well, they were taught——

Mr. LaFollette: What I am trying to say is, if
4149 there was someone from France or Brazil, would they be taught about the United States, or would they be taught about Brazil or France? What is your answer, or do you know?

The Witness: I do know that.

Mr. LaFollette: All right.

The Witness: They were taught the role of the State in general, and its inevitable decay, and the necessity for overthrowing it—that is the capitalist state—in all countries, and particularly their own governments. The subjects

were nationalized to particularly characterize the conditions existing in particular countries, so that students from France were taught particular political and economic situations in their own country, and the role of their state, as were the American, Canadian, and other students from various countries.

Mr. LaFollette: All right.

By Mr. DeNunzio:

Q. On the occasion when you attended the Lenin School, in Moscow, what were you taught as to the line, the ultimate aim, of the Communist Party, concerning the capitalist and imperialist states?

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The Witness: I was taught that the class struggle prevailed throughout the capitalistic world, and the
4150 contradiction, internal contradictions of these states were sharper. That their policies, internationally, as imperial powers, were becoming more pressing against the colonial people. Therefore, in the face of and in view of these objective conditions, political and economic conditions, that it would be the duty, and the necessary duty, of the Communist Party of the United States, as a part of world communism, to work for the overthrow of these imperial nations, and in the course of preparing the groundwork for that overthrow to cultivate the national revolutionary movements of the colonial countries, and to unite with the movement of the proletariat in their home countries for the complete abolition of imperialism and the capitalist state and the establishment of world socialism.

By Mr. DeNunzio:

Q. And were you taught that that was the line and the ultimate aim of the Party in connection with the Government of the United States? A. I was so taught.

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4151 Q. Were other American students taught the same theory as applied to the United States?

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The Witness: Yes, they were, in my presence, taught the same theory and practice.

By Mr. DeNunzio:

Q. Did you, as a teacher in the workers' school of Detroit, teach these same theories, aims and objectives of the Communist Party? A. I did.

. . . . . .

4176 Q. Mr. Nowell, you stated in your last two answers that you were taught, at the Lenin School, in Moscow, that it was the ultimate aim of the Communist Party to bring about the overthrow of the Government of the United States.

Were you taught how that overthrow was to be accomplished?

. . . . . .

The Witness: Yes, I was.

4177 By Mr. DeNunzio:

Q. How was it to be accomplished? A. It was to be accomplished by the revolutionary overthrow of the American Government, by force and violence.

Q. Was any specific period of time set for the overthrow of the Government of the United States? A. No, no specific time was set. The time was left to the high command, dependent on the maturity of the revolutionary situation.

Q. Mr. Nowell, in your studies, during your membership in the Communist Party of the United States, did you ever hear of the term "Partial demands" used in the writings and literature of the Communist Party? A. Yes, sir.

Q. What is meant by the term "Partial demands?" A. "Partial demands" are demands dealing with limited

grievances on everyday problems, demands which conform to the framework of democracy and democratic procedure.

However, these demands, it was explained to us, are always subordinate to the object of the general strategy of the Communist International and the Communist Party.

Mr. LaFollette: By whom was it so held?

The Witness: In the Lenin School, and in our discussions in the conventions, bureaus, and various committees.

Mr. LaFollette: When you say "conventions, bu-
4178 reaus, and so forth, are you referring to the Communist International or the Communist Party of the United States?

The Witness: Yes, sir, I am referring to both.

Mr. LaFollette: You are referring to both?

The Witness: Both the Communist International and the Communist Party of the United States.

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Q. What were you taught, if anything, during your studies at the Lenin School, as to the connection between the partial demands, which you have just described and the ultimate objects and aims of the Communist Party?

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4179 The Witness: I was taught in the Lenin School, and my whole experience as a Communist, was that the partial demands put forth by the Communist Party inextricably tied up with the ultimate objectives of the Party. That these demands served as tactical means of mobilizing for the more general and long-range objectives of the Party.

To be specific, we studied the object of the general strategy, which is the final overthrow of the capitalist governments of the world through the proletarian revolution.

This general strategy breaks down into segments of tactical strategic periods. Therefore, we speak of the tactical line, covering a certain period of time.

Within this strategic period, there are segments of shorter periods of strategy. These strategic periods, and the strategy used, break down into tactics.

These tactics are the cutting edge of the more
4180 general strategy, as general strategy tactics, to give it a cutting edge.

Mr. Marcantonio: A cutting what?

The Witness: Cutting edge.

Therefore, I was taught and instructed, and I in turn taught and instructed, this relationship of tactics and strategy.

Correspondingly, the propagaganda and agitation department, the propaganda breaks down into agitation. Hence the partial demands of the Party are inseparable from and subordinate to, its ultimate objectives, the overthrow of the Government and establishment of a dictatorship of the proletariat.

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Q. Mr. Nowell, were other students, American students, who attended school at the same time that you attended school in Moscow, taught the same thing? A. They were.

Q. And did you later teach the same thing in the Workers School at Detroit? A. I did.

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4182 Q. Mr. Nowell, during your membership in the Communist Party, and while you were a student at the Lenin School in Moscow, were you taught anything in connection with just and unjust wars? A. Yes, I was.

Q. Will you tell us what you were taught? A. In accordance with Lenin's Thesis on War—I am not here now discussing the Thesis——

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The Witness: I now refer to what we were taught, that a war on the part of a colonial country against its mother country, for liberation, was considered a just and justified war.

A war of the Soviet Union against a so-called imperialist adversary, is considered a just war on the part of the Soviet Union, no matter how that war may have originated, whether Soviet Russia was the aggressor or the other way around.

Therefore, it boiled down to this: and this is not my conclusion.

4183 It is the conclusion of my mentors and instructors: that at all costs, the Soviet Union must be preserved.

All contradictions prevailing, or existing, between the so-called capitalist powers, must be exploited. It must be the tactic and strategy of the Soviet Union to create and exploit such contradictions between the powers whom she conceives as potential enemies, or actual enemies.

Therefore, in the event of a war between two so-called imperialist powers, it would be our duty to so weaken—I say our duty, in the period of my membership—to so weaken those powers, including our own government, if it were participant, or one of its own allies, if it were a participant, that both would be destroyed in the war and the Soviet Union would be left a clear field of conquest.

Hence, any war against the Soviet Union, no matter who was the aggressor, is considered an unjust war, and the position of the Soviet Union is considered just, although it might be the aggressor.

By Mr. DeNunzio:

Q. Mr. Nowell, during your membership in the Communist Party, and while a student in Moscow at the Lenin School, what were you taught, if anything, as to the role of the American Communist Party in the event of a war between the United States and the Soviet Union? A. I

4184 was taught that my first duty, as a Communist, would be to defend the Soviet Union.

More specifically, to carry on sabotage, to advocate and carry on strikes, to stop munition shipments, or stop the manufacture of munitions, to shut down industry through strikes, to carry on extensive anti-war propa-

ganda, and propaganda for the defeat of the Government of the United States.

Furthermore, it would also be my duty to persuade, by all means possible, the armed forces to lay down their arms and not to fight against the Red Army, and to welcome and support the Red Army in case of Red Army invasion.

We were taught that the Red Army is the Army of the American Workers, and in the event of such a war we should welcome them with open arms and support them with all the revolutionary means we were taught in the science of civil warfare, and with all the propaganda and agitation means we were taught, in theory and in practice.

Q. Were the other students who attended the Lenin School at the same time you attended, taught the same thing? A. They were.

Q. Mr. Nowell, did you in turn, after your return to the United States, teach the same thing at the Workers School in Detroit? A. I did.

Q. During your membership in the Communist
4185 Party, and while a student at the Lenin School in Moscow, what were you taught, if anything, as to the duty of the American Communist Party in the event of a war between a nation, which is an ally of the United States, and Russia?

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4186 The Witness: In the case of a v[illegible] between the Soviet Union and a nation allied of the United States, we were taught to do everything possible to defeat that ally of the United States, through the obstruction of shipment of arms, through propaganda campaigns against intervention, against the war, through collaboration between the Communist Party of the United States and the Com-
4187 munist Party of such an ally, for the defeat of that allied Communist Party's own government, that is the government of the country in which it was operating, and to defend the Soviet Union, under the slogan of convert this imperialist war of intervention into civil war with

in our own countries, for the defense of the Soviet Union, and for the ultimate victory of the revolution.

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4199 Mr. LaFollette: Well as I understand, you said there was a change in tactics, beginning with the seventh world congress.

The Witness: That is correct.

Mr. LaFollette: And you testified that this arose out of the changed world situation. Proceed to say what the tactics were, and if you will, how you know why there was a change. I mean, who told you why there was a change, not your own construction.

4200 The Witness: My discussion on the basis of the resolutions and reports before the seventh world congress, and my instructions, in the carrying out of these directives, were that the defense of the Soviet Union was necessary against the threat of nazism and fascism; that because of this situation, it was necessary to reorient the Communist Party towards building mass movements, getting mass support for its policies.

Therefore, the People's Democratic Front, as an instrument in the hands of the Communist Party, was organized, or attempts were made to organize this People's Democratic Front, to secure the collaboration of the heretofore larger groups and organizations in support of that policy, and of governments who were inimical to nazism and fascism.

At the same time, we were directed, by the officers of the Party, nationally, to work, in the meantime, after the instruction and admonition of Dimitroff in his report to the seventh world congress, to strive to infiltrate these organizations and take them over, including the Government of the United States, and to direct its home and foreign policy to make it subservient to the objectives of the Soviet Union.

This Dimitroff characterized it as the Trojan Horse policy, which operated under the cover of the People's Democratic Front movement. This, I know, was taught and

in turn taught, was the reason for, and constituted
4201 the tactical reorientation beginning around 1935, and extending up to the time that the Soviet Union made a pact with Adolf Hitler.

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4241 Q. Do you also remember mentioning Dimitroff's report in the Seventh World Congress of the Communist International? A. I do.

Q. Mr. Nowell, during your membership in the Communist Party, did you confer with any officials of the Communist Party concerning the text in the pamphlet entitled "Resolutions of the Seventh Congress of the Communist International," including the closing speech of G. Dimitroff? A. Yes, I did confer.

. . . . . .

4242 Q. And what was the nature of your conferences with officials of the Communist Party concerning the text? A. The first discussion was a meeting of functionaries at which the district organizer gave the report on the resolutions and decisions of the Seventh World Congress. Subsequently——

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4243 Q. Do you remember the approximate time of your conferences concerning the text? A. That was the latter part of 1935.

Q. With whom did you converse? A. William Weinstone and other functionaries of the Michigan District of the Communist Party.

Q. Where did you have these conversations? A. In Detroit, Michigan.

Q. Now, will you give us the nature of your conferences with Mr. Weinstone and other officials concerning the tactical changes? A. I was instructed in line with the report, Weinstone's report to the functionaries and membership meeting and the resolutions to proceed to set up certain organizations in accordance with the People's Front policy.

In fact, preparatory to the Seventh World Congress we had begun, under instructions from the Central Com-
4244 mittee and the District Organizer, to re-orient certain of the existing organizations, like the I. W. O., the language federations, or remnants of the same, to convert these into broader and ostensibly more democratic types of organizations, designed, as we were told, to enlarge the numbers of people that we had not reached up to that time.

This particular conference with Weinstone in the fall of 1935 had to do with reorganizing what had been known up to near that time as the League of Struggle for Negro Rights.

I was instructed to take charge of a city-wide fraction taken from all units of the Communist Party in that district, in the Detroit area, and begin to infiltrate other organizations, churches, cultural groups, fraternal organizations and whatever organizations we could penetrate to lay the basis——

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4246 Q. Mr. Nowell, tell us what you did when you infiltrated, so-called infiltrated or penetrated. Use other words than "infiltrate" and "penetrate."

Mr. LaFollette: State what you did.

The Witness: I was instructed to send Communist Party members into these organizations, to have them join them or to work within them and to secure people who would support the program that I was trying to carry out.

I was told to be careful of my method of work, so as not to expose the Party within these organizations, for fear of alienating people who we are trying to get to go along with us.

That is what I meant by infiltrating or whatever you want to call it. For lack of a better term, I simply said "infiltration."

. . . . . .

4247 The Witness: In accordance with these instructions, I proceeded to send Communist Party members into various organizations for the purpose of securing delegates to a convention, to establish or set up the Detroit chapter of the National Negro Congress. From time to time in the course of this activity, in accordance with the instructions given, we held conferences as to the nature of our work relative to the instructions given, in line with the report of the District Organizer on the resolution and decisions of the Seventh World Congress.

In the year 1935, out of this effort, the National Organization of the National Negro Congress was established in Chicago, conforming to the new type of reorientation as set forth in the resolutions of the Seventh World Congress, executing or directing the Communist organizations to develop People's Front groups and to weld them into a national People's Front.

Also, I cooperated with the leaders of the Bulgarian and Macedonian organizations——

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4248 The Witness: We, also, received an instruction—by "we," I mean the officers and members, or those active in any form of capacity, of leadership to reorganize the language federations, those under communist control—to conform to the instructions implicit in the resolutions and decisions of the Seventh World Congress.

The Bulgarian and Macedonian organizations were reorganized after a fashion and a People's League, a Macedonian People's League was set up, set up similar to the International Workers' Order. Various groups of the International Workers' Order were broadened and following out an earlier instruction of the I. W. O. and to work into the insurance organizations and get benefits as a base for People's Front operations, to include large numbers of people that the Party had not been in a position to reach before that time.

The Civil Rights League was reorganized into the Civil Rights Congress. I could go on to a number of organizations that we reoriented who conformed to the tactical policies and tactical lines set down in the Thesis and
4249 Resolutions of the Seventh World Congress.

. . . . . .

Q. Now, Mr. Nowell, were the memberships of these various organizations which you have mentioned one hundred per cent communist? A. They were not.

Q. Was there a group of communists in each organization? A. Yes, there was.

Q. What was the purpose, if you know, of this group of communists in each one of these organizations that you have mentioned?

. . . . . .

The Witness: The purpose of these groups of communists, which we call fractions, Communist Party fractions; was to influence the policies of those organizations and to guide them along the lines of the Communist Party
4250 policy in setting up this People's Front movement.

I so instructed the fractions under my control and participated in the instruction of fractions in various organizations as to what they were to do in executing this policy.

Mr. LaFollette: What specifically did you tell them, just the fraction under your control?

The Witness: I told them to go, firstly, in two's and three's to these groups, participate in their meetings, take the floor and make suggestions as to the improvement of the workers of those organizations, to raise certain issues that affected the people in the community and suggest a means of solving those problems in the—one might do this in the Young People's League, in the Baptist Church, the Christian Endeavor League, the Baptist Young People's Union, the adult organization of the men's groups in the church, in the Elks, Odd Fellows, the Masons, or any other group

in which they could gain entrance or, if not, to fake out membership in those organizations or if they had a friend who belonged, to cultivate him and get him to put proposals across, and in that way to gain an entree to begin to shape the policies of those groups, the policies of the Party and the establishment of this congress that I have mentioned previously.

4251 Q. What was the Communist Party of the United States doing at the time you left the Party in connection with the program of the People's Front organizations?

The Witness: Aside from and together with the work we were doing in various cultural and fraternal groups, we were then under the same instruction, carrying out
4252 the policy of infiltrating, that is, of getting into and getting control of various labor unions with the aim in view of controlling these groups. Notably, I was instructed in 1935, along with a group of people who had been or were then employed in the automobile industry, to work for communist control of our local unions and to gain hegemony in the C. I. O., the Congress of Industrial Organizations. It wasn't called the Congress then, but some time later it assumed the name of Congress of Industrial Organizations.

My recollection is that at that time it was called the Committee of Industrial Organizations. After the big strikes in 1936 in Detroit, of course, the Party counted on the C. I. O., without reflection on the C. I. O., itself, as a part of the People's Front movement to influence American home and foreign policy in conformity with the International People's Front movement outlined by Dimitroff in his speech at the Seventh World Congress and the subsequent resolutions, embodying his suggestions as a directive to the members of the Communist International.

4291 Q. Mr. Nowell, I show you Government Exhibit, which has been identified as Exhibit No. 142, which is entitled "Why Communist," by M. J. Olgin, and ask you whether or not during your membership in the Communist Party you have read a pamphlet of a similar title containing the same text? A. Yes, I have.

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4292 Q. Directing your attention, Mr. Nowell, to the inside fly leaf, where the various editions of this pamphlet appear, I ask you whether or not as manager of the book store you distributed and sold any pamphlets similar to this one in a prior printing or prior edition. A. I was going to explain—this is in answer to your question—that during the time that I was manager of the book store in 1930 this pamphlet had not appeared, however, in 1933, when the first edition appeared I was also on the board of the book store as director of education. In that capacity I participated in the supervision of the distribution of literature. Therefore, in 1933 I did supervise the distribution of this pamphlet.

By Mr. DeNunzio:

Q. Mr. Nowell, as a teacher at the Communist
4293 Workers School in Detroit did you use this pamphlet to teach classes? A. Yes, I did.

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4326 By Mr. DeNunzio:

Q. Mr. Nowell, I show you Government's exhibit which has been identified as No. 145, a pamphlet entitled "The Communist Party—a Manual on Organization," by J. Peters, and I ask you whether or not during your membership in the Communist Party you saw and used that pamphlet? A. Yes, I did use this pamphlet. I read it and used it in my classes on Party organization in the Workers School.

Q. Did you use it while you were teaching at the Workers School in Detroit, Michigan? A. I did.

4327 Q. Do you know whether or not that pamphlet was sold by the Communist Party book store in Detroit? A. We kept it stored in the book store. This is not a pamphlet for sale to the general public. It is an internal Party document that was sold to Party functionaries, Party leaders, for their guidance on organization problems.

Q. Were you told by any official of the Communist Party what use was to be made of this pamphlet? A. Yes, I was.

Q. Who told you? A. William Weinstone, also John Smeds.

Q. What were you told as to the use that was to be made of this pamphlet? A. I was instructed to distribute, to urge the Party functionaries to read this pamphlet as a guide to Party organization because it relates the Party theory, its program and organization comprehensively and, therefore, was considered during the period of my membership one of the best documents thus far issued on Party organization.

Q. During your membership in the Communist Party, was this manual ever repudiated? A. No, it was not.

Q. Did you ever meet the author of that pamphlet? A. Yes, I did meet him.

4328 Q. Where did you meet him? A. I met him in Moscow, Russia.

Q. If you know, what was he doing in Moscow, Russia? A. He was representative from the American Communist Party to the Communist International.

Q. Mr. Nowell, did you know J. Peters by any other name? A. Yes, I did.

Q. What other name or names? A. I knew him by the name of Alexander Stevens, William Peters, and Clarence Miller.

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4341 Q. You left the Party when? A. At the end of 1936.

Q. And during the year of 1936, did you have the occasion to use this pamphlet? A. Yes, I did.

Q. How widely was it distributed in 1936, if you know? A. In 1936—it was largely limited in 1936 to the top Party functionary, section organizer, section district members, district bureau members, district committee members and fraction secretaries and fraction leaders of the Communist Party.

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4722 **Paul Crouch**

was called as a witness on behalf of Petitioner and having been first duly sworn, was examined and testified as follows:

Direct Examination:

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4742 Q. You also mentioned visiting the Soviet Union. What was the date that you arrived at the Soviet Union? A. Around Christmas of 1927, to the best of my recollection.

Q. How did you happen to visit the Soviet Union? A. Well, first of all, I had received an invitation from the Society of Cultural Relations, a branch of the Soviet Government, to make a visit to the Soviet Union as a guest of the Government during the fall of 1927, but my primary —the primary factor in my visit was the instructions
4743 received by a Comintern—that is a Communist International representative, named Nassonov, that I should go to the Soviet Union—

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4744 Q. What duties were you to perform, if any, while you were in the Soviet Union? A. I was to attend meetings of the Executive Committee of the Communist International, the Young Communists International, a World Congress of the Red International of Trade Unions, to be held in March of 1928 and I was to meet with the General Staff, with the General Staff officers of the
4745 Red Army, for the purpose of formulating a program of work inside of the United States Army, obtaining answers to questions Nassanov was unable to give.

Q. What was your primary position, if any, in the American Party at the time? A. My primary position was head of the Communists Party Department for Work in the Armed Forces of the United States.

Mr. LaFollette: Excuse me, Mr. McKittrick. I want to know what time this was.

The Witness: This was from October, about the first of October, 1927, until 1930, during which time I headed the Communist Party's Department for Work in the Armed Forces.

Mr. LaFollette: Thank you very much. Go ahead, Mr. McKittrick. I am sorry to interrupt you.

By Mr. McKittrick:

Q. Who was the head of the Secretariat that you mentioned as having some part in deciding you should go? A. The head of the Secretariat was William Z. Foster, National Chairman of the Party.

Q. Is that the same William Z. Foster now head of the Communist Party? A. It is.

Q. How was your passage to the Soviet Union arranged?

A. My passage was arranged by AMTORG, a branch
4746 of the Soviet Government with offices in New York, which arranged for me to sail without charge aboard an Italian freighter, chartered by the Soviet Government, sailing in December of 1927 from New York City to the Port of Novorossisk, I believe, on the Black Sea. I am not sure of the spelling.

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4747 Q. Let me reframe the question. From what source did you obtain your travelling expenses for this trip? A. From the Central Committee of the Communist Party of the United States.

Q. How were your living expenses defrayed while you were in the Soviet Union? A. Primarily by the fact that I was on the pay roll of the Communist International at 110 rubles per month from the time of my arrival until

departure, plus hotel expenses and, also, by the fact that I was a guest of the Soviet Government and of the Communist Party in the various cities I visited.

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4762 Q. Mr. Crouch, while you were in Moscow, where were you paid? A. I was paid at the disburser's office in the Communist International Building.

Q. How often were you paid? A. Twice a month.

Q. Did you ever observe anyone else receiving pay at the times you received your pay? A. I observed others, yes.

Q. Where did you live while you were in Moscow? A. I lived at the Hotel Lux on Tvirskaya Avenue,
4763 Moscow.

Q. Did any other American Communists live at the Hotel Lux, to your knowledge? A. Yes.

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Q. Would you name some of the other American Communists living there? A. The other American Communists living there during the time I was there, throughout that time, were Sam Darcy and J. Louis Engdahl and part of the time Harrison George and Earl Browder.

Q. Did you pay any money for the occupancy of your quarters in the Hotel Lux? A. No, I did not.

Q. Now you have told us the purpose of your
4764 visit to the Soviet Union. What, if anything, did you do after you arrived at Moscow, in connection with your assigned purpose in going to the Soviet Union? A. Oh, I did many things, the first of which was to meet with the General Staff officers of the Red Army at a meeting held in the Hotel Lux in the room of Mr. Nassanov, give a report on the American situation insofar as work in the Armed Forces was concerned, present our rough, tentative draft of work, present our questions and I received answers to those questions and detailed directives from the Red Army and General Staff officers.

Q. Who was present at that meeting besides yourself? A. Mr. Nassanov, Marshall Tukhachevsky, two other General Staff officers whose names I cannot now recall and a Red Army officer translator.

Q. Did anything result from this meeting? A. Yes.

Q. Well, what happened at this meeting? A. First of all, I gave a general report on our plans of work in the United States for sending Communists into the Armed Forces. I asked them many questions Nassanov had been unable to answer in the United States, such as how many should we send into the Army in relative numbers, what are the tasks when they go in and how are they to operate, should we send small numbers or large numbers into
4765 the National Guard, the ROTC, the CMTC and other military organizations, whether we should give military training in schools operated by the Communist Party and the Young Communists League in the United States, that we could arrange to send leaders of the Communist Party to Moscow to receive military training through the Red Army, whether I should receive such training in the Soviet Union to prepare me better for my responsibilities in the United States, what slogans we should raise and agitation in the Armed Forces of the country, and so on, and I received the answers to these questions and directions on our work, the major one being that we should send a small, carefully selected group into the United States Army and Navy and they should be sent in on a concentration basis, not to scatter our energies, that the number one concentration should be Panama because of the vital importance of Panama to the national security of the United States in time of war, because that with an organization in the Army, coordinated with the civilians there, they would be able to cripple American transportation through the Canal.

The second point of concentration was to be Hawaii and next to that the ports around New York and San Francisco, that we were to send some of our numbers into the Navy,

that these people were to work very carefully and cautiously, the first consideration must be to serve their enlistment without being detected by military intelli-
4766 gence, that the most conspiratorial precautions must surround all of their work, and, as regarding the National Guard, that we should send in large numbers who were to work less secretly, who were to work to try to disrupt discipline in the National Guard and make it unfit for fighting operations, that we should not give advance military training in the schools operated by the Communist Party, that it would be foolish, that we should realize it would be foolish to go to the expense of giving military training to our Communist leaders when we could obtain this at the expense of the American Government, and, therefore, that through entrance into the ROTC, Reserve Officers Training Corps, and in the National Guard and other military organizations, our members could receive much better and more efficient military training than elsewhere.

My plan for work, for a program of draft demands in the Army was approved but with a qualification and a caution that our demand for a union of soldiers, sailors and marines was to be an agitational slogan without any expectation that it could ever be realized. The plan also directed us to include in our working armed forces the muntion factories and the Navy yards, to send members of the Communist Party and Young Communist League into those places to obtain employment.

We were directed that in the Navy Yards they were to form joint units of the Communist Party and the Young Communist League, to belong to the same units, to
4767 work together, coordinate this work. We were also directed to utilize, to establish squads of girls in our anti-military apparatus, as it was called, to have these girls trained for distribution of leaflets, for carrying on correspondence with service men, for making contacts with them to bring them to dances and parties, so that they

could be recruited into the Communist movement. Also, I was informed that the American students of the Lenin School were already receiving military instruction, but was promised that the military instruction given them by Red Army officers would be materially increased in the future and that they would consider in the General Staff the matter of bringing a few selected American Communist leaders to Moscow for training at the Frunze Military Academy, which corresponds to West Point, the West Point of the Soviet Union.

Also, they said I should return to the United States, that it was too important for me to get this work started in the United States, and we did not get time off to go to a military academy at that time in the Soviet Union, and that this matter would be considered further at a later date, that regarding the political questions and the political formulation, that these should be worked out in the Communist International and Young Communists International Executive meetings which were to follow immediately in Moscow, to which these political questions and formulations were referred. It was also decided while in the Soviet Union, I was to visit the Red Army Headquarters
4768 in the Frunze Academy for the purpose of studying the material available for me in the languages I could then read, English and French, regarding means of civil war, guerilla tactics, sabotage, and so forth, and that I should give lectures at the Russian Military Academy.

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4772 Q. Mr. Crouch, in connection with the documents you stated were to be placed at your disposal, did
4773 you, in fact, study those documents? A. I did.

Q. And where did you study them? A. At the Red Army Headquarters in Moscow and some in the Frunze Academy.

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4787 Q. Yesterday we were talking about your trip to the Soviet Union. While you were in the Soviet Union, did you have anything to do with any organization dealing with labor unions? A. Yes.

Q. What organization did you have such contact with? A. With the World Congress of the Red International Labor Unions.

Q. That organization, was it ever known by any initials? A. Yes.

Q. Do you recall the initials that were used in connection with it? A. R.I.L.U.

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4788 Q. What was the function of that organization, if you know? A. The function of that organization was to operate throughout the world for the purpose of building new unions under Communist control, so that labor could be used for the revolutionary objectives of World Communism and for the purpose of capturing control of existing non-Communist unions.

Q. Was there any relationship between the R.I.L.U. and the Comintern, if you know? A. Yes.

Q. What was that relationship? A. The R.I.L.U. operated directly under the supervision and control of the Comintern.

Q. At the Congress you stated you attended, were any decisions reached by the R.I.L.U. directly affecting the activities of the Communist Party of the United States? A. Yes.

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4789 Q. Will you state those decisions, if you know? A. The decisions were in the—the decisions that I recall were in the form of verbal motions made and passed at meetings I attended.

Q. What was the subject matter of those decisions? A. One of the decisions was to set up a commission in the meeting, in the Congress, composed of George Mink, James

S. Allen and myself to work with Evangelista and Manahan, representatives from the Philippine Islands, for the purpose of formation of a Communist Party in the Philippines.

A second decision that affected the United States was in connection with maritime work, a decision that they work in the United States and other major countries and the maritime industry should be financially subsidized from Moscow, that far more attention must be given to this work by the American and other Parties, and that an international bureau would be a special subdivision of the R.I.L.U. and, operating under the supervision of the Comintern, would be specifically in charge of this work.

Q. Did any American Communists attend this
4790 Congress besides yourself? A. Yes.

Q. Will you name those Communist Party members whom you now recall? A. Present in the Maritime Commission were, I recall, George Mink, James S. Allen and myself. Present at the entire Congress were, in addition, Benjamin Gitlow, Joseph Zack, and about a dozen or more other Americans that I cannot now recall.

Q. In connection with the plans you have stated were made for working the maritime unions, was any action taken, to your knowledge, upon your return to the United States to carry out those plans? A. Yes.

Q. What action was taken? A. Seamen's clubs along the lines planned in Moscow were set up in Norfolk, Virginia, New York City, San Francisco, port cities, in fact practically all major American ports; a paper called "The Marine Workers' Voice" was published as the organ of the Marine Workers Union, which was the American part of the Seamen's Division of the Red International Labor Unions, and far more attention was given to this and a member of the Maritime Commission, Roy Hudson, was made a member of the Politburo shortly thereafter.

Mr. LaFollette: May I ask: That was the Polit-
4791 buro, the American Politburo?

The Witness: Yes.

I should say further, in the interim, before Roy Hudson, another member of this Maritime Commission, John Harvey, was placed on the Politburo and then Roy Hudson became a member of the Politburo also of this Maritime Division.

By Mr. McKittrick:

Q. Did you have any personal connection with this work in the Maritime Unions? A. Yes, I did.

Q. Would you state the nature of your personal connection? A. My personal connection during 1928 and 1929 was in correlation with my work as head of the Department for work in the Armed Forces, since there was a close similar connection, and in connection with my work as National Secretary of the Anti-Imperialist League. Since the Anti-Imperialist League—

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4792 The Witness: I took part in discussions with George Mink and other members of the Maritime Commission in connection with my work as National Secretary of the Anti-Imperialist League during the period I was National Secretary, and then in 1932 or early 1933 I was at Norfolk, Virginia, the organizer of the Marine Workers Industrial Union, in addition to my duties as Party organizer and the head of the International Seamen's Club, in charge of the National Seamen's Club, which was listed, which had its office or headquarters in the front room of my residence at 425 Bank Street, and the address of my home, the address of the Communist Party, the address of the Marine Workers Union, and the address of the International Seamen's Club all was 425 Bank Street, Norfolk, Virginia.

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Q. Who was the national head of the Marine Workers Industrial Union, if you know? A. George Mink.

Q. Did George Mink do anything, to your knowledge, while he was in the Soviet Union, which was designed
4793 to qualify him to fill that position? A. Yes.

Q. What did he do? A. He did two things: First, he became a part of the Soviet Secret Police.

. . . . . .

The Witness: I was relating of my own personal knowledge that he was—because he told me and showed me his Gaypayyou credentials. This was a matter of my own personal knowledge. Secondly—

. . . . . .

The Witness: Secondly, Mink made a trip to the Black Sea ports of Odessa, Sevastopol and Novorossisk to study the International Seamen's Clubs, used as a model for organizing International Seamen's Clubs in the United States.

4794 Mr. LaFollette: How do you know that?

The Witness: I know this from Mink showing me the funds he had received for this purpose, his advising me of this and showing me his railroad tickets, his leaving Moscow for these ports, and his reports made at the Maritime Commission on his return.

. . . . . .

Q. What was the objective of the R.I.L.U. in carrying on Communist activities in the maritime industry, if you know?

. . . . . .

4796 The Witness: I can only state the objectives outlined in the reports at the Commission I attended in Moscow, of my own knowledge, which were that the major objectives be to build a maritime organization throughout the world, that during war between the Communist and non-Communist worlds, we would be able to paralyze shipping, prevent transportation of soldiers and war supplies and, also, that would enable the Communist movement

to have an unlimited courier service throughout the world at its disposal.

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4798 Q. What was the objective of the Congress in setting about to form seamen's clubs, if you know?

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The Witness: The objective stated in the Convention was to use the seamen's clubs to build recreational centers, which would attract seamen into the Unions, under Communist control and then into the Communist movement. In other words, as recruiting centers.

By Mr. McKittrick:

Q. How were the seamen's clubs financed, if you know? A. I only know—

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4799 The Witness: My only knowledge on that is that it was the decision regarding the subsidies on all of this maritime work and the statements made to me by George Mink after our return to the United States and, of course, I know about the local seamen's clubs in Norfolk, Virginia, which I personally directed.

Mr. LaFollette: All right. Speaking of the seamen's clubs in the United States now, how was your club in Norfolk financed?

The Witness: Our club in Norfolk, Virginia, operated on a small budget, financed mostly out of the local Party budget; the bulk of which was contributed by the International Workers Order and some subsidies were sent from George Mink, out of New York, to a Mr. B. K. Lacka, who, for a time, was doing full time work for the seamen's club and the marine workers industrial union and he received checks from the Marine Workers Industrial Union in New York City.

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Q. Returning to your activities while you were in the Soviet Union, in connection with your service on this
4800 commission of the Communist International, having as its primary duty the drafting of a resolution to be submitted at the forthcoming Sixth World Congress, did that commission, in fact, perform its assigned duty? A. Yes.

Q. And did you actively participate in the performance of that duty? A. I did.

Q. Would you state what contributions, if any, you actually made toward the carrying out of those duties. A. I participated for the period of at least two months in work on this resolution on a commission of five members, of whom I was one, and with a Mr. Barbe of France as the chairman of the Commission.

Q. In connection with the drafting of the resolution, did any other groups or persons have anything to do with the drafting of the resolution, apart from the members of the commission, itself? A. Yes.

Q. What other persons or groups had some part in that activity? A. Officials of the Communist International, Mr. Bukharin, and others from time to time called the members of the Commission in for consultation and I was called for consultation on the drafting of this resolution by the
4801 head of the military department of the Communist Party of the Soviet Union in the Communist Party headquarters where I met with him and with several Red Army General Staff officers, other Russian Communist Party leaders and at this meeting my escort and my translator was Mr. Khitarov, a leader of the Russian Communist Party and about a year later, president of the Young Communist International.

Q. What happened at the time of your meeting with the officials of the Communist Party of the Soviet Union? A. I gave them a complete resume of our work to that date and the general outline and they reviewed this, approved it in general and made various detailed suggestions, recommendations for changes.

Q. Did you do anything with these recommendations for changes, after you received them? A. I did.

Q. What did you do with them? A. I gave a report on them at the next meeting of our commission.

Q. What actions, if any, were taken by the commission? A. The Commission proceeded to make all necessary provisions to incorporate all the recommendations from the Russian Communist Party.

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4802 Q. I show you Petitioner's exhibit marked for identification Petitioner's Exhibit 148, and ask you if you have ever seen that volume before? A. May I have a few minutes to examine it, to be sure that it is the same volume?

Q. Yes. While you are examining it I will complete the description. This volume purports to be the struggle against Imperialist war and the tasks of the Communists, the resolution of the Sixth World Congress of the Communist International, July, August, 1928, purportedly published by the Workers Library Publishers, Second Edition, July, 1934. A. What was the question?

Q. Have you ever seen this volume before? A. Yes.

Q. Is this the same resolution prepared by the
4803 Commission on which you served? A. It is.

Q. Did you contribute any of the language contained in this volume? A. I contributed materially to the language in this volume, its formulation and contents.

Q. What distribution was made of this volume, if you know? A. Almost immediately after the Sixth World Congress ratified it, in August, I believe, of 1928, this was published in an international Communist English language journal, called Inprecorr, International Press Correspondents, and it was widely distributed throughout the Communist Party, a mimeographed edition was distributed following that throughout the Party and Young Communists League in this country and then it was published in various editions in large numbers, made available

through the Party's book stores, sold through the Party organizations, used in the Party schools.

Q. Did you, yourself, ever use this volume in the Party schools? A. Yes, in many.

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4806 Q. I believe you told us that you returned from the Soviet Union sometime in April of 1928, is that correct? A. I left the Soviet Union in April but it was sometime in May when I returned to New York City aboard the Ille de France, to check the exact date.

4807 Q. Upon your return, did you report to anyone concerning your trip to the Soviet Union? A. I did.

Q. And to whom did you report? A. I reported to William Z. Foster, Chairman of the Party, to the National officers of the Young Communist League, and to the commission I headed, the joint commission of the Communist Party and Young Communist League.

Q. Did you take any steps to carry out any instructions that you received from the Soviet League about which you have told us? A. Yes.

Q. Now what steps did you take? A. I set up joint departments in the Communist Party and in the Young Communist League in all of the 13 districts in which the Communist Party and Young Communist League were then divided.

Mr. LaFollette: May I interrupt? What year is this now?

The Witness: I am referring to 1928, on my return from the Soviet Union during late May, June and thereafter.

Mr. LaFollette: All right. Do I understand it that your testimony is what you did immediately after your return?

The Witness: Yes. Immediately after. I toured much of the country, met with the district organizers of

4808 the Communist Party and Young Communist League and pointed out to them the decisions made at Moscow, gave them the directions regarding the infiltration of the Armed Forces and then I proceeded to select, make

a selection of individuals who were going into the Armed Forces. The first man was, by the name of Taylor, from the anthracite fields of Pennsylvania, who was approved to go into the Army and in accordance with the orders that I received from the Red Army General Staff, was assigned to join the Army for service in Panama. Others followed under my instructions, first to Panama, several to Panama and then we sent some to Hawaii and others to the Army ports around New York and San Francisco.

At the same time I was giving considerable attention to the National Guard. I instructed the directors in each of the districts to send large numbers of young Communists into the National Guard and after those people joined the National Guard I met with many of them and, for example, at Fort Snelling, Minnesota, I met with officers of the Communist Party, the Young Communists League and the Communists who had joined the National Guard for the purpose of revolutionary work within, and set up the first paper ever published by the Communist Movement of the Armed Forces of the United States called the "Fort Snelling Rapid Fire" and with a motto on the front page, "Learn whom to fight while learning how to fight." I followed this paper up with a publication in Washington, D. C. called the "Red Cadet" published in cooperation with the Young Communists who had joined under my instructions the Reserve Officers Training Corps in Washington. I set up a monthly paper called the "Red Guardsman," in the state of Pennsylvania, in cooperation with the Communist Party, Young Communist League, and the Communists who had joined the National Guard there.

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For the state of New York we set up a monthly paper called the "Rebel Guard" as the official organ of the Communist Movement inside the National Guard of New York. Within the first year I had sent into the National Guard approximately 200 Communists for the purpose of working within the organization, a large number—I do not

recall the exact number—into the Reserve Officer Training Corps, others in the citizens military training camps and I met with them and directed their activities.

I also had printed stickers for propaganda against the Government and the Armed Forces and I set a specific date, I don't recall the exact date, it can be approximately ascertained from copies of my instructions that are in Congressional records. I sent out a letter throughout the country stating that by a certain date we are going to distribute these stickers.

. . . . . .

4817 Q. Mr. Crouch, did your commission in the performance of its task have any special status in the Party? A. Yes.

Q. What was its status? A. Its status was that of special authority not granted to any other commission, such as the right to select people in the Party, the Young Communists League, order them to go into the armed forces, the right to go over the heads of District organizers in selecting personnel from the district for this work and take them away from other fields of work in which they might be engaged.

Q. You mentioned briefly some of your activities in connection with the placing of sailors aboard the U. S. ship Oklahoma. Would you elaborate on your activities in connection with the USS Oklahoma? A. The sailors aboard the USS Oklahoma were given instructions to be very conspiratorial in their work. They were given the names of Party girls to whom they were to write regularly and who would give me information on the location of the ship, when they expected to be in port, what port and things of that kind. They were given names of other girls to whom they were to send unsigned reports on the work aboard the ship and when the ship arrived in port Communists in those cities were assigned to go aboard that ship,
4818 leave stickers wherever possible, scatter Communist propaganda leaflets we had prepared for the occa-

sion and girls were instructed to try to make contacts with sailors aboard that ship and to invite them to parties that were arranged by the Communist Party for the purpose of drawing them closer to the Party and eventually recruiting them into the Communist Movement.

Q. Was there any general policy respecting the place of service for recruits in the Army and in the Navy during the period you are now describing? A. Will you please repeat the question?

Q. Was there any general policy with respect to the placing of recruits for the Army and Navy during this period of time that you are now discussing? A. Yes.

Q. What was that policy? A. The policy was that Panama was a major point of concentration.

Q. Excuse me, Mr. Crouch. I don't believe you understood the question. The question was, did the Army and the Navy have a policy respecting the place of service for these recruits? A. The Army did. The Navy did not.

Q. What was the Army's policy? A. The Army's policy at that time was to allow recruits to select the
4819 branch of service and the location in which they wished to serve, whether in Hawaii, Alaska, Philippines, Panama or on the mainland and, in general, if they were to serve on the mainland, they allowed them considerable voice in selecting the post where they wished to serve.

Q. Did this Army policy have any effect on your activities in placing Communists in the United States Army? A. Yes.

Q. What effect did it have? A. It greatly facilitated our concentration policy of sending Communists to Panama, Hawaii, and the posts around New York and San Francisco.

Q. Would you describe in some detail the manner in which you brought about the enlistment of Communists in the United States Army? Excuse me. I will withdraw the question. Would you describe in some detail the manner

in which you carried on your Communist activities in the United States Army? A. First of all, the first step was meeting with the Anti-Militarist directors in each of the districts who were primarily responsible for the selection of people who were to go in the armed forces from their respective districts, describing the qualifications, that they must select people who had never been fingerprinted in connection with Communist activities, because if they did not do so the military intelligence as a matter of
4820 routine would almost certainly identify them. We were to select preferably people who had never been connected publicly, whose names had not appeared in the press in connection with Communist activity and if it were necessary, to select anyone whose names had so appeared, that they were to go into the Army under an assumed name and not their correct name, that the people selected for the Army must be people of political reliability, great intelligence, flexibility and able to carry out a very difficult and dangerous assignment.

The next point in these instructions was regarding the channels of communication that they were to establish with the Commission headed by me. Steps also were taken in some cases, as the case of Panama, to have contacts made with the civilian Communist Party to obtain names of people who would be contacted by the servicemen there and to whom they would have reports sent and who would distribute leaflets to the armed forces.

4821 Q. What was your method of operation in the National Guard during this same period? A. In the National Guard we took far less precautions about individuals, and in many cases the Communists who were in the National Guard virtually participated in putting up stickers, distributing leaflets to other members, and the instructions were that while they were not to unduly necessarily expose themselves, nevertheless, they were not to neglect any opportunity to exploit local grievances, create disturbances in the National Guard, and try to break down discipline and military efficiency as far as possible.

Q. You mentioned the procurement of employment for Communists in the Brooklyn Navy Yard. What was the extent of Communist activity at that place, if you know? A. The Communist activities during the 1928 and 1929 period was a very careful foundation work and it was not until later, after Walter Trumball succeeded me—

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4822 The Witness: After Walter Trumball succeeded me as the head of the joint commission in 1930, I remained a consultant for the commission, working with Walter Trumball and his successor, Emanuel Levine, in this work.

In connection with my work as a consultant with Walter Trumble and Emanual Levine, I participated in meetings around 1934, as nearly as I can recall, with the people in the joint unit of the Communist Party and Young Communist League at the Brooklyn Navy Yard, and aided them in the plans for a monthly paper, in editing several issues of a monthly paper which
4823 was published in the name of the joint unit of the Communist Party and Young Communist League.

By Mr. McKittrick:

Q. I believe you stated, that you stated that you attended several national conventions of the Communist Party. Will you give the dates of the national conventions and the places where they were held, conventions, that is, that you recall now having attended? A. Conventions I recall having attended of the Communist Party were 1929 in New York City, in March, 1929, in New York City, over a period of some ten or eleven days, I don't recall the exact days or months; in early April of 1934 in Cleveland, Ohio; in the latter part of June, 1936 in New York City, part of those conventions being at the Manhattan Opera House.

In May, about the end of May, 1938, I recall the Hotel Center being connected with some of the sessions, I believe, of the '38 convention, a convention in the summer

of 1940—I don't recall the exact date—and a special convention in November of 1940 and in addition I have participated in nominating conventions of the Communist Party in the fall of 1928 and 1932, both in New York City, and another nominating convention, I don't recall the exact date at this moment.

Q. Can you give the places of the conventions that you have named attended in 1938 and summer of 1940
4824 and November of 1940? A. Those conventions were all in New York City.

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4837 Q. Did the Communist Party have any delegation to the Young Communist League convention? A. It did.

Q. And who was that person? A. Robert Minor.

Q. Did you learn from Robert Minor the person he favored as National Secretary at this convention? A. I did.

Q. And who was that? A. He favored me as the National Secretary.

Q. In your discussions with the delegates prior to the convention concerning the selection of the National Secretary, did any of them express their views concerning who should be National Secretary? A. Yes.

Q. And what person did they indicate that they favored? A. They indicated that they favored me, and stated so.

Q. Did you attend any meetings of the Presidium or the presiding committee of this convention? A. Yes, I was a member of the presiding committee of the convention.

Q. Did William Rust attend any of those meet-
4838 ings? A. He did. He attended all.

Q. And was it there that William Rust gave the instructions that you just told us about? A. Not there, later.

Q. Did Robert Minor attend any meetings of the Presidium? A. Yes.

Q. And did he express any views concerning the selection of a National Secretary at those meetings? A. Yes.

Q. What views did Robert Minor express? A. Robert Minor expressed the view that the convention should proceed to elect the National Secretary in the usual procedure and that I should be recommended as the National Secretary.

Q. Did William Rust ever outline any procedure for the selection, the mechanical selection of the National Secretary at that convention? A. Yes.

Q. What procedure did he outline? A. He outlined a procedure that instead of the convention electing the Secretary, that he gave orders that the convention must only elect a National Committee, the National Committee would elect the Bureau, and the Bureau was to elect the National Secretary.

Q. Was any action taken as a result of those 4839 orders that were given? A. Yes.

Q. What action, if any, did the convention take? A. They complied with the orders.

Q. Did the Bureau have any meetings prior to the selection of its National Secretary, the Bureau? A. I don't understand the question.

Q. You said the convention complied with the orders? A. Yes.

Q. You mean by that that they selected a committee? A. They selected a National Committee, and the National Committee, in turn, selected a small committee from among its members called the Bureau.

Q. All right. Upon its selection, did the Bureau have a meeting? A. It did.

Q. Did Rust attend that meeting? A. Yes.

Q. Did he have anything to say at that meeting? A. Yes.

Q. What did he say? A. He said the decision of the Communist International and Young Communist International was that John Harvey must be the National Secretary of the Young Communist League, that I could be

elected to any position in the Young Communist
4840 League, except that of National Secretary, but that Harvey must be the National Secretary.

Q. I believe you have already told us that you did acquire those positions; is that correct? That you did acquire some other positions? A. I acquired other and additional positions, yes.

Q. Yes. Did Rust give any other orders to this convention, respecting the selection of the officials of the Young Communist League? A. Yes.

Q. What other orders did he give? A. That George Pershing must be made District Organizer of the New York District.

Q. What action, if any, did the Young Communist League take after receiving that order? A. It accepted the orders from Moscow and proceeded accordingly.

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4847 Q. You stated that you attended a special convention of the Communist Party in New York City in November of 1940. In what capacity did you attend that convention? A. I attended that convention in two capacities, as a district organizer of the Communist Party for the District of Tennessee and as a regular delegate to that convention.

Q. Did you attend any meetings held during the time of that convention, other than the meetings of the convention as a whole? A. Yes.

Q. And what meetings did you attend? A. Meetings of the district organizers with the Politburo.

Q. What was the purpose of that convention, if you know? A. The purpose of that convention was to vote a formal disaffiliation with the Communist International.

4848 Q. At the meetings you attended, which you say were attended, also, by the district organizers and by the Politburo, was the head of the Party at that time

present at any of those meetings? A. The General Secretary of the Party was present, if that is what you mean by "the head."

Q. Who was the General Secretary of the Party at that time? A. Earl Browder.

Q. Did Earl Browder participate in any manner? A. Yes.

Q. At those meetings? A. Yes, he did.

Q. What did he talk about? A. He talked about the purpose for which the convention was held, the relationships between the Communist International and the Communist Party of the United States in the past, the present, and the future.

Q. Did he say anything about the matter of disaffiliation of the Party from the Communist International?

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4849 Q. The question was, Mr. Crouch, did Mr. Browder say anything about disaffiliation of the Party from the Comintern? A. Yes, he did.

Q. What did he tell the meeting of the Politburo and the district organizers on that subject? A. Mr. Browder stated, in substance, that the passage of Federal legislation known as the Voorhees Bill, I believe, made it necessary for the Communist Party to either register as a foreign agent, which it was unwilling to do, or to vote a formal disaffiliation from the Communist International.

Q. Did he say anything about the effect this disaffiliation would have upon possible future relations with the Communist International? A. Yes, he did.

Q. What did he say on that subject? A. He said that the actual relations of the American Communist Party to the Communist International would remain exactly the same in the future as they had in the past, that the

4850 American Communist Party would continue to be guided by the Communist International and that because of the political development of the American Party

that the matter of formality in the relationships was no longer necessary as it had once been.

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Q. I believe you stated you were district organizer at the time you attended this meeting. Did the district organizers in attendance at that meeting acquire any particular duties relating to the policies set forth by
4851 Mr. Browder? A. Mr. Browder assigned us duties in connection with that.

Q. Yes. What duties did you acquire? A. To go back to our respective districts and explain the reasons for disaffiliation to the political leadership in our respective districts.

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4852 Q. I asked the names of these representatives of the Comintern and the approximate dates that each person named was in this country. A. Mr. Pepper was one in this country in 1928 and I believe very early in 1929. 1928, definitely. In the early 30's, in 1932, possibly 1933, a Russian named Mikhailovich, I believe, who is known under the name of Williams, and he was followed by a representative—I don't recall meeting him personally—who was known in the Party under the name of Edwards.

. . . . . .

4853 Q. Did you know John Pepper, did you ever meet him? A. I first met John Pepper in Moscow at the Lux Hotel. I participated in the meetings of the executive committee of the Communist International in January, 1928 with him, had discussions with him and other officials of the Communist International together and after my return to the United States I met him at meetings of the Central Committee where he was introduced by William Z. Foster as the representative of the Communist International.

Q. Did you ever know Mikhailovich personally? A. Yes.

Q. Will you relate the circumstances under which you

knew him? A. I first met Mikhailovich in January of 1928, in the Executive Committee of the Communist International in Moscow and met him next at Central Committee meetings where he was introduced as a representative of the Communist International at Communist Party Committee meetings, Commission meetings.

Q. Did you know him as Mikhailovich or Williams? A. I knew him in the Soviet Union as Mikhailovich and in the United States as Comrade Williams.

4854 Q. You stated that you did not meet Edwards. Would you relate what information, if any, you had concerning the presence of one Edwards in the United States? A. At Central Committee meetings and commissions of the Central Committee, Earl Browder, General Secretary of the Communist Party, relayed instructions that he stated were given as instructions of Comrade Edwards, a representative of the Communist International and in addition to this there was direct discussion among the district organizers regarding Comrade Edwards, Communist International representative.

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Q. Did you ever know an individual during the time you were in the Communist Party, as an official, known to you as Smith? A. Yes, I did.

Q. Did Smith have any other names? A. Yes, he was known among Party leaders under the name of Peterson.

Q. In what way did you know Smith? How wel did you know him? A. I knew him very well over a period of some months. I worked with him daily.

4855 Q. And what was Smith's duty or duties in the Party? A. Smith's duties were two-fold—

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The Witness: The time I knew Smith, also known as Peterson, was during the fall months of 1929 and January of 1930, place, 43 East 125th Street, New York City. Second Floor, National Office of the Communist Party.

What was the rest of the question?

By Mr. McKittrick:

Q. What were his duties. A. His duties were to act as the representative of the Communist International and, also, to act as organizational secretary of the Communist Party of the United States.

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4859 Q. You referred previously to representatives from the Communist International to perform special tasks in this country. Would you name any of such representatives whom you may now recall, the dates they were in this country, and the functions they performed here? A. First, a special representative for a
4860 specific field, I recall, was Louis Gibarti and the second name I recall—

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The second man was Jonas J. Peters, whom I knew from approximately 1934 until I left the Communist Party.

Q. What was Louis Gibarti's assignment or duty in the United States? A. Louis Gibarti's duties in the United States were to act as a representative for the Anti-Imperialist Commission of the Communist International, internationally headed by Willie Munzenberg, and also to set up the Workers International Relief in the United States and direct its activities and to carry out certain cultural activities, such as promotion of Soviet movies in this country.

Q. What was J. Peters' function here? A. J. Peters' function was to direct, was to organize underground apparatus of the American Communist Party and direct this and confidential field work, and, also, to aid in the organization of the Abraham Lincoln Brigade.

Q. Did J. Peters publish any documents pertaining to the Communist Party during the time he was in this
4861 station? A. Yes, he wrote a document.

Q Yes. What did he write? A. He wrote a document published by the Communist Party or through

the Communist Party's publishing house, Workers Library Publishers, a document called "The Communist Party Manual on Organization."

4862 Q. Did you personally do anything as an official of the Communist Party directly related to Peters' activities in this country? A. Yes, I did much related to Peters' activities and under his direction.

Q. What did you do? Incidentally, in giving the answer, will you give us the approximate dates of any action you took? I would appreciate it. A. In 1934 to 1937, inclusive, while I was a district organizer of the Communist Party of the Carolina District with headquarters at Greensboro, North Carolina, and Charlotte, North Carolina, I met regularly four or five times a year, at least, with J. Peters in New York City, receiving directions from him on the mail communications between the District and the national office, giving many of his directions to his assistants, the addresses in the district to which mail was to be sent, receiving the confidential addresses in New York to which I was to send mail, receiving from him numbered receipt books to be used to check against any loss of mail; received from him detailed explanation of the codes in use by the Party; received from him the code books to use in confidential communications with the central office.

I received from J. Peters and under his direction the setting up of an underground apparatus in the Carolina district in the 1934 to 1937 period, naming a pro-

4863 fessor at the University of North Carolina, a professor Ericson, Spartacus was his Party name, as a reserve district officer, giving him, relaying to Professor Ericson direct information to me as to how the Party confidential apparatus was to be set up and setting up the apparatus in the sections in which the Party would work as an underground organization in case of necessity.

My next contact with Peters was in Birmingham, Alabama, from March, 1938 until September of 1939, when I was chairman of the control commission of the Com-

munist Party for that district, and together with Robert Hall the district organizer; met with Peters on a number of occasions in New York City regarding the underground apparatus in the district and in consultation with Rob F. Hall and Joseph Gelders, who were associated with me in the underground fields of work.

We named a man, a Party member named Sam Hall, as the reserve organizer for that district who was to take over leadership in case that the Party should go underground.

Our next contact with Peters was between September, 1939, and April, 1941.

While I was living in Knoxville, Tennessee, as district organizer of the Communist Party for Knoxville, I met with Peters four or five times a year during this period, exchanging addresses for confidential correspondence, receiving code books from him, receiving directives for the underground apparatus in the State of Tennessee, and submitting to him the names of the
4864 people I had named to the underground committee, which was headed by a Professor David Robison, a white professor at Fisk University, Nashville, Tennessee, whom I had named as the reserve district organizer with Peters' approval.

Also I received from Peters in this period instructions that if the Party should go underground, that I should make every effort to reach Mexico and contact the Communist Party there and try to avoid being picked up. I was also instructed by Peters to keep a reserve emergency fund on hand for use in underground periods and for my expenses in making a getaway.

I was also instructed by Peters that I should have a reserve hideout in the state and for this purpose I selected a farm approximately five or six miles out of Nashville, Tennessee. I don't recall the name of the owner of the farm. As I recall it, it was south or southeast of Nashville.

These were the major steps I had taken under the direction of J. Peters.

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4865 Q. With respect to your contacts with J. Peters, did you ever receive any instructions pertaining to the underground organization of the Party as to the 4866 number of persons in any particular unit of the party? A. Yes.

Q. What were those instructions? A. The instructions were that for the purpose of functing underground, the Party must be divided into units, into what he called groups or the group system, of not more than five members in each group, of whom one will be the captain of the group.

Q. During the time you were district organizer of the Communist Party, at the various places you testified you served in that capacity, did you ever personally attempt or bring about the organization of the Party in those areas in the manner specified?

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The Witness. Yes. In some places, and in some places partially. By "partially" I mean that in some places instead of actually dividing the members into the groups, I instructed the section organizers how they would be divided in case the Party went underground.

By Mr. McKittrick:

4867 Q. Would you describe for the Board the manner in which the Communist Party was organized in Alameda County, California, during the time you served as district organizer there in 1941 and 1942? A. Alameda County of California, from the time I took charge as county organizer, May 1, 1941, until I handed over the position to my successor, Steve Nelson, in January, 1942, was, first, that the Party was organized in units or clubs anywhere from three to fifteen or more members. These clubs were then organized into sections with a section committee, sec-

tion organizer or section committee at the head, these sections being of three types.

The first type was by geographical area. There was an East Oakland Section, a West Oakland Section, a Berkeley Section, about four territorial sections.

The second type of section was the industrial section. One section was composed of leaders in unions, leaders in the C. I. O., leaders in the A. F. of L. unions, and the workers who were employed in certain industries. The workers who were employed in certain basic steel, shipbuilding and allied industries belonged to this industrial section.

The third was what we call a special section very distinct from the others, composed of the following units: One unit of government employees, Federal, State, County, Municipal. Secondly, important professions, attorneys,

like Mr. Frank Pestano—that is the only name that
4868 I recall from that, or that I even knew—and several other attorneys, doctors, professionals. The third were the professors at the University of California. The fourth were the employees at the radiation laboratory at the University of California and early in the fall, in the late summer or fall of 1941, a fifth unit of the special section was organized, composed of employees at the Shell Development Corporation then engaged in highly confidential work for the Government.

Q. Did you ever attend any meetings of this fourth category you just mentioned, being professors of the University of California? A. Yes, I did.

Q. Would you relate how you arrived at any meetings you may have attended and where they were held? A. This fourth category was not confined to the University alone. The groups—there were two groups at the University, one was the Professors' branch and the other the radiation laboratory. There were these other branches that I mentioned.

I went to these various branch committee meetings from time to time accompanied by Kenneth May, a member of

the County Secretariat, who was placed in specific charge of the organizational and practical work of these units for the purpose of giving political reports on the Party line.

I was never given the addresses of the meeting
4869 places, I was taken by roundabout ways. Great effort was made by Kenneth May to prevent being followed. He would go around and around in circles and watch to see that no car was following and go twice as far as necessary to reach the meeting places, which were always held at night.

I was not introduced to the people by their real names, I only named some of the real names like Mr. Frank Pestan—

. . . . . .

Mr. McKittrick: Where they were held.

The Witness: They were held in homes where I did not know the names of the residents and I was taken to these meeting places by the roundabout means that I have described.

By Mr. McKittrick:

Q. Yes. Now, you have referred to codes being used at the time you were district organizer and these various assignments.

Will you describe very briefly for the Board the
4870 code system which was employed in any particular time, to the best of your ability?

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The Witness: The first code in 1934 for a brief time was based on a series of squares from which letters would drop down. I don't recall the exact mechanics of it. It was quickly discarded as being the type of code which, according to Peters, could be broken down by the frequency method.

Thereafter, we used for our communications a book code system by which we would use a series of numbers. The

first number would mean the page of the book in which a word was down, the second figure would mean the
4871 line, and the third figure would mean the number of words in the line where it was used. Sometimes this method was transposed into letters to make deciphering more difficult and instructions were also given that after so many words a certain number of meaningless figures or letters should be inserted to make decoding more difficult.

One book was in the possession of the Central Committee and one book, an identical book, was in the possession of the District Organizer. When we received a message in code, we would take our book and use the same method for deciphering.

By Mr. McKittrick:

Q. Did you ever receive any instructions from Peters pertaining to the method for publishing Communist Party literature during the underground period? A. Yes, I received both the instructions and I received the practical apparatus and mechanism for doing it.

Q. What instructions and what apparatus was received? A. I received these instructions from Peters regarding the publication of material, number one, that we should try to have reserved printing presses in our district, if possible, and in the Carolinas this was successful. We did have an underground print shop at Chapel Hill, North Carolina, one undeground printing shop, financed largely by the Central Committee of the Communist Party.

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4873 Q. Mr. Crouch, after receiving these instructions, what, if anything, did you do? A. I gave Peters the funds for the purchase of the special portable mimeographs at a rate—I don't recall the exact amount, it was less than five dollars per mimeograph, to be stored in private homes. I purchased supplies of mimeograph papers, stencils, styluses, stored them in various private homes,

and I proceeded to turn over to Mr. Alton Lawrence, a member of the District Bureau of the Communist Party and State Secretary of the Socialist Party of New York, the funds that were to be spent for the purchase in his name and the name of Mr. Matthews of a printing plant at Chapel Hill, to be used by the Communist Party
4874 underground conditions.

Q. You mentioned previously instructions concerning accumulation of underground reserve funds. Did you personally ever have anything to do with any such reserve funds? A. I kept small reserve funds, not exceeding one hundred dollars, in Tennessee, and in California I took over, on my arrival there, funds of about $1500, as nearly as I can recall, added to them while I was county organizer, and turned over a little over $2000 in a reserve fund to my successor, Steve Nelson.

Q. Did you ever receive any instructions pertaining to communication between various underground groups from these—

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4875 The Witness: The instructions received were that the reserve organizers in each district were given code words, by which they were to recognize the couriers sent out to them by the reserve central committee of the Communist Party that would operate in underground conditions, that transfers of members that were necessary should be made through this underground system but without anything in writing, that the cards, a filing card should be torn in two and a half given to the member who was being transferred to another district, the other half would be sent through the courier system to a district organizer and these would be compared as proof that he was the individual who was being transferred.

The names would be sent by the code system through the couriers to central office, and from the central office to the other district, and that in general that the policy of

correspondence under underground conditions should be reduced to an absolute minimum and that the courier system should be used for communication purposes.

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4915 Q. Have you ever known a person by the name of Nicholas Dozenberg? A. Yes, sir, I once knew Nicholas Dozenberg very well.

Q. When did you first meet Nicholas Dozenberg? A. I first met Nicholas Dozenberg—when?

Q. When? A. In late September or early October, 1927.

Q. Where did you meet him? A. In what was then the national office of the Communist Party, Chicago, Ill.

4916 Q. What was Nicholas Dozenberg's position, at that time, if you know? A. Nicholas Dozenberg's position at that time was national organizational secretary of the Communist Party.

Q. Did he acquire any other duties after you first met him? A. Yes.

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Q. Did you see Nicholas Dozenberg at any time after that first meeting? A. On many occasions after.

Q. Were those meetings with Nicholas Dozenberg in his official capacity as the organizational secretary of the Communist Party? A. They were for a brief time. Thereafter, in other capacities.

Q. In what other capacities did you know him after that brief time? A. As an agent in this country of the Soviet Secret Police, the GPU.

Q. About what was the date when he became an
4917 agent of the Soviet Secret Police? A. About 1928, to the best of my recollection.

Q. Did Nicholas Dozenberg's new duties have any effect which you observed upon his relationships with the Communist Party? A. Yes.

Q. And what effect did those duties have? A. While he continued to attend the meetings of the Central Committee

of the Communist Party, he did not speak and took a back seat at those meetings.

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4927 Q. I believe, Mr. Crouch, the pending question was how you learned of Mr. Dozenberg's assignment as an agent of the Soviet secret police in the United States. A. From Mr. Dozenberg.

Q. What did he tell you about his assignment? A. He told me he was an agent of the Soviet secret police and, therefore, could hold no public office in the Communist Party.

Q. Did you have any dealings with Mr. Dozenberg in his official capacity as a Soviet police agent? A. Yes, I did.

Q. About when and where did you have those dealings? A. Sometime in the fall of 1928, I believe, to the best of my recollection, in an apartment, luxuriously furnished, west of Central Park, New York, an apartment to which I was taken by Mr. Dozenberg.

Q. Well, what happened at that apartment?

Mr. Abt: I am sorry. I think the witness gave us the date but he didn't mention the month.

4928 Mr. LaFollette: I have forgotten the date, too.

Mr. McKittrick: Late 1928, as I recall.

Mr. LaFollette: All right. Proceed.

The Witness: Mr. Dozenberg introduced me to a man in the apartment who spoke English brokenly, introducing him as the head of the Russian Secret Police in the United States and I was introduced to him as a national official of the Communist Party and the Young Communist League. Then this official, this man who was introduced by Mr. Dozenberg to me as the head of the Secret Police proceeded to ask a number of questions primarily about the employment of Communists in Washington, in the State Department, asking if any members of the Young Communist League had jobs in the State Department where it might be possible for them to secretly obtain possession

of blank passports which he stated were needed very much by the Soviet Government and I replied there were no such members and he directed me if it were possible to try to get such members employed with the State Department and they would be very very important if the Soviet Government could obtain American blank passports.

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4943 Q. Was any flag of any country or any kind ever displayed at any national conventions of the Communist Party? A. The flag of the Soviet Union was displayed at conventions of the Communist Party. I am unable to recall at this moment any convention where it was not so displayed.

Q. Well, was the American flag ever displayed at any of the national conventions of the Communist Party, to your knowledge? A. To my best recollection it was displayed in 1938 and 1940.

Q. Did you ever have any personal connection with the displayal of the American flag in connection with Communist Party activities? A. Yes.

Q. At what time and place did you have some
4944 connection with the displaying of the American flag?

A. On the fourth day of July, 1934 in the town of Helper, Utah, I authorized the flying of American flags in a parade of the National Miners Union, of which I was state organizer at the same time I was state organizer of the Communist Party.

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4945 Q. Was there any discussion of any Communist Party official concerning your use of this American flag on that occasion? A. Yes, by officials.

Q. What was the content? A. Prior to the display of it, there was considerable discussion and argument in the state leadership, some of the members objecting. I took the responsibility for ordering its display and after the parade my action was questioned—the wisdom of my

action was questioned by two members of the Central Committee in New York and at the same time more serious reactions to my part were under discussion and they questioned the advisability and desirability of my authorizing it, saying that I should have found some way to have persuaded the workers that the use of the American flag was not necessary.

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4953 Q. Did you ever discuss the subject of communist allegiance with any leader of the Communist Party at any time you were an official of the Communist Party? A. Yes, I have.

Q. Will you name the time and place and the person involved in such discussion or discussions? A. I have had many discussions with several Party leaders, the most outstanding that I recall was with Robert Minor in connection with a discussion of the Spanish Civil War in which he said that, in which he told me that the basis for determining all policy must be in the interests of the Soviet Union, that that always comes first, to which everything else must be secondary, and that the sole allegiance
4954 of all Communists throughout the world is to the Soviet Union. He also, at about the same time—

Mr. Abt: I don't think we have a time and place.

The Witness: The time was during the Spanish Civil War when Mr. Robert Minor had returned, who was the American representative in Spain, had returned to this country, was making a report at a Central Committee meeting. It was sometime in early 1937 to my best recollection, either late 1936 or early 1937 and I am quite sure it was early 1937. The exact date could probably be ascertained from the Daily Worker.

By Mr. McKittrick:

Q. Did you ever discuss this matter or hear it discussed by Earl Browder, General Secretary of the Communist Party? A. I have heard Earl Browder speak about the

question of allegiance, pointing out on many occasions—I don't recall the specific dates or what was said at the specific place, exactly the words, other than in 1938 when he was discussing a possible war between America and the Soviet Union. I didn't notice the exact words, but he was asked, "Is it possible for the United States and the Soviet Union to be allied together in a war against a common enemy, such as Japan or Germany, to fight side by side," and to this Browder stated, "It is possible that war
4955 might begin with the United States and the Soviet Union fighting side by side, together as allies, but the war would inevitably end in a war between the Communists and the non-Communist worlds, in which the task of the Soviet Union, in which the task of the Soviet Party must be to work for the victory of the Soviet Union and World Communism.

Q. I believe you gave us the time of that discussion. Did you give us the place? A. The time was late May, 1938, in New York City, and it was in one of the halls rented in the course of a convention, the National Convention of the Communist Party, the convention in which Earl Browder made his Democratic Front speech.

Q. On the basis of the Communist literature to which you have referred and on the basis of the discussions you have just mentioned, what did you teach as to the allegiance of Communists to the Party schools in which you participated following the dates of these discussions? A. I taught the students at the schools that the working class has but one allegiance to the Fatherland and the workers of all countries, the Soviet Union.

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4969 Q. Mr. Crouch, I will restate the question: Based on your duties, experience, and training in the Communist Party, would you state to the Board the official attitude of the Communist Party toward the United States Government in the year 1934? A. The attitude of the Com-

munist Party in 1934 toward the American government was that the American government is a capitalist government opposed to the interests of the workers and the people, that no allegiance is owed by the people to this government as a capitalist government, and that it must be destroyed in order to provide freedom for the people of this country.

Q. You testified that you instructed at a Communist Party youth training school in 1929. On that occasion did you teach anything pertaining to the Communist Party's official attitude toward the United States government? A. Yes.

Q. What did you teach on that occasion? A. I
4970 taught that the American government is a capitalist government, an enemy government to which the workers owe no allegiance, and that it had to be overthrown by revolution in order to make possible the progress of the country to socialism and communism.

Q. You have testified that you taught at a six-week training school in New Orleans in the winter of 1936. On that occasion did you teach anything pertaining to the Communist Party's official attitude toward the United States Government? A. Yes.

. . . . . .

4971 Q. On that occasion what did you teach? A. I taught in 1936 that the American government is an enemy government that ultimately must be overthrown to make possible a socialist, a communist society, and that to carry out this overthrow it was necessary to make alliances with the allies, the working class, the poorer farmers, what we called the oppressed Negro people, and to establish a united front.

Q. On that occasion did you teach your students anything concerning the United States Government as a factor for keeping peace or creating war.

. . . . . .

Q. On that occasion did you teach anything concerning the United States Government as a factor for keeping the peace or for creating war? A. Yes.

4972

Q. What did you teach? A. I taught that the United States was a factor, a major factor, in plotting war against the Soviet Union, although I taught that the German Government was the major threat, that the United States Government also was engaged in plots against world peace and that the United States was trying to organize a world-wide front against the Soviet Union.

Q. You have testified that you conducted week-end schools in Birmingham, Alabama, in 1936 and in 1939. Were those week-end schools held continuously during that period? A. Almost continuously. There were intervals between.

Q. During the time you were teaching at these week-end schools did you teach anything pertaining to the Communist Party's official attitude toward the United States Government? A. Yes.

Q. What did you teach? A. I taught that the American government was an enemy government which ultimately must be overthrown, but that we should not go around advertising this under the existing political and international conditions, that it was necessary to publicly take a somewhat different attitude to the government from what we had taken in the past to make alliances with liberals and progressives, at the same time within our party ranks never losing sight of our revolutionary objectives.

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Q. On that occasion did you teach anything pertaining to the United States Government as a factor for keeping the peace or for making war? A. Yes.

. . . . . .

Q. What did you teach? A. I taught that the United States might well be a major factor for world peace if an alliance could be obtained between the United States and

the Soviet Union, and particularly after President Roosevelt's aggressor speech we taught that there was a real possibility of an American-Soviet alliance during the existing period, during the period in which the Soviet Union felt itself threatened by Germany.

Q. You have testified that you instructed in a Communist Party school outside Oakland, California, in 1941: On that occasion did you teach anything pertaining to the Communist Party's attitude toward the United States Government? A. Yes.

Q. What did you teach? A. I taught that the American Government was an imperialistic government seeking to plunge this country into an imperialist war and must be opposed by the Communist Party and its allies and those it could influence by all conceivable active means.

4974

Mr. LaFollette: Let me ask you, what part of 1941 did you teach?

The Witness: In May and early June, prior to June 22.

By Mr. McKittrick:

Q. You have stated that you have instructed at a Communist Party school in the fall of 1941 in Oakland, California. On that occasion did you teach anything pertaining to the Communist Party's attitude toward the United States Government? A. Yes.

Q. What did you teach? A. I taught that the Communists must publicly abstain from denunciation of the President or the Government, must support all measures taken by the Government towards military defense and call for stronger steps, must support the Government's program for aid to Great Britain and the Soviet Union and call for greater and more effective aid.

Q. What was the occasion, if any, for the change in your teaching between the instructions you gave in May and June of 1941 and the fall of 1941? A. On June 22, 1941,

Hitler made a sudden, surprise invasion of the Soviet Union.

* * * * * * * * * *

4975 The Witness: Following this invasion a district committee meeting was held at 121 Haight Street in San Francisco, at which William S. Foster, William Schneiderman, and Steve Nelson, gave political reports on a meeting of the Central Committee and on the task 4976 of the Party and directed those present of the line which should be followed, and the line they directed was the line I taught at the November school.

By Mr. McKittrick:

Q. Mr. Crouch, I will show you a volume purporting to be "The United Front," by Georgi Dimitroff, purportedly published by International Publishers, New York City, 1938. I will ask you if you have seen this book before? A. I have.

Q. Have you ever read this book? A. I have.

Q. When did you read it? A. After its publication in 1938.

Q. Have you seen it recently, before you saw it this morning? A. Yes. I saw it last week.

Q. How did you acquire this book originally? A. Originally a copy was sent to me on its publication as a party editor by the publishers.

Q. What was your position in the Party at that time? A. I was editor of the New South, official organ of the Communist Party for the southern states, member of the District Bureau of the Communist Party for Alabama, Mississippi, and Georgia, Chairman of the Control Commission of the Communist Party for that district, 4977 and an instructor in Party schools.

Q. Did you ever use this book in carrying out any of your official duties in the Party? A. Yes.

Q. In what manner did you use it? A. I used it as assigned reading and for preparing my lectures and teachings in a course in Party history in 1939.

Q. Is that the same school you referred to at Birmingham, Alabama? A. It is one of the schools.

Q. You say you have read this particular volume last week. Have you compared its contents with the original volume you read in 1938, or do you have the original volume? A. I don't have the original volume.

Q. Do you recall its contents? A. Generally, yes.

Q. Would you say this was the same or different from the contents of the original volume? A. This is the same.

Q. How was the book distributed when it was originally published, if you know? A. This book was distributed by being advertised in the Party Press, being displayed in the Party bookstores and sold through the Party's liter-
4978 ature apparatus, that is, the books were handed down from the district to the section literature agent and the unit literature agents for sale at the Party meetings and sold at the Party school where I taught students.

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5006 Q. Did you receive any instructions from any member of the Central Committee of the Communist Party based on the signing of the Hitler-Stalin Pact? A. I received a number of specific political and organizational instructions.

Q. From whom did you receive those instructions? A. I received instructions from Jack Stachel, from J. Peters. The most of them I got from J. Peters.

Q. What year approximately did you receive these instructions? A. During the latter part of 1939 and also in 1940.

Q. Will you tell the Board what instructions you received? A. I received instructions to tighten the underground apparatus of the Party, also to keep funds on hand to proceed to the hide out place arranged for the district organizer and for escape to Mexico if possible in the event of the Party's suddenly going underground, and to

5007 see that the devices for producing leaflets, the hand mimeographs were stored in safe places, to increase the reserve supply of ink, stencils, and paper, and also—

* * * * * * * * * * *

The Witness: And also to have organization meetings of the Communist Party conducted with greater secrecy, to divide large branches and to have the group system ready to function.

By Mr. McKittrick:

Q. Did you receive any instruction pertaining to
5008 your future communications with the Central Committee? A. I did.

Q. What were those instructions? A. To reduce all correspondence by mail to an absolute minimum, to give my political reports verbally to Rob F. Hall, who was designated as the coordinating man for the Central Committee for all the southern districts, with orders to travel throughout the south, and that I would receive my instructions from the Central Committee between central committee meetings from Rob Hall personally acting as courier instead of by mail as previously, and that I would not thereafter receive any copies of the Politburo minutes.

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5013 Q. What were the two major strikes of which you had some knowledge? A. The two major strikes were the East Bay machinists strike in May and June 1941, and the other was the North American Aviation strike at Inglewood, California, in May and June 1941.

Q. What was the labor union that conducted that strike, if you know? A. Which strike?

Q. I beg your pardon. The North American Aviation strike. A. The North American Aviation strike was conducted by the Aircraft Division of the United Auto Workers of America.

Q. At any meetings of the district bureau which you attended did you ever discuss that strike?

. . . . . .

5014 Q. You discussed the strike before it became a strike? Did you discuss the desirability of the strike before it occurred? A. Yes.

Q. How did you happen to discuss this strike? Under what circumstances was the strike discussed in the district bureau meetings you attended? A. Read the question back, please.

Q. Rather than that, I will withdraw the question and substitute this question:

Under what circumstances did you hold discussions of the pending strike of the United Auto Workers at the North American Aviation Company's factories? A. We

5015 discussed it on the basis of the report given by Walter Lambert, trade union director, on the situation existing there and the possibilities of a strike.

Mr. LaFollette: Will you spell that name?

The Witness: Walter L-a-m-b-e-r-t.

Mr. LaFollette: All right. Who was Walter Lambert?

The Witness: A member of the district bureau of California and the district trade union director of the Communist Party of California.

Mr. LaFollette: All right.

By Mr. McKittrick:

Q. Who was the head of the labor union, the United Auto Workers Union, involved in that strike? A. The head of the union so far as the field is concerned and directors of the strike was W-y-n-d-h-a-m Mortimer, I believe is the correct spelling. Mortimer, M-o-r-t-i-m-e-r, International representative.

Q. Was Mortimer in any way associated with the Communist Party? A. Yes.

Q. What was his association with the Party? A. Member.

. . . . . .

5031 Q. At the meetings of the district bureau which you attended and at which you have stated the subject of the strike of the North American Aviation Company was discussed, did the district bureau formulate any plans or formulate any demands, economic demands, for the labor union against the company?

Do you understand the question, Mr. Witness? A. I understand the question. The district bureau approved in part and modified in part and made an over-all program of economic demands to be made to the company by the union.

If you will permit me, I would like to make it clear for the record that not all of these demands originated in the bureau. Many of these demands were brought to the bureau as proposals by Walter Lambert following his conferences with the party leaders in Southern Cali-

5032 fornia as their recommendations, which we discussed.

Q. During the course of the strike in May and June of 1941 did the district bureau at meetings you attended discuss the strike? A. Discussed it at every meeting while it was in progress.

Q. What was the gist of the discussions concerning the strike at those meetings during the course of the strike? A. The gist of the discussions was how to prolong and intensify the strike, and following the calling out of National Guards or the sending in of regular troops, sending in of some military forces to the strike area, we discussed the question of how far we should go in clashes with the American armed forces and decided against the advisability of any large-scale forceful clash at that time.

Q. About when did the strike terminate? A. It terminated, as nearly as I can recall, about a week or ten days after the invasion of the Soviet Union on June 22.

Q. The invasion of the Soviet Union by— A. By Hitler.

Q. Did the district bureau at any meetings you attended discuss the termination of the strike following the invasion of the Soviet Union by Hitler? A. Yes. At the first

meeting of the district bureau following that invasion
5033 we gave orders to district bureau member and trade union director Walter Lambert to proceed immediately to Inglewood and, in the language of the bureau, liquidate the strike. to bring it to an immediate end.

Q. What was the purpose of the Communist Party, if you know, in attempting to bring about the termination of the North American Aviation strike? A. The purpose of bringing about the termination of the North American Aviation strike was to get production under way at once of military planes for Great Britain and the Soviet Union, planes for the United States armed forces.

Q. While you were an official of the Communist Party did you ever know any person by the name of Eugene Dennis? A. Yes, I knew Eugene Dennis very well over many years.

Q. Is that the same Eugene Dennis who has very recently been national secretary of the Communist Party? A. Yes.

Q. What positions, if any, did Eugene Dennis hold in the Communist Party during the time you were an official in that party? A. He was district organizer of the Milwaukee district, member of the central committee—

Mr. LaFollette: Can you give us the years as you go along?

The Witness: He was district organizer in the mid-
thirties in Milwaukee, Wisconsin, and shortly there-
5034 after in the period around 1936-37, that is the approximate period, I don't recall the exact period, was legislative secretary for the central committee assigned to work in Washington, D. C., on legislative matters and to work with the Federal Government units of the Communist Party. He was a member of the Central Committee throughout from the early thirties until I left the Communist Party.

By Mr. McKittrick:

Q. While you were an official of the Communist Party did you ever know any one by the name of Gilbert L. Parks? A. I knew Gilbert L. Parks well from about 1935 to 1939.

Q. Did you have any dealings with Gilbert L. Parks in 1937? A. Yes.

Q. What dealings did you have with him during that year? A. I had both personal and political dealings with Mr. Parks during 1937. He served on the district bureau of the Communist Party for the Carolina district, was in charge of organization in South Carolina for the Communis. Party, and when it was necessary in the fall of 1937 for me to take a physical rest, provided me with a cottage free of charge on his large farm at Cat Island, South Carolina, and while I was at Cat Island my wife and I belonged to the same unit with Gilbert Parks and his wife and
5035 two other members. Also during that period he attended a conference of the Communist Party at Chattanooga, Tennessee, with Earl Browder as the chief representative from the Central Committee, and upon his return reported to the unit meeting on the proceedings of that conference. Then I had further dealings with him the next year, but this covers the major events of 1937.

Q. What was the nature of Gilbert L. Parks' report on the meeting he attended about which you have just testified? A. His report was that Earl Browder and the conference of southern party leaders at Chattanooga had worked out on the basis of central committee decisions a new line for the Party that no longer were they the revolutionary slogans to be advanced so openly, that the Party was to try to get on the New Deal bandwagon, that they were to make friends with liberals and progressives and try to draw them into fronts, that the American flag was to be displayed at Party gatherings, and in general that the revolutionary language for the duration should be played down because of the need of a collective security program, of drawing America into collective security as an ally of the

Soviet Union against Hitler, and for this reason it was necessary to try to win the good will of the Administration.

Q. Did you ever hear Mr. Browder's report discussed by any other official of the Communist Party? A. Yes.

5036 Q. By whom? A. By Rob Hall and Joseph S. Gelders, upon my arrival at Birmingham in March of 1938.

Q. After learning of this report from Parks, Hall, and Gelders, did you do anything as a party official on the basis of this report? A. I did.

Q. What did you do? A. One of the first things I did was to pull from the masthead of the official Communist organ for the South the line "published by the Communist Party" and substituted for it "published by the New South Publishing Company." I changed the editorial policies of the New South to conform to this new line, playing up President Roosevelt and every speech he made. I also took part in planning the Southern Conference for Human Welfare at Birmingham, Alabama, which matured in November of that year. I visited the university professors to put over this Party line, to involve them in carrying out of this line and bring them into party front activities.

Mr. LaFollette: What university?

The Witness: The University of Alabama was one example. I visited Professor Thomas in the Department of History at the University of Alabama, and several other professors I can not recall. I had long discussions with them in an effort to convince them that it was necessary for the United States to establish a collective security line with the Soviet Union.

5037

By Mr. McKittrick:

Q. While you were an official of the Communist Party, Mr. Crouch, did you obtain any information concerning the so-called treason trials conducted in the Soviet Union in or about the year 1937?

. . . . . .

5038 The Witness: Yes; between the years of 1936 and '38.

By Mr. McKittrick:

Q. How did you acquire your information on this subject? A. From the Soviet published transcript of the proceedings of those trials distributed through the United States by the Communist Party on district levels, section levels and down through all the branches, where I had to study these documents and had to teach the Soviet Version of these documents to the entire membership of the Party or see that it was done.

Mr. LaFollette: In what language were they published?

The Witness: These were published in English, the first editions being marked by the State Publishing House, Moscow, and later once being published in New York without any identification as to where they were printed.

By Mr. McKittrick:

Q. Did you ever receive any instructions from any member of the Central Committee concerning what you should do as a Communist official in relation to those trials? A. Yes, I received many instructions from several com-
5039 mittees of the Communist Party with regard to what I should do.

Q. Would you tell the Board the name of any particular official who gave you instructions? A. Earl Browder, Jack Stachel, William Weiner were three of several who gave me such instructions.

Q. What instructions did you receive? A. I received instructions to distribute the Soviet-edited transcript of the proceedings throughout the Party, to organize discussions or have discussions organized in every branch of the Party, to picture the dozen or more Soviet Communist or former Communist officials as traitors, agents of the bourgeoise, Nazi spies, and other such terms to the membership of the Party; and also I was instructed to try to get any trade

unions or mass organizations under Party influence to pass resolutions endorsing the conviction of these individuals by the Moscow courts.

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5041 Q. While you were an official of the Communist Party did you ever know any person by the name of John B. Williamson? A. I knew John B. Williamson well from the fall of 1927 until I left the Communist Party.

Q. Is that the same John B. Williamson now an official of the Communist Party? A. Yes.

Q. What positions, if any, did John B. Williamson hold in the Communist Party during the time that you knew him? A. From the fall of 1927 until the spring of, until May of 1929, he was a fellow member with me of the district bureau of the Young Communist League, and national trade union director of the Young Communist League. He was a fellow delegate with me at Conventions of the Communist Party in 1929, 1934, and several subsequent conventions. I don't recall the exact dates of the others. He was a member of the Central Committee during most of my membership in the Communist Party from the early thirties on until I left the Party. He was district organizer of the Communist Party for Ohio during most of my latter membership in the Communist Party.

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5115 Q. Mr. Crouch, I will hand you Petitioner's Exhibit No. 31, and ask you if you have ever seen a similar document before? A. Yes, I have seen both this document and many earlier printings and editions of the same document, since I was 12—11 years of age.

Q. Did you make any use of that document during the time you were an official of the Communist Party? A. Yes, throughout the period.

Q. What use of it did you make? A. I used it as a textbook in Party schools I taught. I had it sold. I organized the sale of it through the Party literature apparatus. I used

Party funds to purchase it and distribute it free to prospective recruits for the Communist Party, and in every way possible promoted its sale and distribution.

. . . . . .

5116 Q. I will show you, Mr. Crouch, Petitioner's Exhibit No. 121, being "Foundation of Leninism," by Josef Stalin, and ask you if you have ever seen a similar volume or similar book before? A. I have seen both this volume, identical in appearance and contents with this, a duplicate of this; and also earlier editions, in different formats, of the same book.

Q. Did you ever read the book while you were an official of the Communist Party? A. I did.

Q. Did you make any use of the book, apart from reading it, while you were an official of the Communist Party? A. Yes.

Q. What use did you make of that book? A. I used it as a textbook in Party schools. I organized its sale and distribution in every possible manner through the Party apparatus.

. . . . . .

5117 Q. You say you have promoted its sale. When and where, approximately, did you carry on that activity with respect to this Exhibit 121? A. This particular edition, from the time of its publication, around 1939, until I left the Communist Party; and earlier editions in previous years while I was in the Party. I don't recall the exact years.

Q. I will show you, Mr. Crouch, Petitioner's Exhibit No. 125, being the "Program of the Communist International," and ask you if you have ever seen a similar document before? A. What is the question?

Q. Have you ever seen a similar document before? A. I have.

Q. Did you ever read that document while you
5118 were a member of the Communist Party? A. Yes.

Q. Did you ever make any use of it in addition to reading it? A. Many uses.

Q. What use did you make of it while you were an official of the Communist Party? A. Textbook, as a guide to my own Party work and the line I should follow in my Communist activities, in teaching to students, assigning it to them as reading material, and organized the sale and distribution of it through the Party.

Q. I will show you, Mr. Crouch, Petitioner's Exhibit No. 138, being "Problems of Leninism," by Josef Stalin, and ask you if you have ever seen a similar document before? A. I have.

Q. Did you ever read this book while you were an official of the Communist Party? A. Yes, I read it and reread it many times.

Q. Did you make any use of it in addition to reading it? A. I did.

Q. What use did you make of it? A. I taught from it, assigned it as reading material to students, organized its sale and distribution in the Communist Party, and displayed it for sale in book stores under my jurisdiction.

Q. Would you name one specific book store in
5119 which it was displayed? A. The Communist Party book stores at Berkeley, California, just off the Campus, and a book store operated in connection with the Party Headquarters on Broadway, Oakland, I believe it was 10th and Broadway.

Q. I will show you Petitioner's Exhibit No. 139, entitled "State and Revolution," by V. I. Lenin, and ask you if you have ever seen a similar document before? A. I have seen a document with the same contents in several paper-bound editions. I don't recall seeing it in this particular binding.

Q. I am referring primarily to the contents, of course. You say you have seen that document in a different form? A. Yes.

Q. Is that your testimony? A. Yes, since 1925 or '26.

Q. Did you ever read this book while you were an official of the Communist Party? A. Yes, I read and reread it a number of times.

Q. Did you make any use of it in addition to reading it? A. Yes.

Q. What use did you make of it? A. I taught from it in Communist Party schools; I organized its sale and
5120 distribution. I used Communist Party funds to purchase copies of it for prospective recruits for the Party. I promoted its sale and circulation in every possible way while I was a Party member.

Q. Mr. Crouch, I will show you Petitioner's Exhibit No. 140, being "Imperialism, the Highest Form of Capitalism," by V. I. Lenin, and ask if you have ever seen a similar document before? A. I have.

Q. Did you ever read that book while you were an official of the Communist Party? A. Yes.

Q. Did you make any use of it in addition to reading it? A. Yes.

Q. What use did you make of it? A. I organized and promoted the sale of this through Party book stores and the Party literature apparatus, especially in Alameda County, California, and I used it as a textbook in connection with my lectures on the subject of imperialism before the Communist Party training school in November, 1941, at the Finnish Hall, Berkeley, California.

Q. I show you Petitioner's Exhibit No. 142, being a book entitled, "Why Communism?" by M. J. Olgin, and ask if you have ever seen a similar volume before?

. . . . . .

5121 The Witness: I have seen this in several English language editions and have read it. I have read it in a Spanish language edition. I have seen an Italian language edition of it. I saw part of it in manuscript before its publication. It was shown to me by the author.

By Mr. McKittrick:

Q. Did you make any use of it while you were an official of the Communist Party? A. I did.

Q. What use did you make of that? A. I used this for educational classes in Party units, purchasing and distributing copies of it for recruits to the Party. I used it in Communist Party schools as a textbook, the first time that I can recall being in the winter of 1936, and the last time that I recall being in May-June of 1941. I have used this as a guide in preparing political reports to the Party, in preparing my lectures at public meetings on the subject of Communism, and I have organized its sale and distribution in every possible way through the Party.

Q. I show you Petitioner's Exhibit No. 144, being a book entitled "The Communist Party in Action," by Alex Bittelman, and ask if you have ever seen a similar volume
5122 before? A. I have.

Q. Did you ever read that book while you were an official of the Communist Party? A. Yes, several times.

Q. Did you make any use of it in addition to reading it? A. Yes.

Q. What use did you make of it? A. I used this for sale and distribution at Norfolk, Virginia, to the Communist Party and the International Workers Order. I conducted classes in it for members of the Party at Norfolk, Virginia. I used this in Utah in 1933 for Party educational material, guidance for the members; and after organizing a new section of the Party in Carbon County, Utah, in 1933 and 1934, early 1934, I used this for new members' classes and assigned reading for the newer groups in the Party; and organized its sale and distribution generally through the Party.

Q. I will show you Petitioner's Exhibit No. 145, being a book entitled, "The Communist Party, A Manual of Organization," and ask if you have ever seen a similar volume before? A. Yes, I have.

Q. Did you ever read that book while you were an
5123 official of the Communist Party? A. Yes.

Q. Did you make any use of it in addition to reading it? A. Yes.

Q. What use did you make of it? A. I used it for distribution through the Party's literature apparatus to the officers and members of the Communist Party. I used it in Party schools. I used it as a general guide to my own organizational activities as an official of the Communist Party.

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5133 Cross Examination

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5144 Q. Yes. You wrote a letter to the United States Senate Committee which was investigating immigration and naturalization on September 23, 1949, did you not? A. I did.

5145 Q. In that letter you attached a list which was prepared by you purporting to be a list of Communist International and OGPU agents in the United States, did you not? A. At least part of them, yes.

Q. Well, let's see. Did you write this letter, Mr. Crouch?

"Miami Daily News, Miami, Florida, September 23, 1949.

"Subcommittee to Investigate Immigration and Naturalization, Committee on the Judiciary, United States Senate, Washington, D. C.

"Gentlemen: I am enclosing Section 2 of the list of Communists I have known during the years I was a member of the Party. This section, including 118 names, is of important national and district officials and leaders of the Communist Party. Most of them are avowed Communists or have been publicly identified with the Party. Only those I personally know as Communists are included. Such leaders as Thompson of New York and Hall of Ohio are not included because I did not personally know them. I have not included anyone who has to my knowledge broken with the Party, but it is probable that some of them have left the Party without public announcement or without publicity having come to my attention. It has been reported re-

cently that Max Bedacht and James W. Ford have
5146 been expelled but I have no definite confirmation, so
their names remain on the list. (Some may now be
out of the country.)

"A short list of former Communist Iinternational and OGPU agents also is enclosed.

"Respectfully yours, Paul C. Ouch."

Did you write that letter to the Senate Committee? A. It sounds like it. To my best recollection, I did.

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5147 Q. Let me show it to you so there will be no question whether or not you wrote it. I now show you page 159 of the hearings before the subcommittee on Immigration and Naturalization of the Committee on the Judiciary, United States Senate, 81st Congress, First Session, on S. 1832, A bill to amend the Immigration Act of October 16, 1918, as amended, dated May 10, 11, 12, 13, 16; June 1, 8, 9, 15; July 15, 16, 27, 28; August 10, 11, 12, 1949. And I call your attention to the middle of page 150 and I
5148 ask you if this is the letter that you wrote on the date of September 23, 1949, to the Senate Committee. A. It certainly is.

Q. Is that the letter? A. Yes, it is.

Q. And underneath that letter, underneath your name, there is a list "Communist International and OGPU agents in the United States." A. Yes.

Q. And underneath that heading follows the name Louis Gibarti. A. Correct.

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5150 Q. Did you include Peters' name in the list of CI and OGPU representatives that you furnished the Senate Committee? A. I don't recall, but I don't believe that he fell in the classification of secret agents, but he also fell into another classification. I don't recall which classification I placed him in. I think I probably placed him in one of the two classifications. I don't recall now. I would have to examine the document.

Q. Did you put him in the classification of Communist International and OGPU agents in the United States? A. I do not believe I did. I am not certain.

Q. I will show you the list, Mr. Witness, that you submitted. First I will call your attention to page 159 and ask you if under the list "Communist International and OGPU agents in the United States," the name of Peters appears there and if you submitted that name in that list as agents. I am not asking you about the next page. The next page does not deal with this list. Am I correct, Mr. Witness? A. Correct.

Q. Yes. A. Under that I did not place his name under that particular heading as shown in this printed copy.

Q. You did not. Gibarti was not as active and as
5151 prominent as you say Mr. Peters was, was he? A. From the public point of view, by no means, and in the general membership of the Party by no means.

Q. Yes, but you listed Gibarti in that list, did you not? A. Yes. He fell in a different classification from Mr. Peters.

Q. You did not list Mr. Peters. You say you might have listed him in the other list, in some other list? A. I may have. I don't recall.

Q. Let's see if you list him in the other category, "Important National and District Leaders of the Communist Party." I show you page 160 of the same hearing, and you will find on this page a list with the heading, "Important National and District Leaders of the Communist Party." Is that the list that you submitted, Mr. Witness? A. It is.

Q. I now ask you to look at that list and show me if you find the name of Peters. A. Reading it over, I don't.

Q. You testified about Peters, did you not, on May 16, 1949, in a hearing before the Senate Subcommittee? A. I don't recall. I probably did, but I do not recall.

Q. You had a prepared statement before that subcommittee that you read. Do you recall reading the pre-
5152 pared statement? A. Yes, I recall reading a pre-

pared statement and answering questions in addition.

Q. And your testimony on Peters was contained in the same statemer that you read, was it not? A. I do not recall. If I might refresh my recollection by reading the transcript, I can answer your question. I can't answer from memory.

Q. Yes. I will show you your own testimony, Mr. Witness, On page 134, commencing here (indicating), "Mr. Crouch," and read on. Will you read that for the record and see if that refreshes your recollection as to what you said about Mr. Peters? A. "Mr. Crouch: Because he was for years the head of the Communist Party's underground apparatus in this country, the man who gave instructions to me on how to set up illegal apparatus and maintain it in readiness for going underground at any time was J. Peters."

Q. Now, Mr. Witness, right at that point, will you show us there where you identified him as a representative of the Communist International? A. I was not using those words in the testimony as given. I said he was the head of the Communist Party's underground apparatus, which I think was quite clear to the committee. I was speaking to men who are not amateurs in such matters and who don't have to be addressed in ABC language.

• • • • • • • • • • • •

5161 Q. You testified specifically on May 6, 1949, with respect to Peters before the House un-American Activities, did you not? A. I testified in a period from about May 3 to May 8, I believe, daily, before the House Committee and I do not recall—I have a general recollection that the subject of Peters came up at different times, but I don't recall what dates. I also testified on several days around May 26, before and after May 26, and I don't recall, his name probably came up there, but I don't recall specifically.

• • • • • • • • • • • •

5162 Q. To help refresh your recollection I now show you the testimony of Paul Crouch, hearings before the Committee on Un-American Activities, House of Representatives, 81st Congress, May 6, 1949. I call your attention to page 206. You were asked the question about Peters. Mr. Mandel examined you, isn't it true, with respect to Peters, now that you look at it? A. It is
5163 obvious that these particular questions were asked by Mr. Mandel. The record so shows.

* * * * * * * * * *

5172 Q. Did you at any time in your testimony on May 6 before the Un-American Activities Committee re-
5173 fer to Mr. Peters as a CI representative? A. I don't know.

Q. You have that testimony before you, have you not, Mr. Witness? A. I have.

Q. Examine it and show us where at any time you referred to Mr. Peters as a CI representative, anywhere in that testimony from the very first page to the very last. A. On page 219 it makes it clear. The last paragraph, page 219, states that this is not the complete testimony I gave on that date. So I don't know whether it may be in the testimony that is not included in that I gave on that. I don't know.

* * * * * * * * * *

5174 Q. You have the testimony before you. A. I have before me pages 181 to 219 inclusive.

Q. From pages 181 to 219, inclusive, did you ever refer to Peters as a CI international representative? A. I don't know.

* * * * * * * * * *

5211 Q. So, Mr. Witness, at this time you do not remember a single occasion in all of the times that you have testified prior to your conference with Mr. Lenvin in which you mentioned Mr. Peters as a CI representative?

* * * * * * * * * *

The Witness: My best recollection is that I have referred to Mr. Peters quite a number of times and have discussed various aspects of his work in the United States as a Comintern representative and as an agent of the Soviet Secret Police. However, due to the tremendous volume of testimony, I cannot recall what I said specifically. The records will speak for themselves. Go to the records.

5212 The Witness: I described Mr. Peters' task as a CI representative and I will be very glad to read you now if you wish how I described his role which was recognized by the McCarran Committee as a description of him as a Comintern representative.

5213 Mr. LaFollette: Just read what is there now.

The Witness: I stated: "The vast majority of those persons who direct the United States branch of the Communist International are foreign-born persons who are not naturalized citizens of this country. Men like J. Peters, William Weiner, Jack Stachel, John Williamson, Bill Gebert—the latter now a high official of the Polish Government—are the men who really have run the Communist Party in this country in the past. Native-born and naturalized American Communists, in the main, are nominal party officials and are used mostly to head the various party fronts."

And I have to use the index to find out. On page 132 in describing his role as a Communist International representative—

5214 The Witness: I stated in answer to the question by Mr. Arens, "What would have happened had you disobeyed?

"Mr. Crouch. My opinion is that I would have been imprisoned and probably shot.

"The Chairman. Go ahead.

"Mr. Crouch. The effort to save Eisler from even a short term in an American jail is striking indication of how important he is to the Russian Politburo. Gentlemen, Eisler was in this country for years. Peters, Weiner, Stachel, and other nonnaturalized citizens were the real heads of the Communist Party in this country, subject to Moscow's orders, of course. They were here for years without interference from the immigration authorities in this country, despite the constant efforts to build an apparatus for the overthrow of the Government."

And on page 138, in answer to a question by Senator Langer, I said: "Well, I might name, for example, such names as George Siskind. There are many other people, but most of my work in that period was in contact with top party leaders. Bill Gebert was one of those. When I went to New York, most of the time I was in New York was spent in discussions with Brown, whom I mentioned also by the name of Alpi, with Stachel, Weiner, Peters, and the various other men to whom I reported on the work I was doing, and received directions from them, dis-
5215 cussed political line tactics, and things of that kind."

Then there is a reference also to him in connection with the Communist Party leadership which I don't think need read.

These are the references in connection with the Communist International.

By Mr. Marcantonio:

Q. These are the references you say were references to Peters as a Communist International representative, is that right, Mr. Witness? A. Yes.

Q. In this proceeding you were asked by Mr. McKittrick to mention the CI representatives that you knew, were you not, in this proceeding here? A. I don't recall the formulation of the question.

Q. In giving the names of CI representatives in this proceeding you mentioned Mr. Peters specifically as a CI representative, did you not? A. I only spoke of him as a

special kind. I distinguished him from the people who are ordinarily identified as Comintern representatives. I identified the Comintern representatives in substance as I recall my testimony, I said there are other kinds of special representatives, people like Peters. That is as near as I can recall the general substance of it.

5216 Q. You didn't mention in that category men like Stachel, Weiner, Peters, did you? A. I cited Peters as an example.

Q. Did you mention Stachel and Weiner? A. I certainly didn't go down the list of all the people who played a part in the Comintern apparatus in this country.

Q. I am not asking you about playing a part in the Comintern apparatus. I am asking you specifically as CI representatives. A. I made it clear in my testimony that there is a great difference between the kind of CI representatives; that Gerhardt Eisler, alias Edwards, Harry Pollitt, and Dengle, who speak in the name of the Communist International, are quite distinct from the large number of special agents, and I identified Gibarti as examples of the special agents. If I had to list all the special agents, I would have added a tremendous amount of additional detail to the record.

* * * * * * * * * * *

5221 Q. Did you mention in that list the names of Alpi, Stachel and Weiner? A. No. They wouldn't have belonged there. They belonged in an entirely separate classification of Comintern agents, in connection with Comintern work, separate even from Peters.

* * * * * * * * * * *

5293 Q. Mr. Witness, you have testified here, have you not, to the effect that the Communist Party through its officials and in your personal instance while you were a member advocated the overthrow of the Government by force and violence? A. Yes, sir; I so testified, at least in substance and words to that effect.

* * * * * * * * * * *

# Vol. II

# TRANSCRIPT OF RECORD

(Pages 483 to 997)

# Supreme Court of the United States

OCTOBER TERM, 1955

## No. 48

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER,

*vs.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR CERTIORARI FILED APRIL 13, 1955

CERTIORARI GRANTED MAY 31, 1955

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IN THE

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 11,850

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COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Petitioner*,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, *Respondent*.

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**On Petition to Review and Set Aside an Order of the Subversive Activities Control Board**

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## JOINT APPENDIX

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**VOLUME II**

**(Pages 463 to 997)**

6105 **Nathaniel Honig** was called as witness by and on behalf of Petitioner, and having been first duly sworn, was examined and testified as follows:

Direct Examination

* * * * * * * * * * *

6119 Q. Did you have an official title during the time you worked on the staff of the Daily Worker? A. Yes. After the first few days I was made make-up editor of the Daily Worker, and then I had another title later of labor editor.

Q. What were your duties as labor editor of the Daily Worker? A. I was in charge of all news relating to trade union questions, and I also was in charge of a section of the paper called "The Workers' Corner".

When I became in charge of that it was a full page in the paper devoted to letters from readers of the paper.

Q. Mr. Honig, was the Daily Worker an official publication of the Communist Party of the United States during the time you worked on the paper? A. It was.

6120 Q. How do you know that the Daily Worker was the official publication of the Communist Party?

* * * * * * * * * * *

A. I as well as other members of the staff received instructions on material to be printed in the Daily Worker and material that was not to go in the Daily Worker.

6121 I was also, as a matter of fact, just as another way of knowing, told by Robert Minor, the editor of the Daily Worker, that it was an official organ of the Communist Party.

Q. You mentioned that you received instructions. Do you recall any of the persons that issued instructions during the time that you were a member of the staff? A. Yes. At first instructions would be sent down from J. Lovestone, who was then Secretary of the Communist Party, and Benjamin Gitlow, I believe, was the assistant Secretary of the Party. I don't remember his exact title. He was

second in command. Orders would come from him. Sometimes he would come in and sort of brief us on certain current situations of the day.

Q. Did any members of the staff of the Daily Worker object to publishing any of the material they received from the Communist Party leaders?

. . . . . .

The Witness: I never knew of any member of the staff of the Daily Worker to refuse to carry out any in-
6122 structions as to what was to go in the paper, instructions that came from the Central Committee or any of the officials of the Communist Party.

. . . . . .

Q. Were any members of the staff of the Daily Worker fired during the time you were a member of the staff of the Daily Worker? A. I recall one.

Q. Do you recall the name of this person? A. John Sherman.

Q. Why was he fired, if you know? A. Yes. He was fired for printing—he was at that time labor editor, it was shortly after I became a member of the staff—he was fired for allowing an article to go into his section of the paper which was deemed by the Party against the line of the Party.

. . . . . .

6123 Q. Mr. Honig, did you receive any instructions from the leaders of the Communist Party of the United States during the time you were editor of Labor Unity? A. Frequently.

Q. Do you recall the names of any of the persons that you received instructions from? A. Well, in the first place, from William Z. Foster, who was a member of the Political Bureau of the Communist Party, and he was also Secretary of the Trade Union Unity League. From—I don't re-
6124 call names at the moment of any others. From Jack

Stachel, who was a member of the Political Bureau at that time. I do remember specifically from him.

Q. Mr. Honig, you have testified that you were the editor of Labor Unity until May 1934. What did you do after May 1934? A. I was sent by the Communist Party of the United States to the Soviet Union.

Q. How long did you remain in the Soviet Union? A. From June 1934 until September 1935.

Q. Did you return to the United States in 1935? A. Yes.

Q. What did you do after you returned to the United States in 1935? A. For a short period from November 1935 until March 1936, I worked in the district apparatus of the Communist Party in New York; that is in the district headquarters.

Q. How long did you work there? A. From November 1935 until about March 1936.

Q. Where did you go in March 1936? A. To San Francisco. I was sent there to be editor of the Western Worker.

Q. What was the Western Worker, Mr. Honig? A. It was the official organ of the Communist Party for the Pacific Coast.

Q. Did you receive any instructions from the Com-
6125 munist Party of the United States on what was to be published in the Western Worker? A. Yes. During my employment on the Western Worker, I did.

* * * * * * * * * * *

6138 Q. What did Golos tell you concerning your trip to the Soviet Union? A. Of Course, the first thing I asked Golos was, when I would get the ticket and when I was supposed to leave, and Golos told me about this. I asked him about the ticket, where I would obtain it. He said not to worry about that, that he would take care of that, he would buy the ticket, that is, he would see that the ticket was bought, he would have it for me well in time for the sailing, and that he would see that arrangements were made for me to get expense money on the way over.

Q. Did you obtain an American passport for this trip? A. Yes.

Q. Did you apply for your American passport in your own name? A. Yes.

Q. Did you obtain any visas prior to the time you left the United States? A. I obtained some from Golos.

6139 Q. What do you mean you obtained them from Golos? A. No. I guess I didn't obtain them from him. He had talked himself of making the arrangements to get them. Now, as I recall, I went and got the visis from three or four consulates myself. He told me what consulates to get them from, what countries I might pass through possibly.

Q. Do you recall what countries you received them from? A. British, French, Polish and German. I remember them.

Q. Did you get a visa for the Soviet Union? A. No, I didn't. That is, I didn't get a visa in my passport for the Soviet Union, not in that form.

Q. In what form did you receive your visa for the Soviet Union? A. I asked Golos about that when he told me to go to the other consulates and get visas for those countries, and he said never mind about that, he would obtain something for me that would be the equivalent but they didn't want my passport to show I was going to Russia and the Soviet Union, and therefore there would be no visa in the passport for the Soviet Union. So he gave me a little piece of silk, it was a little square piece of silk, I guess no more than an inch square, and he said he would have this sewed in a tie.

Mr. LaFollette: In what?

The Witness: Sewed in the inside of a tie where it would be concealed by the outer part of the tie, and he told

6140 me I would board a Soviet ship in London for Leningrad and when I got on the ship I would identify myself by showing this thing to some official aboard that ship.

By Mr. Story:

Q. What was on this piece of silk, if you recall? A. It was in Russian writing, and it also had my name in Russian and in English. I don't remember the exact wording. At that time I could not read any Russian. Golos told me that it merely served to identify me, that is all.

Q. Did you use this form of visa when you boarded the Soviet ship? A. Yes, I showed that to a man on the ship, I don't remember who it was, of course, but he had the uniform of a ship's officer, and I was introduced to him by another man on the ship. The man who introduced me said that this man was in charge of the political activities on the ship. I showed him that. I had been told by Golos to show it to such a man and I did.

Q. Where did you board the Soviet vessel? A. In London.

Q. Did Soviet officials on the boat ask you for your American passport? A. Yes, they asked me for it, and I gave it to them. They kept it until my arrival in Leningrad.

Q. Did you receive any funds for this trip? A. 6141 Any what? Beg pardon?

Q. Any money or funds for this trip to the Soviet Union? A. Yes, I received some cash, a couple of hundred dollars for expenses.

Q. Where did you get this money? A. I was told by Golos to obtain it from William Wiener, who was the treasurer or secretary treasurer of the Communist Party. I don't remember which title he used. Financial director was the title as I recall it.

Q. Did Merker tell you anything about your expenses for your trip over your expenses while you were in the Soviet Union when he talked to you? A. He didn't say anything about the expenses on the boat going over, but he did say that my expenses would be paid by the Red Internationale of Labor Unions, that is, I would be paid a salary and living expenses.

Q. Mr. Honig, what did you do with your American passport when you arrived in Moscow? A. When I arrived at

Moscow I went to the Red Internationale of Labor Unions, I went to Mr. Lozosfsky, who was the head of the Red Internationale of Labor Unions and he asked me to give him my passport. He said that the Red Internationale of Labor Unions would keep my passport for the duration of my stay there, I gave it to him.

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6157 Q. Mr. Honig, you have testified that you were employed by the Red Internationale of Labor Unions in Moscow. What were your duties when you first arrived in Moscow to work with the Red Internationale of Labor Unions? A. My first duties when I had the title of referant were merely to go through reports that came from the United States from the Communist Party and sift out any information relating to trade unions, to go through the various publications that were sent us from the United States that the Internationale of Labor Unions subscribed for from the United States and digest out of that information relating to trade unions in the United States, and from that to make reports to the Red Internationale of Labor Unions on the trade unions in the United States. They were my first duties.

Q. How long did you continue as a referant at the Red Internationale of Labor Unions? A. For about three
6158 months.

Q. What were your duties after that time? A. Then I was raised to the position of representative of the Trade Union Unity League, and the Communist Party of the United States to the Red Internationale of Labor Unions.

Q. What were your duties as the official representative of the Communist Party of the United States to the Red Internationale of Labor Unions? A. My duties became not merely to digest these reports that were sent over from the American Party and information I had obtained from the publications that we received there, but then also I attended

meetings at the Comintern itself, at the Communist Internationale Building itself, each week, and participated there in helping to formulate policies which were to be carried out by the American Communist Party in the trade union field.

Q. You mentioned reports you received from the Communist Party of the United States. What kind of reports did you receive? A. Sometimes they were just simply mimeographed reports. When the information was not of any great confidential nature they were merely mimeographed reports or typed reports that were sometimes even sent in the regular mail, but very often brought over by American Party leaders or students from the United States who were going to study in Moscow brought them to the Internationale of Labor Unions. Sometimes they
6159 were brought over by couriers. If the information was of a more confidential nature, if the reports referred to matters that the Party didn't want known outside of the top Party leadership, then of course they were brought over by couriers or by top Communist Party leaders who may at that time have been visiting the Soviet Union.

Q. Did you attend any meetings of the Red Internationale of Labor Unions? A. Yes. At least one meeting of all representatives from the various Communist Parties throughout the world, at least one meeting of such representatives was held each week in the Red Internationale of Labor Unions Building.

Q. What took place at these meetings? A. At these meetings, in the first place, various delegates, various representatives from different countries of the world, from the Communist Parties of those different countries would get up and give reports on the work their parties were doing among the trade union members in their countries. Then discussions would take place among various delegates based on the various reports that had been given.

Then there are always two or three leaders from the Comintern, from the Communist Internationale, that would come over to attend these meetings of the Red Internationale of Labor Unions, and they would get up and give their opinions of the work that was being carried on
6160 by the Communist Parties in these various countries in the trade unions. They would express whether they thought such work was being properly carried out in accordance with instructions that had been previously sent from the Comintern, that is the Communist Internationale, or they would express either approval or disapproval or dissatisfaction with the progress of such work being carried on by the various Communist Parties.

Then there would be more discussion on their opinions. Of course, there was—I don't remember any disagreement on the part of these delegates, us delegates from the various Communist Parties of the rest of the world, any disagreements with what was expressed by these men from the Comintern. Generally we would get up and admit our errors or the errors of our parties, and promise to rectify these errors.

Q. Mr. Honig, what countries were represented at the Red Internationale of Labor Unions? A. Of course, the United States and every English speaking country that I can think of, England, and all the British Colonies of the Dominions and the United States. These were represented in the section that I worked in. That was the Anglo-American Secretariat of the Red Internationale of Labor Unions. Then of course there were also representatives from every Latin American country, and they were in a Latin American department of the Red Interna-
6161 tionale of Labor Unions. Every European country that I know of had a representative there. A number of the Asiatic Countries, Indo-China, India, China, Japan, there was a representative from the Philippines, and they were in the Far Eastern section or secretariat of the Red Internationale of Labor Unions.

Then there were delegates from scattered other areas, some of the countries in Africa and a few other lesser known countries or smaller countries throughout the world.

Q. Mr. Honig, you have mentioned attending meetings once a week at the Communist Internationale Building. What type of meeting was this? A. Such a meeting was similar to what we had at the Red Internationale of Labor Unions except that they took in more scope, they took in more territory. In addition to the question of trade union work by the various Communist Parties we discussed, also they discussed broader political activities, such as elections that were being held in various countries and what Communist Parties of those countries were to do in those elections. Whether in some cases, like in the United States, they were to maybe run a candidate masked as a socialist—we had such a discussion at one time—or say in another locality in an election in the United States to run a Communist openly as a Communist, if it were deemed feasible.

Whether in another case they would have him pose
6162 as a Democrat or Republican, and similar questions on other questions on elections.

Then of course there were other broad political issues that were discussed, such as what to do about various other antiparty movements that were occuring in some countries.

Well, all sorts of general political questions which concerned the Communist Internationale.

Q. Was the entire membership represented at these meetings at the Comintern which you attended each week? A. You mean were all the representatives from the various countries—

Q. Yes. A. Not always. In fact, not usually. Sometimes one might be sent to some other part of the Soviet Union for some purpose. Once in a while I myself was sent elsewhere either to learn more how the Soviet Union operated, how various phases of socialistic activities were carried on Soviet activities, that is, were carried on in the Soviet Union, or to study the operations of Soviet trade

unions and so forth. Pretty nearly always one or another or more of we delegates were away from Moscow at any particular meeting. So we never had all of them, but usually most of the delegates were present.

Q. Did any other members of the American Communist Party attend these meetings? A. At the Red Inter-
6163 nationale of Labor Unions, yes, we had the American representative who was my counterpart. He was the American representative to the Comintern itself. I was the representative to the Red Internationale of Labor Unions, and he to the Communist Internationale. He would come over and attend our meetings at the Red Internationale of Labor Unions Building just as I would go over and attend their meetings.

Q. Do you recall the name of this representative? A. William Schneiderman.

Q. Mr. Honig, you have mentioned that you received certain publications while you were in Moscow which you read and in turn analyzed the trade union articles for the Red Internationale of Labor Unions. What publications did you receive from the United States? A. There were non-party and party publications, of course. For instance, I got them to subscribe to the New York Times. They had not been doing it up to then. I deemed it very necessary to have the New York Times there, because it did print a great mass of news that I could not obtain otherwise. They reported on all phases of activities, I thought, fully. So I got that.

I remember I even got them to subscribe to a few what we call fascist publications that were published at that time in the United States. I don't remember the title. There
6164 was a magazine, a monthly issued by a man named Laurence Dennis who was starting what he called openly a fascist movement. I asked them to subscribe to that so we could know what they were planning and talking about, what this movement was talking about, and such things. Of course, all Party publications were sent over.

Q. Will you please name for the Panel the Communist Party publications that you received while you were in Moscow? A. The Daily Worker, the New Masses, the Communist, all books and pamphlets that were published by the International Publishers, which was one of the Communist Party publishing firms. All pamphlets published by the Workers Library Publishers, and the Western Worker. That about covers it I think.

Q. Mr. Honig, what type of couriers were used to bring these reports to the Soviet Union? A. Various types of people were used as couriers. In the first place, there were what you might call professional couriers, professional in the sense that that was their sole duty, to be sent to various countries throughout the world and carry messages or money or instructions to Communist Parties in various countries. Then whenever—

Mr. LaFollette: Excuse me. I didn't quite hear you. Did you say there were or were not such?

The Witness: There were.

6165 That was one type. Whenever any top party leader, such as Earl Browder, the Secretary of the Party, would make frequent visits, at least once or twice a year, to the Comintern, he would generally take back instructions and other data to the Party in the United States from the Comintern, and from the Red International of Labor Unions, too.

Then there were students at what was called the Lenin School in Moscow. The United States Party and the United States Young Communist League had a number of students at that school, and when they finished their terms at the school and were homeward bound, they too would take with them such material as I have mentioned.

By Mr. Story:

Q. Were these students used to bring reports from the United States to Russia? A. Yes.

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6169 Q. Mr. Honig, you were discussing the types of couriers that were used to bring messages from the United States to the Soviet Union. You have testified that students to the Lenin School were used, and also the leaders of the Communist Party of the United States
6170 when they made trips to the Soviet Union. Were there other types of couriers used to your knowledge?
A. Yes. People like myself, who were employed in Moscow as representatives of the Communist Party were occasionally sent out as couriers. I would say in addition also, although that wasn't their main purpose, representatives of the Communist Internationale who were sent to the United States and to other countries, but I know personally those who were sent to the United States, they too would also act as couriers as long as they were going to the United States or returning to Moscow from the United States.

. . . . . .

Q. Did you prepare any reports that were to be sent back to the United States while you were in Moscow?
A. Yes.

Q. Did you personally deliver any of these reports to any couriers for transmission back to the United States?
A. Yes, I did. I delivered some of that material myself to Jack Stachel, whom I mentioned, when he was there, once. Although he was not there mainly to be a courier, he was to act as a courier on his return.
6171 I delivered such material also to a student of the Lenin School, to several students of the Lenin School, as a matter of fact, whose terms were up. I gave them that material which they were to take back with them.

Q. What type of material did you give these couriers to bring back to the United States? A. They were reports on development, for instance, of strike activities in various industries of the United States, reports on decisions that had been made either at the Comintern meetings I have described, or the Red Internationale of Labor Union meet-

ings I have described, as to where the Party was to step up its activities and try to produce strikes and try to capture control of unions by the Communist Party.

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6173 Q. Were the directives received by the Communist Party of the United States from the Red Internationale of Labor Unions carried out by the Communist Party in the United States? A. Yes.

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Q. How did you gain this information? A. I was then editor of Labor Unity, the official organ of the Trade Union Unity League, and the executive board of the Trade Union Unity League held meetings at least once a week at the Trade Union Unity League, and it was mandatory for me to be present at every such meeting so I would know how to reflect the policies discussed in the magazine that I edited. It was at such a meeting that this particular matter here was discussed, and it was at subsequent meetings
6174 that reports were received and discussed as to whether this was being carried out. I was present when these were done.

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6180 Q. Mr. Honig, do you recall any specific directive which was issued to the Communist Party of the United States from the Communist International or from the Red Internationale of Labor Unions while you were in Moscow? A. Yes, I recall a number of such directives.

Q. Can you give us any specific directive that was
6181 issued? A. One such directive I recall distinctly is in connection with the work of the Communist Party and the Trade Union Unity League among the unemployed.

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Q. Mr. Honig, where did you receive these instructions? A. On the unemployed?

Q. Yes. A. I didn't receive the instructions, that is, the instructions were transmitted from the Red Internationale

of Labor Unions and the Communist Internationale to the Communist Party of the United States.

Q. Did you assist in preparing any of these directives that went back to the Communist Party in the United
6182 States? A. Yes, I did, specifically that directive.

Mr. LaFollette: On this subject of the unemployed?

The Witness: Yes.

Mr. LaFollette: Was it in writing at the time you prepared it?

The Witness: I prepared it in writing. I prepared my version of it in writing, but then it was discussed at one of these meetings of the Internationale of Labor Unions. Then the directive which was sent was sent through a courier, I don't know which courier, but it was decided that the directive would be sent through a courier.

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Did you ever receive a report back from the United States in your capacity which you then held while you were in Moscow with reference to any action in connection with this directive that you issued?

The Witness: Yes, I did.

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6189 Q. What happened to these directives after you had written them up before they were sent to the United States? A. All directives formulated at the RILU, whether mine or anybody else's, whether I participated in them or anybody else, from any country, had to be okayed in the Comintern before they could be transmitted to the respective countries. That was true of directives that I participated in formulating in the RILU. In my case they had to be okayed by the Anglo-American Secretariat of the Comintern.

Q. And did the Communist Party of the United States have a representative in that group? A. Yes, it did.

Q. What was the name of that person? A. That was William Schneiderman.

Q. You were testifying about another specific directive you recalled. Was this directive issued by the Communist Internationale or the Red Internationale of Labor Unions? A. This was issued by the Communist Internationale itself, this other directive.

Q. Will you tell the Panel what this directive was?

6190 A. It was the directive applying to a general strike in San Francisco in 1934.

Q. When did you first hear of the discussion on this directive. A. In one of the first meetings that I attended after my arrival at Moscow at the RILU, Lozosfsky, himself, who was the Secretary General of the RILU, said that reports had been received—I am not quoting his exact words, but this was the gist of it—that reports had been received there at the RILU that the work among the longshoremen and dock workers in San Francisco by the Communist Party was producing good results, and he wanted to see that that work would be fully supported, fully backed in every way, by the Red Internationale of Labor Unions. He wanted to see more discussion. He asked for more discussion on the San Francisco situation and he asked for fuller reports. He said that he had sent to the United States for fuller reports.

At subsequent meetings he made this the main point on our agenda for a number of weeks. We held these meetings at least once a week, and often twice a week. The first time I heard about it was in June 1934, early in June 1934. He considered this matter of such importance because of the reports he had received from the United States, that is, from the Party in the United States, on that, that he even called extra meetings each week during June on the subject.

6191 The Comintern became interested. He said he had reported to the Anglo-American section of the Comintern. He considered this work from such great importance from the reports he had received that he wanted the Comintern to participate in joint meetings with the

RILU on this matter. We had not had such joint meetings. We just had our separate meetings. At the Cominform they were very enthused about the reports Lozosfsky gave. The Anglo-American section of the Comintern said, or thought from the reports that Lozosfsky showed them that the situation was rapidly developing—I think this is almost exact quotes of the two heads of the Anglo-American Secretariat—to the point where they thought a general strike was possible at San Francisco at least on the waterfront, and possibly in all San Francisco.

Q. Were any instructions or directives issued out of all of these discussions that you had to the Communist Party in the United States? A. Yes. Instructions were issued. Lozosfsky reported at these joint meetings of the Comintern and the RILU Anglo-American Secretariats, that he and the heads of the Anglo-American Secretariat in the Comintern had sent instructions—

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The Witness: —had sent instructions to the
6192 Political Bureau of the American Party that they considered this situation there ripe for a general strike in San Francisco on the basis of reports they were getting from the Party.

By Mr. Story:

Q. Did you participate in drawing up any instructions concerning the general strike in San Francisco? A. Yes, I did.

Q. About when was that? A. That was in June 1934.

Q. What were these directives? A. I could give you the gist or the sense of them.

. . . . . .

Q. Where did you receive these instructions? A. I don't quite know what you mean by instructions.

Q. Were you told to prepare any directives to the Communist Party in the United States? A. I see. Not quite

in that way. What happened actually was that at these joint meetings of the Comintern and the Red Internationale of Labor Unions, it was decided to draw up official instructions from the Comintern itself instructing the
6193 American Party to press the situation in San Francisco to the point of a general strike. I simply participated in actual oral discussion. I did not write the instructions in this case, but I helped to draft the instructions that were to be sent.

Q. In other words, you did assist in drafting the instructions. A. That is right.

Q. Were these instructions communicated to the Communist Party in the United States? A. Yes, they were.

Q. How were they communicated?

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6194 The Witness: They were communicated in this particular case by a coded message. * * *

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6195 Did you receive any reports after this instruction went out on the subject of this general strike from the United States?

The Witness: I didn't receive them directly, but I saw copies of such reports sent to the Comintern.

Mr. LaFollette: What did they say?

The Witness: They said that the Party agreed in the United States that a general strike was very possible now in San Francisco, and that the Party was trying to carry such a strike out.

Mr. LaFollette: When was this?

The Witness: This was towards the end of June, probably the last week of June that the Party replied.

Mr. LaFollette: What year.

The Witness: 1934.

By Mr. Story:

Q. Tell me what is meant by general strike. A. A general strike as the Party means it and as I always under-

stood it as a Party member, was meant it can be a strike in which an entire industry is crippled and the workers in an entire industry participate, or it can mean a strike where the workers in all industries, trade or particular locality, or even in a particular country take part.

Q. Did you read anything in the Daily Worker concerning the general strike in San Francisco while you
6196 were in Moscow? A. Yes, I did, in 1934.

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6202 Q. Did Mingulin make any other statement concerning the general strike in San Francisco. A. Among other things he said was that he knew that the American Federation of Labor reactionary leaders, as he called them, would be reluctant, and would oppose such a thing, but he thought that due to the effective work of the Party and due to the effective work particularly of Harry Bridges—he mentioned Bridges' name as he had
6203 received reports—due to that, he thought that the workers, that the Party in America could force the A.F.L. leaders through Party pressure among the union members to call such a strike.

He warned, too, that because of their reluctance that these, as he called them, reactionary leaders would try to scuttle such a strike as quickly as they could. He said the mere calling of that strike would not be enough. The important thing would be to prevent the American Federation of Labor leaders, specifically the Central Labor Council of San Francisco, from killing that strike off.

. . . . . .

The Witness: Another thing he said was that the Comintern was particularly anxious, and he said he had discussed this with Manuilsky, who was then the Secretary General of the Communist Internationale, the Comintern, that Manuilsky was particularly anxious to have this strike because the Comintern wanted to see one of the cardinal lessons of Comrade Lenin, as he said, carried out here. He

pointed out to us who were listening to him then that the cardinal principle of Leninism was that a general strike is a rehearsal for a revolution or for a seizure of power by the Communist Party. He said that such a re-
6204 hearsal is now possible in the United States.

Mr. LaFollette: Where did this conversation take place with reference to the strike?

The Witness: This one was in the Comintern Building.

Mr. LaFollette: I mean with reference to the date of the strike.

The Witness: I see. This was in the middle of June 1934, this particular one.

By Mr. Story:

Q. Was this conversation prior to the time the instructions were sent to the Communist Party in the United States? A. Instructions were continually being sent during the month of June on the speeding of that strike, so that it was not prior to the first instructions. But further instructions were sent after that conversation.

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6206 Q. Mr. Honig, I think in response to my last question you said you taught at the Lenin School, is that correct? A. Yes, I taught at the Lenin School.

Q. What classes did you teach at the Lenin School? A. I taught labor journalism and I taught a course in the history of the American labor movement.

Q. How many students did you have in your class? A. I had a selected group of American students in my class. I had somewhere between 15 and 20.

Q. You say these were all members of the Communist Party of the United States? A. Either that or of the Young Communist League of the United States.

Q. When did you start your teaching at the Lenin School? A. I can't tell you the exact date on that, but it was in the fall of '34.

Q. How long did you teach? A. I had a six months course in each of those subjects.

Q. How did you receive your assignment to teach
6207 at the Lenin School in Moscow? A. This Mingulin and Mehring both, the co-heads of the Anglo-American section of the Comintern, assigned me to that.

Q. Where were these classes held? A. They were held in a building devoted to the Lenin School.

Q. How long did the American students from the Communist Party of the United States remain at the Lenin School? A. I can't tell exactly, but I know that a number of them remained at least two years, because the way I could tell that was that they were there when I arrived, and they were still there when I was leaving Moscow for my return to the United States, and I was there 18 months, or about 18 months.

Q. What nationalities were represented by the students at the Lenin School? A. Of course in the class I taught there were only Americans. There were students from every country in the world which had a Communist Party, and a few countries where they had not yet organized a party, but there was a nucleus of a Communist Party. Every nationality in Europe, that is, from every nation in Europe, and virtually every nation in Latin America, Mexico, Central and South America, and I met students from all these places, and a great number of students from the Far East,
from China and Japan particularly, and a few from
6208 India. Of course, from Britain and the British colonies, Canada, and so forth.

Q. Mr. Honig, were you familiar with the other subjects that were taught at the Lenin School?

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The Witness: Yes. Revolutionary tactics was the major subject, and Leninism, Marxism, and of course the subjects I taught. They were among the leading ones.

By Mr. Story:

6209 Q. Do you recall the names of any of the text books that were used by the students in the Lenin School? A. Lenin's "Imperialism" was one. All the works of Lenin were used from time to time. Lenin's "Imperialism" was very much used. A pamphlet by Lenin, or a booklet by Lenin called "Infantile Leftism" was a very important pamphlet or booklet. Another work of Lenin which was very important for these students was one called, "What is to be done?" Of course, I used textbooks in my courses. I used one, "The History of the American Working Class" by Anthony Bimba, among others.

Q. Who were the instructors at the Lenin School, if you know. A. Yes.

Q. What nationalities? A. They were mainly Russian, although there were a number of Germans and there was a sprinkling of other nationalities, mainly Russians, though. I should say a fairly large number of Germans that I met instructed there, and a sprinkling of other nationalities.

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6216 Q. Mr. Honig, were the American students at the Lenin School paid while they were in Moscow? A. Yes, they were paid a form of salary while they were there.

Q. Where did the American students live while attending the Lenin School? A. They lived in dormitories operated by the Lenin School.

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6217 By Mr. Story:

Q. Mr. Honig, were you paid a salary while you were employed by the Red International of Labor Unions? A. Yes, I was.

Q. What were you paid? A. I was paid 500 rubles a month.

Q. Did you receive any salary in addition to the 500 rubles a month? A. No, I didn't receive a direct salary,

but I was encouraged to receive an extra stipend in the form of royalties in articles I would write for Soviet newspapers and magazines.

Q. Did you write very many articles for the Soviet publications while you were in Moscow? A. Yes, quité a few.

Q. Approximately what was your income from these articles? A. It would range up to about 10,000 rubles a month.

Q. Who paid your salary while you were with the Red Internationale of Labor Unions? A. The RILU.

Q. Where did you live while you were in Moscow? A. I lived in an apartment building operated by the RILU.

6218 Q. Were you charged for your room? A. No, I was not.

Q. Mr. Honig, did you attend any congresses of the Communist International while you were in the Soviet Union? A. Yes, I did. I attended the Seventh World Congress of the Communist International in Moscow in July and August of 1935.

Q. Did the Communist Party of the United States have representatives at this congress? A. Yes, it did.

Q. Do you recall the names of the representatives of the Communist Party of the United States at this congress? A. I remember the name of the Chief delegates. They were Jack Stachel and Earl Browder and William Z. Foster.

Q. Where was the Seventh World Congress held? A. It was held in Moscow, and I believe it was in the Hall of the Soviets in the City of Moscow.

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Q. Were you an official delegate from the Communist Party of the United States to the Seventh World Congress? A. I was an official non-voting delegate.

Mr. LaFollette: Do I understand that you attended

6219 the Congress?

The Witness: I attended it.

Mr. LaFollette: You went to the building, but you are not sure what the building was named? Is that it?

The Witness: I am not sure of the English equivalent. That is why I hesitate.

Mr. LaFollette: All right.

By Mr. Story:

Q. Mr. Honig, were you seated with the official delegates from the Communist Party of the United States at the Congress? A. Yes, I sat with them.

Q. What took place at the Seventh World Congress which related to the Communist Party of the United States? A. To begin with, reports were made by the American delegates, by the ones I named, on the work they had done in the United States, on the work of the American Communist Party, and then a great deal of discussion by the non-American delegates quite frequently centered on the work of the American Communist Party, and in addition to that the main report to the Congress delivered by the leaders of the Comintern, for instance, by Manuilsky, who was the head of the Comintern, touched to a great degree on the work of the American Party.

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6223 Q. Who paid the expenses for your trip from the Soviet Union to the United States? A. The Comintern.

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Q. Mr. Honig, please tell the Panel, if you know, who paid Foster's expenses for the trip back to the United States?

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The Witness: The Comintern.

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Mr. Story: How do you know that Foster's expenses for his trip back to the United States were paid by the Comintern?

6224 The Witness: I was with Foster when we visited the Anglo-American secretariat of the Comintern to

obtain the funds with which Foster was to return, and Foster there made the arrangements while I was present to obtain money—

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6225 Q. Mr. Honig, what was said about finances as
6226 far as your trip was concerned back to the United States at this meeting? A. Mingulin told Foster they would immediately arrange to have money for him, and they asked him the date when he wanted to start and said they would have the money by that date.

Q. Was that money for the trip? A. For the trip for the return home to the United States.

Q. Was anything said about expense money for this trip? A. Yes. Mingulin pointed out and wanted Foster to estimate how much would be needed for living expenses for both Foster and myself, and he said that he would find out, Mingulin said he would find out what the expenses would be for the actual transportation, and he would see to it that first-class transportation was provided for both of us.

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6227 Q. Mr. Honig, did the Communist Party of the United States receive any other financial assistance
6228 from the Communist International during your membership in the Party?

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The Witness: Yes, to my knowledge in a number of cases the Communist Party received direct assistance from the Soviet Union, financial assistance.

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Q. What financial assistance did the Communist
6229 Party of the United States receive from the Communist International?

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The Witness: The Communist Party received a subsidy that I know of directly from the Communist International

which was supposed to go for the operation of "Labor Unity," a magazine which I operated.

Mr. LaFollette: What year?

The Witness: From the years 1930 to 1934.

By Mr. Story:

Q. How do you know this, Mr. Honig? A. I found that out eventually directly from where the assistance was supposed to come, but in the first place I was told by Jack Stachel when "Labor Unity" ran short of money to pay the printer, that William Weiner—

Mr. Abt: Mr. Chairman, if this is a conversation may we have when, where and who was present and what was said?

Mr. LaFollette: I think the wi ess should be permitted to answer and if he doesn't state so, we will find out when and where. Proceed.

The Witness: In the offices of Jack Stachel at 2 West 15th Street, New York, the headquarters of the Trade Union Unity League, I was told—

Mr. LaFollette: What year?

6230 The Witness: A number of times from 1930 to 1934, almost monthly actually. When I would go to him for money to pay the printer, Stachel told me that he would go to see William Weiner and ask him if the money as subsidy from the Communist International for Labor Unity had yet arrived, and he would so do and come back and tell me whether or not the money was available. Later when I went to the Soviet Union the manager of the Anglo-American department of the Red International of Labor Unions, which was also known as the Profintern, a man named Kutnik asked me if the money which was allotted for publishing Labor Unity had been used for that purpose. I told him that very many times we were not able to get that money, and he told me that he was very angry about that and told me there was a definite stipend assigned for the purpose of publishing Labor Unity, and

the money came from the Anglo-American Secretariat of the Comintern for that purpose, that he would inform the Anglo-American Secretariat of the Comintern that I had told him that we had not received that money regularly.

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Q. Mr. Honig, you have testified that you knew a
6231 representative from the Communist International in the United States in 1934 by the name of Merker. Did you know any other representatives of the Communist International in the United States during your membership in the Party? A. Yes, I did.

Q. Will you give us the name? A. One was a man named Yuzefovich, Y-u-z-e-f-o-v-i-c-h.

Q. Did you know any other representative of the Communist International? A. I met one named Allen, a man from Finland, a Finn who used the name Allen.

Mr. LaFollette: When and where did you meet him?

The Witness: I met Allen in 1932 and 1933, and I met Yuzefovich frequently in 1932 and 1933 also, in New York City. Yuzefovich also in Pittsburgh.

Mr. LaFollette: What year?

The Witness: The same years. In Pittsburgh it was either in '32 or '33.

Mr. LaFollette: What information do you have for your statement that they were International representatives? You said you met two men.

The Witness: They directly told me so, and later I met Yuzefovich in the Soviet Union and he confirmed again—

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6232 Q. How do you know that Yuzefovich was a representative of the Communist International?

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The Witness: Yuzefovich came to visit me in my office in Labor Unity and after telling me that he was a representative of the Communist International—and as a matter of fact he had been introduced to me as such by Jack Stachel.

By Mr. Story:

Q. What position did Jack Stachel hold in the Communist Party at that time? A. He was acting secretary
6233 of the League, and he was a member of the Political Bureau of the Party. Yuzefovich would come to see me and give me instructions on the putting out of Labor Unity. Yuzefovich also would come to the Trade Union Unity League Executive Board meetings which were held monthly. He would attend and listen to the discussion and then give his ruling on whether the decision talked about should be carried out or not. I was present at such meetings.

Q. Did you attend any conventions at which Yuzefovich was present? A. Yes, I did.

Q. What convention? A. It was the convention of the Trade Union Unity League in 1933, I believe it was, but it might have been late in 1932, and it was held in Pittsburgh, Pennsylvania.

Q. Were you present at this convention? A. Yes, I was.

Q. Did Yuzefovich participate in the proceedings at this convention? A. Not on the floor of the convention, he did not.

Q. How did he participate? A. He sat back unobtrusively in the back of the hall. He said nothing while the convention itself was going on in the convention itself, but during recesses he would go—a number of times he did so—
to a nearby cafeteria or cafe or restaurant with Jack
6234 Stachel, with William—with Jack Stachel particularly then, with various heads of unions which were affiliated in the trade union line. I remember Frank Boric, of the National Miners Union and a man named Ziebel, the head of the Shoe and Leather Workers Union of the TUUL, and I would go along as editor of the Labor Unity so I would know what the policy was to be. He would discuss how the convention had gone on this previous session before this particular recess, and he would tell what he

thought of it and what he thought should be done at the next session to eliminate any weak spot that he saw. He would do that during almost every recess of that TUUL convention in Pittsburgh.

Q. You have mentioned that Yuzefovich came to your office in Labor Unity. How often did he come to your office? A. There was no regularity, no stated period, when he felt like dropping in and when he felt the need was there. I can estimate probably a dozen times that he did that.

Q. How long did you know Yuzefovich in the United States? A. About a year.

Q. Did you see Yuzefovich after he left the United States? A. Yes, I saw him in Moscow.

6235 Q. Did Yuzefovich have any position at the time you saw him in Moscow? A. Yes, I saw him in his office. He was the head of the River Boatmen's union in the Soviet Union, and I saw him in the office of that union. He had a uniform of some kind on. It looked like a naval uniform of some kind, when I met him there.

Q. Mr. Honig, how did you know that Allen, from Finland, was a representative of the Communist International? A. The only time I saw Allen at—I will put it this way: I knew because I saw him at what they call a plenum of the Communist Party in New York, and he was present there and he made a number of talks at this plenum in which he laid down the line to be followed by the Party. That was in 1932, I am pretty sure, late in '32.

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6248 Q. Mr. Honig, did you use a party name or an alias at any time during your membership in the Party?

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The Witness: Yes, I did.

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Q. Mr. Honig, when did you use a Party name?

6249 The Witness: I used a Party name twice, once when I was in the Soviet Union during my entire stay there, and the second time when I was editor of the Western Worker in San Francisco, when I was managing editor.

By Mr. Story:

Q. What name did you use? A. Nat Davis.

Q. Did you select that name? A. No.

Q. Who selected it? A. On my arrival in the RILU in Moscow, Lozosfsky told me that I was to use a Party name during my entire stay in the Soviet Union and that the name of Nat Davis would be the one that I would use.

Q. What position did Mr. Lozosfsky have at that time? A. He was secretary general of the RILU.

Q. Where in the United States did you use a Party

6250 name? A. In San Francisco, in my employment on the Western Worker.

Q. What name did you use there? A. Nat Davis.

Q. How long did you use the name of Nat Davis? A. In San Francisco?

Q. In San Francisco. A. During my entire employment on the Western Worker, from approximately April 1936 to August 1937.

Q. Why did you use a Party name while you were employed with the Western Worker? A. William Schneiderman, the District Organizer of the Party for California, told me that they were shaping up or preparing for this general strike on the waterfront in 1936 and that he thought it expedient that I use such a Party name.

. . . . . .

6251 Q. Mr. Honig, were you publicly known as a member of the Communist Party during your membership in the Party? A. Not to the public at large. The only non-Communists who knew I was a Party member were

members of my own family and occasional people whom I tried to recruit to the Party.

Q. Were any instructions issued by the Communist Party concerning the concealment of membership in the Party? A. Yes. Communist Party members in their first meetings—

. . . . . .

The Witness: In meetings that I attended, in unit meetings that I attended all through my membership in the Party, both I myself when I first joined the Party in my first unit meeting, and subsequently all new members that I saw at Party unit meetings in my unit were instructed by the organizer of that particular unit not to let it be known to the general public that they were Party members.

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6252 Q. Mr. Honig, were any members of the Communist Party concealed from the rank and file members of the Party during your membership?

. . . . . .

The Witness: Yes, there were.

Mr. LaFollette: Who were they and when and where, specific instances.

The Witness: I can't give you definite names. I can't give you definite dates on that, but I know that it was the fixed policy for certain types of Party members to be concealed as members from the rank and file of the Party.

. . . . . .

6253 Q. What type of members were concealed from the rank and file of the membership of the Party? A. People in the professions very often, such as doctors and lawyers, and school teachers quite often. That type generally.

Mr. LaFollette: If you don't know their names, how do you know that these people were concealed? Where did you get your information?

The Witness: I do know the names. I do know some names.

Mr. LaFollette: During your membership?

The Witness: Yes.

Mr. LaFollette: On the West Coast or in New York?

The Witness: The West Coast is one example I remember.

6254 By Mr. Story:

Q. Will you give us that example? A. There was an attorney named Leo Gallagher who was a Party member on the West Coast.

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The Witness: The attorney, Leo Gallagher, I know was a Party member in my entire period on the Western Worker, and was hidden from the General Party membership.

Mr. LaFollette: On what factual basis do you say you know he was a Party member?

The Witness: In the first place, I was informed so by the District Organizer of the Communist Party, so I would know how to treat Leo Gallagher in the columns of the Western Worker.

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6255 Q. Were any other types of members of the Communist Party concealed from the rank and file of the membership?

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The Witness: It requires a little thought for a minute or two. Yes, there was another type. I referred to that type before, namely, representatives from the Comintern who were in the United States. They were Communist Party members.

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6256 The Witness: I also remember Americans who were used as couriers abroad, whom I met in Moscow

—I mentioned Tim Ryan—who were not known to the Party members of the United States as Party members at least an attempt was made to cover up that fact.

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Q. Mr. Honig, did you know any labor leaders who were members of the Communist Party?

. . . . . .

THE WITNESS: A great many.

. . . . . .

Q. Were the leaders of the trade unions who were members of the Communist Party generally known as members of the Communist Party to rank and file of the Party?

. . . . . .

6257 THE WITNESS: They were only so known to a limited section of the rank and file of the Communist Party. The fact was not to be mentioned. At least I was given instructions, as editor of Labor Unity, that the fact was not merely not to be mentioned, but to be denied if the occasion arose—these were my instructions—in Labor Unity, that such leaders were members of the Communist Party, and only to the members of a fraction of their particular unit, the Communist fraction of their particular union, were they known as Communists.

. . . . . .

Q. Mr. Honig, did you receive any instructions concerning the disclosure of your membership in the Communist Party at any time?

. . . . . .

THE WITNESS: I did when I joined the Party and I believe I have testified to that. Then I did when I joined
6258 the staff of the Daily Worker. Robert Minor, the editor, told me, took me aside when I became a member of the staff and told me that since I was a new member and I was pretty well unknown to the Party at large in New

York and to the public in general, whereas some of the other older members of the staff were not so unknown, it would be a good idea for me to not let it be known too generally that I was a Party member to the rank and file of the Party itself and certainly not at all outside the Party, and also he said they feared raids by the police at that period on the Daily Worker premises and in that case, in the case of such a raid if I were questioned by the police, I would say I was just a visitor there or that I was leaving an article there—Oh, just generally to give the idea that I happened to be there on business other than that of an outright member of the staff or a Party member.

Q. Mr. Honig, were you called upon to testify in any proceeding involving the Communist Party during your membership in the Party? A. Yes, I was.

Q. Will you give us the date? A. I can't give the exact date. It is a matter of record. But it was in, I believe, 1932 or 1933.

Q. What was the case? A. It was a case in which a 6259 Communist-controlled union was involved.

THE WITNESS: The union was the Shoe and Leather Workers Industrial Union. An injunction was being sought against the union. The important point in whether that injunction would be issued or not turned out to be whether this union was communist-controlled or not. I was asked by Jack Stachel, or I was instructed by Jack Stachel, to appear as a witness for the defense in that proceeding.

By MR. STORY:

Q. Did you appear in the proceeding? A. Yes, I did.

Q. Did Stachel give you any other instructions prior to the time you appeared as a witness in this case? A. Yes. He said that the purpose of my appearing there would be to try to prove—to make the assertion or claim that this Shoe

and Leather Workers Industrial Union and the Trade Union Unity League were not affiliated or connected in any way with the Red International of Labor Unions. He said that a number of cases of this kind had occurred and that affiliation had proved very embarrassing to the case of the unions and that the TUUL was going to use a new tactic
6260 to try to get around this. He said we were to drop—that up to this time we had said in our masthead, "Labor Unity, official organ of the Trade Union Unity League, affiliated with the Red International of Labor Unions." He said we were now going to drop that phrase "affiliated with the Red International of Labor Unions." Then when I was to testify I was to point out that the Shoe and Leather Workers Industrial Union and the TUUL were not affiliated with the RILU and to show as a proof of that the lack of such affiliation on the masthead of the Labor Unity.

Q. Did you discontinue this phrase on the masthead of Labor Unity? A. We did shortly before, some time before my appearance on the stand.

Q. Did you testify in the case? A. Yes, I did.

Q. Was the testimony you gave in this case true or false?

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6261. THE WITNESS: The testimony I gave in respect to affiliation with the RILU was false.

MR. LAFOLLETTE: What did you testify with reference to?

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6262 THE WITNESS: I testified that the TUUL and, through it, the Shoe and Leather Workers Industrial Union, was not affiliated with the RILU, and I pointed out as proof of this that such affiliation was not stated on the masthead of the official organ of the TUUL, Labor Unity.

By MR. STORY:

Q. Did you give any testimony concerning the Communist control of this union?

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THE WITNESS: No.

6263 MR. LAFOLLETTE: You used a term a while ago in answer to a question by Mr. Story with reference to Communist control, particularly of this union. What facts do you predicate your statement on that it was controlled by the Communist Party of the United States?

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THE WITNESS: I knew the President of the union, Sam Ziebel, and I had met many times with him at Communist meetings. I met with him monthly at the TUUL executive board meetings where he accepted the instruction of Communist leaders. I knew him personally as a Communist. We spoke to each other as fellow Communists. We just spoke that way. We knew who we, each other, were.

By MR. STORY:

Q. Mr. Honig, what was the TUUL? A. The TUUL is the initials for the Trade Union Unity League. It was an organization founded by the Communist Party for the purpose, in the first place, of splitting off as many workers as possible from the AF of L unions and forming them into unions of the TUUL, controlled by the Communist Party. Another purpose it was formed for was to organize workers who were unorganized who were not in any unions up to that time into such Communist-controlled unions. And also to take such workers both from the AF of L and the unorganized workers and to work on them to become

6264 members of the Communist Party.

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Q. Mr. Honig, were the meetings of the Communist Party of the United States open to the general public during your membership in the Party?

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6265 THE WITNESS: I hadn't finished the answer. There was one type of meeting conducted by the Communist

Party that was open to the general public. They were the election rallies, the election meetings, at which candidates of the Communist Party, who were running for office on the Communist ticket, spoke. Such meetings were open to the general public. But I don't recall any other type of Communist Party meeting that was open to the general public.

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6266 Q. Were you given any instructions concerning your allegiance as a member of the Communist Party?

. . . . . .

THE WITNESS: I was not given instructions in allegiance. I was given instructions that my allegiance only was to the Soviet Union and was not to the United States of America.

By MR. STORY:

Were you present when any other members of the Communist Party received any instructions concerning allegiance?

. . . . . .

THE WITNESS: Yes, I was. Of course this occurred at all unit meetings of the Communist Party that I attended in my entire membership whenever new members were introduced to the other members and when they were given their first instructions as to the duties of a Communist Party member.

6267 MR. LAFOLLETTE: What language was used?

THE WITNESS: The language used was that we as Communists owe our allegiance to the workers' fatherland, which is the Soviet Union, our first and only allegiance; that we owe no allegiance to any capitalist form of government.

MR. LAFOLLETTE: Were you ever a unit leader yourself?

THE WITNESS: Yes. I was a discussion leader in the first unit I joined.

By Mr. Story:

Q. Mr. Honig, did you attend any meetings in Moscow where the subject of allegiance of the members of the Communist Party of the United States was discussed? A. I did.

Q. Will you tell the panel about this meeting? A. A preliminary meeting to the Seventh World Congress of the Comintern was held in the Cominter, a meeting of the American delegates, and a talk was given by Manuilsky, the head of the Comintern at the time, in which he introduced the subject by pointing out of course at that time that the main enemies, the most imminently threatening enemies of the Soviet Union were Nazi Germany and Japan, but he proceeded to give the American delegates a very severe lecture and he said, "You, the American Party leaders, seem to have forgotten in the course of our current struggle
6268 against Nazi Germany and Imperialist Japan, that still of course the American capitalist government, as he called it, "that still this is a foe of the Soviet Union, of the workers' fatherland. You seem to have forgotten to stress that you owe your first allegiance or that all Communist Party members in the United States owe such first allegiance to the workers' fatherland, the Soviet Union."

He demanded that that be re-stressed again to the lowest ranks of the Party.

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6269 By Mr. Story:

Q. Mr. Honig, you were testifying about a meeting in Moscow prior to the meeting of the Seventh World Congress of the Communist International. Do you recall the names of the Americans who were present at that meeting? A. Of most of them. At that meeting were Browder, Stachel, William Z. Foster, and William Schneiderman. These were the chief delegates. I recall them distinctly being there. John Williamson is another.

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6284 Q. Mr. Honig, what were you taught as to the ultimate aim of the Communist Party of the United States during your membership?

MR. ABT: I object.

MR. LAFOLLETTE: I think I will let him answer that, if he states by whom and where specifically the teaching took place. The objection is overruled. Go ahead.

THE WITNESS: I was taught from the inception of my membership as soon as I joined the Party, and I was taught this in the first place by the unit organizer of the Communist Party when I joined in 1927, that the ultimate aim of the Communist Party of the United States was to overthrow the form of government existing in the United States then, and that any means would justify that ultimate aim, including the use of force and violence, if necessary.

By MR. STORY:

Q. Was that the policy that was taught in the Communist Party all during your membership? A. Yes, it was.

Q. What form of government was to be set up in the United States to replace the present form of government? A. What I was taught and what I myself taught and was told to teach was that the aim was to set up a dictator-
6285 ship of the proletariat patterned on the form of government existing in Russia, in the Soviet Union.

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6304 CROSS EXAMINATION

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6401 Q. Mr. Witness, you testified here that you went to various unit meetings of the Communist Party, did you not? A. Yes.

Q. And that at these unit meetings you taught the advocacy of the overthrow of the Government of the United States by force and violence, is that right? A. That I was taught and I so taught, yes.

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6402 Q. Did you testify on the question of force and violence in the Bridges case? A. I did.

Q. Did you give this testimony, were you asked this question at page 2228?

"Question: Is it not a fact that you yourself believed in the overthrow of the Government of the United States by force and violence?"

Were you asked that question in the Bridges case? A. Yes, I was asked that.

Q. And your answer?

"Answer: I had to believe that—Yes, I did. I necessarily believed that in a major part of the time that I was in the Party as a Party member."

Did you make that answer? A. Yes, I did.

Q. Then were you asked this question:

"You do now, don't you?"

Were you asked that question? A. Yes, I was.

Q. "Answer: I do not." A. Yes, I said that.

6403 Q. Were you asked this question:

"When did you stop believing that?"

Were you asked that question? A. Yes, I was.

Q. Did you make this answer?

"Answer: I stopped believing that as far as my own mind was concerned, oh, perhaps a year and a half, two years before I left the Party. And, as a matter of fact, I discussed that with Party officials and I had told them that—I had told them that I was coming to think that such kind of action to achieve social change would not be necessary, and I pointed out certain reforms being made by the National Administration. And they said—they pointed out 'Well, you don't necessarily have to believe that. It's quite possible that in the United States'—this was not writings, this was personal conversations with me—'It is quite possible in the United States and even probable that there wouldn't have to be force and violence, because all the rest of the world would have done so meanwhile, and all the rest of the thing would fall in our laps.'

"Well, that kind of sustained me, kept me in the Party for a while, plus the assurance of the leading members of the Communist Party."

6404 Did you give that answer?

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Q. Were you asked that question and did you make that answer? A. Yes. I made that answer.

6405 Q. Then were you asked this question:

"Question: Then is it your testimony that from 1927 to approximately 1937 you did believe in the forcible and violent destruction of the Government of the United States?

"Answer: I would put my belief in that period you mentioned in this way. What I believe was this: That—"

Did you have that question and did you start making that answer in that form? A. Without the benefit of the record, I can't answer.

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By Mr. Marcantonio:

Q. "Question: Can't you first answer the question 'Yes' or 'No' and then if you want to qualify it, you can make as many qualifications as you like?"

Then Mr. Del Guercio interposed a remark and the Presiding Inspector said:

"I think he can answer it. Let's see if he can answer it."

Then did you make this answer:

"Answer: I don't believe I can definitely say 'yes' or 'no' on that question."

Did you make that answer?

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6406 The Witness: Yes.

By Mr. Marcantonio:

Q. Were you asked this question?

"Question: All right. If you can't say either 'yes' or 'no', go ahead and speak."

Then do you recall giving this answer?

"Answer: What I believed from the day I joined the Communist Party, oh, for say the next nine or ten years was this: That the Communists could work as far as possible towards transition, towards socialization, in that quite possibly at some point when they got near the point, say, where the masses of the people of the country were ready for a change in the system, for doing away with capitalism as a system, at that time they would be in such a great majority and indicate it so plainly that there might not be the necessity for any kind of struggle or violence.

"I thought that there were maybe a 75 per cent chance that that could happen, and many Party leaders told me that. But I did believe, however: That in case such a situation arose and the organization of the workers that were desirous of that change made it plain to those in control of capitalism that they wanted to achieve a system of socialization now, and if
6407 those in control of the capitalist organizations, the capitalist system as a whole, met them with violence then I did believe, and I sincerely believed that it would be necessary for the working class to resort to violence because they were being met with it."

Did you make that answer, Mr. Witness?

. . . . . .

The Witness: With all the "mights" and "buts" and "possiblys," I remember making such an answer substantially.

By Mr. Marcantonio:

Q. I am asking did you make that answer, Mr. Witness.
A. Yes, including all the mights and buts.

Q. Never mind the mights and buts. I will show you the answer. Did you make it? A. You don't have to show it to me.

Q. But you did make this answer that I read, Mr. Witness? A. Yes.

Q. Then were you asked this question?

"Question: That is counter-violence after violence first used by some other side?"

And did you make this answer?

"Answer: Yes. That was really my belief. But, nevertheless, I must say openly that it was a be-
6408 lief in the use of violence to achieve that aim."

Did you make that answer? A. Yes.

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6409 Q. Were you asked this question?

"During the period that you have held the beliefs that you have just described, did you consider your beliefs to be consistent or inconsistent—"

Get this, Mr. Story.

"—with the teachings and advocacies of the Communist Party?"

Do you remember being asked that question? A. I believe so.

Q. Did you make this answer?

"Answer: I believed them to be largely consistent because, first of all, I had discussed these ques-
6410 tions with leading members of the Communist Party, men like Foster, men like Stachel, who were members of the Political Bureau of the Central Committee of the Party, and in cases even in some Communist writings it has been mentioned that in a country like the United States it might be possible that, well, the capitalists would have no fight left in them in this country because the capitalists in the other countries had been overcome. And I kind of rather like to choose to believe those statements rather than the contradictory statements on that subject appearing probably in

the same work by men like Lenin and so forth. Perhaps it was just a matter of wishful thinking on my part." Did you make that answer, Mr. Witness?

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THE WITNESS: Yes, I made that answer.

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6488 Redirect Examination

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By Mr. Story:

Q. Mr. Honig, how long was the general strike in
6500 1934 on? A. The general strike of all the unions involved, not just the Longshoremen?

Q. Yes. A. I don't recall the exact period. I know it started in July 1934, I believe. The general strike, as
6501 far as participation by all the original unions, lasted I believe less than a week. It collapsed within a week, as I recall it.

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6502 Q. Did you receive any report from the Communist Party of the United States as to why the general strike was called off? A. Yes, I did.

Q. What reports did you receive from the Communist Party of the United States?

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6503 THE WITNESS: I received a report from the Communist Party that the general strike, not of longshoremen but of all the unions involved, had collapsed shortly afterwards because Vandaleur and O'Connell and George Kidwell, leaders of the American Federation of Labor, had denounced, had decided that the strike had been prepared by the Communist Party and that the Communist Party had too active a part in the preparation, and therefore they had decided to pull out of it and to call their unions out of the strike.

By Mr. Story:

Q. Did those unions pull out of the strike? A. A great many of the American Federation of Labor unions pulled out of the strike very shortly after it was called.

Mr. LaFollette: How do you know that?

The Witness: This report stated so.

Mr. LaFollette: How many reports did you get?

The Witness: I can't say. There were quite a number of reports on this particular phase.

Mr. LaFollette: From whom did the reports come?

The Witness: I received reports from Jack Stachel, signed by Jack Stachel, and there was at least one report signed by Earl Browder.

Mr. LaFollette: On the subject matter—

6504 The Witness: On what they called the betrayal of the general strike.

By Mr. Story:

Q. What positions did Stachel and Browder have at that time? A. Browder was the head of the Communist Party. I believe his title was secretary-general or secretary of the Communist Party. Jack Stachel, I think then he was acting head of the Trade Union Unity League, acting secretary of the Union Unity League, and both were members of the Political Committee of the Communist Party.

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6517 **Dr. Philip E. Mosely** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Lenvin:

Q. Will you please state your name and address. A. My name is Philip E. Mosely, of New York City, 29 Clairmont Avenue.

Q. What is your present position, Dr. Mosely? A. I am Director of the Russian Institute of Columbia University and Professor of International Relations at Columbia University.

Q. How long have you held this position? A. I have been Director of the Russian Institute since February 1, 1951. I have been Professor of International Relations at Columbia University since July 1, 1946, on active duty from September 1, 1946.

Q. Prior to your appointment as Professor of International Relations at Columbia, what other positions have you held? A. In 1929-30 I was Instructor of History at
6518 Princeton University. From 1933 to 1935 I was Instructor in History at Union College in Schenectady, New York. From 1936 to 1942 I was first assistant professor and then associate professor at Cornell University, at Ithaca, New York.

Q. After 1942? A. From June 1942 until the end of August or the first week of September 1946 I was employed by the Department of State. From June 1942 until about April 1943 I was a senior research analyst in the Department of State, first in the Division of Special Research and then in the Division of Political Studies. From about April 1943 until January 1944 I was assistant chief in the Division of Political Studies, from January 1944 until September 1945 I was chief of the Division of Territorial Studies. From September 1945 until I resigned at the beginning of September 1946 to return to academic work, I was special assistant to the Assistant Secretary of State. During that time I attended the Moscow Conference of three foreign ministers in October 1943 as a member of the United States delegation. From June 1944 until August 1945 I was political adviser and deputy representative of the United States delegation to the European Advisory Commission in London. In July and the beginning of August 1945 I was a political adviser to the U. S. delegation to the Potsdam Conference. From September 1945 until the end of August 1946 I was a
6519 political adviser on the U. S. delegation to the Coun-

cil of Foreign Ministers meeting in London and Paris. From February 1946 until May I was the U. S. Commissioner on the Four-Power Commission for the investigation of the Yugoslav-Italian boundary. During July and August 1946 I was the U. S. representative on the Commission for the Drafting of the Statute of the Free Territory of Trieste and the Convention of the Free Port of Trieste.

Q. Dr. Mosely, would you give the panel, please, a brief description of your educational background? A. Yes. I was born and brought up in Westfield, Massachusetts. I was born in 1905. I was educated in the public schools of Westfield, graduating from the High School in 1922. I studied four years at Harvard College, 1922 to '26, receiving my degree, A.B, summa cum laude in 1926. In 1926 and 1927 I studied at Cambridge University in England under a fellowship from Harvard College, doing my work principally with the late Professor H. V. W. Temperley, the co-editor of the British documents on pre-1914 diplomacy and the author of the principal work on the Paris Peace Conference of 1919.

In 1927-28 I was employed in England and France as a private tutor in an American family, and at that time I took some informal work at the London School of Economics and at the Free School of Political Science in Paris, Ecole Libre. At that time I also began a thorough study of Russian as a school to begin my later research in Russian
6520 history. In 1928-29 I did graduate work at Harvard University in European history and received my M.A. in history in 1930. After a year of teaching at Princeton, I received a fellowship in history from Harvard and went to Moscow, where I carried on research in Russian diplomatic history from July 1930 to April 1932, returning to Harvard in September 1932 and completing my Ph.D. degree in June 1933. The subject of my dissertation was Russian Diplomacy and the opening of the eastern question in 1838 and 1839. The major part of this study was published in the following year by the Harvard Press which also published

some eight or ten articles on other aspects of Russian diplomacy of the 1830's.

In 1935 and 1936 I received a post-doctoral fellowship from the Social Science Research Council and carried on studies in to village life in three Balkan countries, Roumania, Bulgaria and Yugoslavia. This involved interviewing the peasants in the villages, studying their family and village organization and customs. I published several articles on these problems.

Q. Dr. Mosely, do you speak, read or write any language other than English? A. Yes. I speak, read and write French and Russian. I read and speak German. I read and speak Serbo-Croatian and Roumanian. I read and understand some Italian and some Bulgarian, and I can read
6521 with a dictionary Czech, Polish, Ukranian, Spanish, Portuguese and Dutch.

Q. During the period of time that you have been engaged as Professor of International Studies at Columbia have you had occasion to be appointed to any consultative positions? A. During the period since 1946 I have occasionally served as a consultant to the Department of State on the Russian and European problems.

Q. Are you serving in any consultative capacity to any organization at this time, other than your work connected with Columbia University? A. Yes. I am now consultant to the Social Science Division of the Rockefeller Foundation. Beginning in January 1947 I served as a consultant. Then in April 1948 I was appointed a part-time assistant director in social sciences. I resigned that as of July 1, 1951, because of the pressure of other work and my research. I am continuing, however, as a part-time consultant. From 1938 to 1945 I was the Secretary of the Committee on Slavic Studies. This was a national committee appointed by the American Council of Learned Societies to assist in developing research and research resources and teaching in the general field of Slavic studies. In December 1945 I was made Chairman of this committee and in February 1947

this committee was reorganized as the joint committee on Slavic Studies, appointed jointly by the American
6522 Council of Learned Societies and Social Science Research Council. I served as Chairman of this Joint Committee from February 1947 until I resigned in September 1950 in accordance with the principle of rotation.

From 1941 to 1945 I was also a member of the Committee on Intensive Language Instruction in the Emergency, a committee appointed by the American Council of Learned Societies to try to fill some of the gaps in our equipment to provide people with a knowledge of unusual languages ranging from Swahili to Japanese and Burmese and Thai, African, Russian, Chinese and so on. This was a private committee appointed by this leading council for the purpose of trying to meet this need for knowledge of what might be called out-of-the-way languages.

Q. Dr. Mosely, do you recall the titles under which you published some of your more important written works? A. I have published a study of Russian diplomacy toward Turkey and the Turkish Straits in the 1830's entitled "Russian Diplomacy and the Opening of the Eastern Question in 1838 and 1839," published by the Harvard Press. I translated and edited and abridged a history of the Russian Revolution titled "The Great Russian Revolution," by V. M. Chernov, which was published by the Yale University Press in 1936. I published studies of Russian diplomacy of the 1930's including a study of Russian policy toward the Spanish Civil War at that time, the Russian policy toward Persia and Afghanistan, and I published a number of studies of
6523 intellectual work in Russia, including in 1938 a study in the Annals of the American Academy of Political and Social Science entitled "Freedom of Scientific Inquiry and Artistic Expression in the Soviet Union." In 1950 I published in the proceedings of the American Philosophical Society, at Philadelphia, a study of social science and the conditions that have influenced its development in the Soviet Union since the war. I have also published studies in For-

eign Affairs, the Yale Review, and a number of other periodicals of a scientific and general character.

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6524 Q. In connection with the various positions you have held and the studies that you have undertaken, have you had occasion to examine the publications and other materials issued by the Soviet Government or the leaders and spokesmen of the Communist Party of the Soviet Union or the leaders of the Comintern in matters which relate to the International and Foreign policies of the Soviet Union? A. Yes, I have. This is my principal line of research and has been both in its historical and contemporary aspects for more than 20 years. I am probably the only full professor in this country who is devoting his full time to teaching and research on Russian and Soviet foreign policy. I follow the development of Soviet foreign policy from day to day and I also try to gather in retrospect additional information to be used in my teaching and in research.

Q. Also, Dr. Mosely, have you had occasion to examine and study publications and other materials issued by the Communist Party of the United States? A. Yes, I have. I have consulted these materials frequently and have often referred to them in my research work.

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6531 Q. Dr. Mosely, have you also in the various positions which you have held and the research that you have undertaken had occasion to examine the publications and material issued by the States of Roumania, Bulgaria, Czechoslovakia, Yugoslavia, Poland and Albania? A. Yes, I have. I have not been able to examine them with the same regularity, largely because there are many gaps in the flow of materials, even those representing the point of view of the governments in those countries, but I have examined very substantial and typical parts of their publications setting forth the foreign policy of those governments.

Q. Have you also read with any degree of regularity the

publication issued by the Communist Information Bureau entitled "For a Lasting Peace for a People's Democracy"? A. Yes, I have followed this publication from the time it began in November 1947, first issued in Belgrade, and then from July 1948 from Bucharest.

6533 Q. Dr. Mosely, from your examination of the materials and other publications emanating from the Soviet Union have you been able to form any opinion as to the views and attitudes of the Soviet Union toward the League of Nations during the period of approximately 1919 to 1934?

6535 THE WITNESS: I have, sir.

6540 Q. Dr. Mosely, from your examination of the materials and other publications emanating from the Soviet Union have you been able to form any opinion as to the views and attitudes of the Soviet Union toward the League of Nations during the period from approximately 1919 to 1934? A. I have.

Q. What is that opinion that you have formed?

THE WITNESS: From 1919 until the end of 1933 the leaders of the Soviet regime and of the Communist Party of the Soviet Union and of the Communist International attacked the League of Nations very bitterly. They described it as a league of robbers, an imperialist conspiracy, as a conspiracy to unleash a new war, as a plot to enslave dependent peoples, and particularly as a conspiracy to attack the Soviet Union and to destroy it. This opinion was expressed on in-
6541 numerable occasions through speeches and other published pronouncements of the leaders of the Soviet regime, the Communist Party of the Soviet Union, and of the Communist International.

Q. I show you, Dr. Mosely, what is a certified translation of an article appearing in Izvestia for May 13, 1919, page 1, entitled "The League of Violence," and ask you whether you have ever read that statement before? A. I have read the statement. I have read it several times in Russian and I have examined this translation. It is a typical statement of Soviet criticisms of the League of Nations and its whole concept and activity.

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6551 Q. Dr. Mosely, this newspaper Izvestia, which you have examined—Do you know anything about this publication? A. Yes, I do. Izvestia in 1919 was the official newspaper of the Soviet of Deputies of the Toilers of Soviet Russia.

Q. In your opinion, would statements appearing in this publication reflect the official views of the Government?

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THE WITNESS: The editor of Izvestia is appointed and removed by the Soviet Government and it is regarded in the Soviet Union and outside as the official mouthpiece of the Soviet Government.

By MR. LENVIN:

Q. Referring again to this issue of Izvestia, a translation of which I showed you, Mr. Mosely, I would like to ask again in your opinion does this article fairly reflect the attitude of the Soviet Union toward the League of Nations as of the date of this article.

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6552 Q. Does it reflect the views and attitudes of the Soviet Union toward the League of Nations as of that date?

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THE WITNESS: This statement in Izvestia repre-
6554 sents only one of numerous and continuing expres-

sions of official Soviet opinion concerning the League of Nations in 1919 and in subsequent years down to the end of 1933 or the beginning of 1934. It is a complete attack on the whole conception, notion, organization and alleged aims of the League of Nations.

By Mr. Lenvin:

Q. I also show you, Dr. Mosely, an excerpt from works by Joseph Stalin, Volume 10, August-December, 1927, published in Moscow in 1949. I specifically direct your attention to this excerpt which appears on pages 206 and 207, which I would like to offer as petitioner's exhibit for identification No. 164.

(The document referred to was marked for identification Petitioner's Exhibit 164.)

By Mr. Lenvin:

Q. I ask you whether you have ever read that before. A. I have. I have read it many times both in the original Russian version of Stalin's Collected Works and in this translation.

Q. In your opinion, Dr. Mosely, does this excerpt which I have shown you reflect the attitude of the Soviet Union toward the League of Nations as of that date?

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6355 The Witness: It does in my opinion. Stalin was then the Secretary-General of the Communist Party Bolshevik of the Soviet Union and a member of the Politburo of the Central Committee of the Communist Party. This statement of his views has been published many times since the conference was held in November 1927. One of the most recent versions in Volume 10 of his Collected Works was issued by direction of the Central Committee of the Communist Party in 1949. Therefore, it must be assumed that it is an authoritative opinion of his views as of the time that he expressed them.

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6559 Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States, have you been able to form any opinion as to what the views and attitude of that Party was toward the League of Nations during the period from 1919 to 1934? A. I have. Through its publications the Communist Party of the United States commented frequently and in great detail on the League of Nations and its activities and thus there is abundant materials to form an opinion.

Q. I show you, Dr. Mosely, an editorial, which appeared in the Daily Worker for December 19, 1925, entitled "Pacifist Propaganda for World Court," which we would like to identify as Petitioner's Exhibit 165, and ask you if you have ever read that editorial before. A. I have. I have read this editorial before.

(The document referred to was marked Petitioner's Exhibit 165 and received in evidence.)

By Mr. Lenvin:

Q. In your opinion, Dr. Mosely, does that editorial reflect the views and attitude of the Communist Party of the United States toward the League of Nations as of that date? A. It does.

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6569 Q. Dr. Mosely, to what extent have your research in the positions that you have held required you to read and study publications issued by the Communist Party of the United States, the Respondent in this case? A. I read extensively the publications, past and present, of the Communist Party of the United States. This means that for extensive periods I read their daily and monthly publi-
6570 cations, such as the Daily Worker, the Sunday Worker, Political Affairs, formerly The Communist. Then at other times in the course of my research review over a period of some months or several years their expressions of view on a given problem. In other words, I read exten-

sively currently and also I have occasion in the course of my own research and of supervising the research of others, to review the past expressions, for example, on a given international problem. I will go back through their publications over a period of anywhere from one to 20 or 30 years, depending on the nature of the subject. In my work I supervise the research training and actual research of anywhere from 15 to 30 graduate students in any given year, and at the present time there are 18 candidates for the Ph.D. who are preparing their dissertations under my supervision. So in many cases I also have occasion to advise them in their research and to review the materials which they bring out in the course of their research. In other words, my research facilities are much more extensive than those of just one single person. It represents a whole series of studies in the course of which I have occasion to supervise closely the review of the materials of the Communist Party of France or the Communist Party of Germany or the Socialist Unity Party of Eastern Germany or the Workers Party in Poland or the Communist Party in India, and so forth.

I would say it is not possible for one person to read
6571 and follow all the publications of all the parties, but that naturally those in languages accessible to me, which I have listed previously, I do follow them closely at first hand and also through supervision of the reference to these materials on the part of conscientious and able graduate students.

Q. Now, Dr. Mosely, have you been able to form any opinion as to the views and policies which the Communist Party of the United States had toward the League of Nations from the time of its establishment to about the year 1934?

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THE WITNESS: Yes, I have. During this period the Communist Party of the United States attacked the League of Nations as a league of robbers, as an imperialist conspiracy, as a plot to attack and overthrow the Soviet Union. The

terms in which they attacked the League of Nations were directly parallel to the terms in which the Soviet Press and other public pronouncements—

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6572 Q. You may continue, Dr. Mosely. A. The arguments, the line of reasoning, the accusations brought against the League of Nations by the publications of Communist Party of the United States were directly par-
6573 allel with the accusations which appeared in Soviet official pronouncements and in the Soviet Press and other publications of the Soviet Union.

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Q. I show you, Dr. Mosely, Petitioner's Exhibits 165 and 166 and ask you if you have taken into consideration in arriving at your opinion these two articles.

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6575 Q. The question was: Have you taken into consideration these articles, which have been identified as Petitioner's Exhibits 165 and 166, in forming your opinion as to the views and attitudes and policies, of the Communist Party, USA, toward the League of Nations as of the period we have under discussion?

. . . . . .

6576 THE WITNESS: I have.

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Q. Now, Dr. Mosely, did there come a time after
6595 1934 when the views and policies of the Soviet Union underwent a change toward the League of Nations? A. Such a change occurred in 1934.

Q. What was the occasion for such a change, if any?

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THE WITNESS: In September 1934 a large group of nations represented in the League of Nations extended an invitation to the Government of the Soviet Union to join the

League of Nations. The Soviet Government accepted this invitation and in September 1934 joined the League of Nations. This change had been foreshadowed by an interview which Mr. Stalin gave at the end of December 1933 in which he stated that the attitude of the Soviet Government toward the League of Nations need not always be contradictory or hostile, that under certain conditions the League of Nations might now play a positive role in preventing the spread of war and aggression, and that under those conditions
6596 the League of Nations might receive Soviet support.

The reasons for the Soviet change of view were further elaborated by the then People's Commissar for Foreign Affairs, Mr. Litvinov in his speech of acceptance of membership in the League of Nations, including a permanent seat on the League Council. Here he spoke in terms of approval of the League of Nations, placing—

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6597 Q. Now, Dr. Mosely, I ask you whether, in forming your opinion as to the views and attitudes of the Soviet Union toward the League of Nations after it became a member, you took into consideration these items which have been marked as Petitioner's Exhibits 167 and 168. A. I did. They are authoritative expressions of the view of the Soviet Government. One item is the official text of the reply of the Soviet Government to the President of the Assembly of the League of Nations, and the other is an authoritative speech by the then People's Commissar for Foreign Affairs, the authorized spokesman of the Government of the Soviet Union on foreign policy.

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6599 Q. Dr. Mosely, from your examination of the publications and other material issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that Party toward the League of Nations after 1934 or after the Soviet Union became a member of the League of Nations?

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THE WITNESS: I have. After the Soviet Government joined the League of Nations, the Communist Party of the United States praised the League of Nations as a potential obstacle to the expansion of war and aggression and stated that the League had now been strengthened because of the adherence of the Soviet Government to it. The terms in which it now describes the League of Nations were parallel to the expressions of views as advanced by Soviet officials and by the Soviet Press.

6600 By MR. LENVIN:

Q. In connection with your arriving at this opinion, Dr. Mosely, I show you petitioner's Exhibit No. 169 and direct your attention specifically to an article entitled "The Seventeenth Anniversary of the October Revolution," appearing in The Communist for November 1934.

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Q. I ask you whether you took that article into consideration in arriving at your opinion regarding the views and attitude of the Communist Party toward the League of Nations after the Soviet Union became a member of the League of Nations.

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6604 THE WITNESS: My answer to the last question is that I did take this article into account in forming my opinion as I read it both at the time and have read it since.

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Q. Now, Dr. Mosely, did there come a time when the Soviet Union again changed its official attitude toward the League of Nations? A. Yes, in December 1939 the Soviet Government changed its attitude. It now attacked the League of Nations as an organization for the spreading of war, for the promotion of aggression, and for the organizing and planning of an attack upon the Soviet Union.

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6605 Q. Dr. Mosely, I show you what is being marked as Petitioner's Exhibit for identification 170.

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6606 Q. I ask you whether you have ever read this article before. A. Yes, I have. I read it shortly after it was published in Russian, and I read the translation.

Q. Now I ask you, Dr. Mosely, whether in forming your opinion as to the attitude of the Soviet Union toward the League of Nations at the end of 1939 you took into consideration this article. A. I did. This is an announcement by the official Soviet Telegraph Agency, published widely in the Soviet daily and periodical press at the time. It therefore must be presumed to represent the official view of the Soviet Government concerning the expulsion of the Soviet Union from the League of Nations on the occasion of the attack upon Finland.

Q. Dr. Mosely, in your examination of the materials and other publications issued by the Communist Party of the United States, have you been able to form any opin-
6607 ion as to the attitude, views and policies of that party toward the League of Nations after December 1939? A. I have.

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THE WITNESS: The official press of the Communist Party of the United States now attacked the League of Nations because of its expulsion of the Soviet Government. It defended the action of the Soviet Union in attacking Finland. In its exposition and argument on these events in 1939 its expressions of opinion and the policies which it advocated paralleled those of the Soviet official press and the Soviet Government.

By MR. LENVIN:

Q. In arriving at that opinion, Dr. Mosely, I ask you whether you took into consideration this article appearing in the Daily Worker for Saturday, December 16, 1939, which is a re-print of the text of Earl Browder's address at the Peace Federation at the Massachusetts Institute of Technology. A. Yes, I did. I read this at the time and have read it since.

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6609 Q. Dr. Mosely, in your examination of the materials and other publications emanating from the Soviet Union did you become aware of an internal conflict within the Communist Party of the Soviet Union some time during the second half of the 1930's?

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A. During 1936 into 1938 the Government of the Soviet Union conducted several trials of formerly outstanding leaders of the Communist Party of the Soviet Union. In the first trial two of the prominent defendants were Kamenev and Zinoviev. In the second trial among the prominent former leaders of the Party were Sokolnikov, Serebriakov and Piatakov. In the third trial among the outstanding former leaders were Bukharin, Rykov, Yagoda, Krestinsky, and Rokovsky.

Kamenev had been the Chairman of the Council of Peoples Commissars. Zinoviev had been the second secretary-general of the Communist International. The others had all held prominent positions in the Government and the
6610 Party in the Soviet Union. Yagoda had been the head of the political police for a number of years. Krestinsky had been vice Commissar of Foreign Affairs. Rokovsky had been ambassador to Paris, and so forth. Bukharin had been regarded by Lenin—

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THE WITNESS: Thank you, sir.

6612 In these trials the defendants were accused of being traitors to the Soviet Union, of being the agents of foreign powers, of becoming spies and agents of Fascism, of conspiring to plan the defeat of the Soviet Union, and to dismember Soviet territory. They were also denounced as wreckers and murderers and saboteurs.

By MR. LENVIN:

Q. Dr. Mosely, can you identify the publication known as Pravda? A. Yes. Pravda is the official organ of the

Central Committee and the Moscow Committee of the Communist Party Bolshevik of the Soviet Government. Its editor is appointed and removed by the Politburo of the Central Committee of the Communist Party of the Soviet Union. It is therefore the most authoritative organ of the Communist Party in the Soviet Union.

Q. Dr. Mosely, I show you an issue of Pravda marked for identification as Petitioner's Exhibit 172.

(The document referred to was marked for identification Petitioner's Exhibit 172.)

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6613 Q. Dr. Mosely, did the Soviet Government adopt an official view or attitude toward the trial of these defendants? A. It did. The Soviet Government upheld in every particular the indictments which were brought against the defendants.

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Q. Dr. Mosely, I show you this issue of Pravda for January 27, 1937, the article "Terrible Waves of National Ire and Hatred," and ask you if you ever read this article. A. Yes, I read it in Pravda in Russian shortly after it was published, and I have re-read it since in Russian and in English. I have also read the full published testimony as printed by the Soviet Government on each of the three trials.

Q. May I ask you, Dr. Mosely, whether in your opinion this article in Pravda reflects the attitude or the position of the Soviet Union toward these trials that you
6614 have mentioned?

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The Witness: Yes, in my opinion it does. It repeats the principal accusations in even more vehement language, and while the trial was still proceeding on January 27, 1937 it demanded the conviction of the defendants. It entertained no doubt whatever concerning their guilt in advance of the finding of the Soviet Court.

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Q. Dr. Mosely, from your examination of the materials and publications issued by the Communist Party of the United States, have you been able to form any opinion as to what the attitude and views of that party were toward these trials that you have mentioned? A. Yes, I have.

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6615 THE WITNESS: Through its official publications the Communist Party in the United States upheld in every respect the accusations brought in the trials in Moscow, upheld fully the procedure followed in the trials, and also the sentences which were imposed. Its presentation of and defense of the trials and their conduct was parallel to those presented in the Soviet press.

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6617 By MR. LENVIN:

Q. Dr. Mosely, I would also like to ask you whether in arriving at your opinion as to the official attitude of the Soviet Government toward the so-called purge trials you also took into consideration an issue of Pravda for January 30, 1937, and specifically an article entitled "The Sentence of the Court is the Voice of the People."

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(The document referred to was marked for identification Petitioner's Exhibit No. 173.)

THE WITNESS: Yes, I did take this into account. It is a leading article in Pravda, the official party newspaper, published immediately after the conclusion of the trial of January 1937.

In my opinion it represents the opinion of the Soviet Government concerning the trial and interpretation which it gave, including its interpretation of the foreign policy aspects of the trial and charges that were presented

6618 there.

MR. LENVIN: I show you, Dr. Mosely, what has been marked Petitioner's Exhibit 174 and Petitioner's Exhibit 175 for identification.

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Q. I show you exhibit 174 and I draw your attention to the article appearing commencing on the bottom of the first page of the Daily Worker, and Petitioner's Exhibit 175, an article appearing in The Communist for March 1937, and the article by I. Amter entitled "The Trial of Trotskyite Agents of Fascism," and ask you whether you have ever read those two articles before. A. Yes, I have. I read them at the time and have read them again since. I took these materials into account in forming my opinion concerning what constitutes the attitude of the Communist Party of the United States toward these events and trials in the Soviet Union. The press publications of the Communist Party of the United States supported completely the charges which were brought in Moscow, expressed its approval of the procedure and conduct of the trials, attacked bitterly all those who criticized either the procedure
6619 or the substance of the trials and concurred completely in the opinions expressed in the Soviet Press concerning the nature and significance of the trials.

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Q. Dr. Mosely, it is a matter of historical fact, is it
6621 not, that the Soviet Union and the state of Finland engaged in armed conflict some time in 1939? A. It is so. During October and November of 1939 the Soviet Government presented to the Government of Finland—

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During those two months of October and November of 1939 the Soviet Government presented a series of demands upon the State of Finland, with which it had until then peaceful relations. It demanded valuable strategic and economic territory which it had recognized in the treaty of 1920 as being legally part of Finland, and now, for reasons

which were sufficient to itself, the Soviet Government demanded cession of pieces of territory which were very important economically and strategically to Finland.

When these demands were rejected by the Finland government, the Soviet Union invaded the territory of Finland on November 30, 1939, alleging, however, that Finnish
6622 troops had first invaded Soviet territory. The Soviet Government, however, refused to agree to any impartial investigation of the facts concerning this, and within a few hours after the alleged attack of Finnish troops, Soviet troops were actually well within the Finnish territory. The war then continued until the middle of March 1940.

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Q. I show you, Dr. Mosely, an issue of Pravda, marked as Petitioner's Exhibit 176.

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Q. Issue of November 30, 1939, which contains a copy of a speech delivered over the radio by Chairman of the Soviet Peoples Commissar for the USSR, Comrade V. M. Molotov, November 29, 1939. I ask you whether you have ever read it before. A. Yes, I have read it in Pravda
6623 shortly after it was published in that organ, and I have since read it a number of times. At that time Mr. Molotov was chairman of the Council of People's Commissars and also People's Commissar for Foreign Affairs and a member of the Politburo of the Central Committee of the Communist Party of the Soviet Union. This must be regarded as the most authoritative statement of the Soviet view of the war with Finland which had just broken out.

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Q. Dr. Mosely, in your examinaion of the materials and other publications which have been issued by the Communist Party, have you been able to form any opinion as to the views and attitude of that Party, that is, the Com-

munist Party of the United States, toward the Soviet-Finnish conflict? A. Yes, I have. I have read the publications of the Communist Party of the United States at the time, and I have read them again since. The official views as expressed by the Communist Party of the United States gave full support to the Soviet position, threw all blame for hostilities upon the Finnish Government, defended all the claims presented by the Soviet Government, and declared that the action of the Soviet Government against Finland was a step toward strengthening peace. Its expressions of opinion were directly parallel with those of the official Soviet views as expressed in the Soviet press.

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Q. I show Dr. Mosely the Daily Worker for Friday, December 1, 1939, and direct your attention to the first page, which has been marked Petitioner's Exhibit 177.

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Q. I ask you if you have ever read that page before.

A. Yes, I have I read it at the time and I have read it since.

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Q. Did you take into account in arriving at your opinion regarding the attitude of the Communist Party of the United States toward the Russo-Finnish conflict the articles appearing on that page?

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THE WITNESS: Yes, I did. I took this into account at the time and since in forming my opinion concerning the position of the Communist Party in the United States toward the Soviet-Finnish conflict.

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Q. Would you state, Dr. Mosely, what the attitude or views of the Soviet Union were towards the invasion of Poland in 1939? A. Through its official spokesmen and through its press, controlled by the Government or the

Party, the Soviet Government stated that Poland had ceased to exist as a state and that therefore it was entitled to take under its protection the eastern territories of former Poland. It stated that the war no longer had any reason
6646 to continue, that therefore England and France were guilty of starting the war because they insisted that they were continuing the war in defense of Poland, which had ceased to exist.

Shortly after this time Soviet spokesmen and the Soviet press declared that the proposals which the German Government had now made for ending the war, leaving Germany in possession of the territories which it had seized, was a positive contribution to peace and that the British and French governments which rejected that offer were therefore guilty of warmongering. The official press went so far as to state that Hitlerism was a matter of taste and not grounds on which a war should be fought. The Soviet Government through its official channels also maintained that the action of the Soviet Government in Poland was a contribution to the strengthening of peace and therefore should be supported.

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Q. I show you, Dr. Mosely, which has been marked Petitioner's Exhibit 178, an issue of Pravda for September 18, 1939, page 1, copy of a speech delivered over the radio
6647 by the Chairman of the Soviet of People's Commissars of the USSR, Comrade Molotov, September 17, 1939, and also show you what has been marked as Petitioner's Exhibit 179, Izvestia for October 9, 1939, and ask you whether, in arriving at your opinion as to the attitude of the Soviet Union toward the invasion of Poland, you took into consideration these two items. A. I did.

Q. In your opinion, Dr. Mosely, are these two items illustrative or do they reflect the attitude of the Soviet Union toward the invasion of Poland? A. They did. The first item, 178, is an official speech by one of the leaders of the Soviet regime. Mr. Molotov at that time was not only chairman of

the Council of People's Commissars, but also People's Commissar for Foreign Affairs and a member of the Politburo of the Central Committee of the Party. The article in Izvestia of October 9, 1939, entitled "Peace or War?" was published in the left-hand side of the front page, which is the normal position for pronouncements of the official government policy.

Q. Dr. Mosely, in your examination of the materials and other publications issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitudes of that party toward the Soviet invasion of Poland in late 1939?

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6648 THE WITNESS: I have been able to form such an opinion.

By MR. LENVIN:

Q. In your opinion what were the views and attitudes of the Communist Party regarding that particular matter? A. The Communist Party of the United States approved wholeheartedly the treaty of non-aggression between the Soviet Government and the German Government and declared that it was a contribution to the strengthening of peace and that it deserved universal support.

When the Soviet troops had entered Poland, the official press of the Communist Party of the United States declared again that this was a contribution to peace and that any opposition to it was due only to warmongers. It then went on to state that the German proposals for a settlement based on the military situation then obtaining after the division of Poland were a serious contribution to the restoration of peace and that any governments, meaning the British and French Governments, that rejected it were therefore warmongers and guilty of the war.

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6649 Q. I show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit 180, which

is an issue of the Daily Worker for Tuesday, September 19, 1939, and particularly this article entitled "Keep America out of the Imperialist War." I ask you whether you have ever read this article before. A. Yes, I have; at the time and since.

Q. Did you take it into consideration, in arriving at your opinion regarding the views and attitude of the Communist Party of the United States regarding the matter which we have under discussion? A. I did take it into account.

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THE WITNESS: It is a declaration of the national committee of the Communist Party of the United States and therefore was accepted by me as a firm statement of its position on the war which had broken out in Europe.

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6650 Q. Dr. Mosely, will you state briefly what was the political status of the three Baltic countries of Latvia, Estonia, and Lithuania, prior to 1940?

MR. ABT: I object.

MR. LAFOLLETTE: Overruled.

MR. LENVIN: Simply background.

THE WITNESS: Prior to 1940, Estonia, Latvia and Lithuania were independent states, members of the community of nations and members of the League of Nations as long as it functioned. Their independence and territorial integrity had been recognized by the Soviet Government in treaties signed by it in 1920 and 1921, and the Soviet Union had concluded treaties of friendship and non-aggression, and another treaty defining the aggressor.

By MR. LENVIN:

Q. By the end of 1940 what was the political status of these three Baltic countries?

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THE WITNESS: By the end of 1940 these three formerly independent states had been incorporated into the Soviet Union as union republics.

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6651 THE WITNESS: In June 1940 the Soviet Government declared that the existing governments in these three republics were not friendly to the Soviet Government and must be replaced. It also demanded the right to introduce unlimited numbers of Soviet armed forces into their territory. As a result of the formation of new governments in these three republics, one-ticket elections were held, and in the beginning of August 1940 the newly elected bodies requested admission to the Soviet Union. In the beginning of August 1940 this request was granted, and they were formally incorporated into the Soviet Union.

. . . . . .

6652 MR. LAFOLLETTE: When the time comes, I am going to permit you to make your record. I still state that the Panel does not consider this testimony as one characterizing the action of the Soviet Union as good, bad or otherwise, but simply as historical background and it is being so treated.

. . . . . .

6656 Q. Dr. Mosely, have you been able to form any opinion regarding the attitude and the views which the Soviet Union took toward the incorporation of these three Baltic countries into the Soviet Union? A. Yes, I have. Through statements of official spokesmen and through the official press, the Soviet Government expressed its full approval of the various steps by which the three Baltic Republics were joined to the Soviet Union. Through these statements the Soviet Government declared that these steps were a means of strengthening peace, and they bitterly rejected all criticisms made of those steps and of that annexation.

. . . . . .

6657 Q. Dr. Mosely, I show you what has been marked Petitioner's Exhibit for identification 181, which is a copy of Izvestia for Friday, August 2, 1940, and ask

you whether you have ever read that particular item before. A. Yes, I have.

Q. In your opinion, Dr. Mosely, does this item reflect the views and attitude of the Soviet Union toward the incorporation of the three Baltic countries which we have been discussing? A. It does, in my opinion. It is a full and authoritative statement of the Soviet interpretation of these events, given by one of the highest leaders of the regime and of the Communist Party Bolshevik of the Soviet Union.

Q. Dr. Mosely, in your examination of the materials, publications, and other matter issued by the Communist Party of the United States, have you been able to form any opinion regarding the views and the attitude of the Communist Party of the United States toward the incorporation of the three Baltic countries that we have been discussing into the territory of the Soviet Union? A. I have been able to form such an opinion.

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6658 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit 182, which is The Communist for November 1940, and direct your attention to an article entitled "Soviet Socialist Republics in the Baltics," and ask you whether you have ever read this article before. A. Yes, I have read this article at the time and since.

Q. In your opinion, Dr. Mosely, does this article reflect the views and attitude of the Communist Party of the United States toward the incorporation of the three Baltic countries we have been discussing into the territory of the Soviet Union? A. Having been published in the authoritative organ of the Communist Party in the United States, it must be accepted as an expression of the view of that Party toward these events. It supports fully the Soviet interpretation of these events. Its reasoning is parallel to that of the Soviet spokesmen.

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6660 Q. Dr. Mosely, what do you understand by the meaning of the term "United Front"?

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THE WITNESS: Prior to 1934 the term "United Front" was used generally to mean the advocating of the formation of common groups for action in favor of the aims pursued by the various Communist Parties. This was usually pursued in the form of a United Front from below, that is, an attempt by common action to draw over the supporters of other organizations such as other political parties and trade unions into support of the concrete program of the Communist Party and its affiliates. Sometimes this was pursued by setting up separate organizations, as, for example, among trade unions, sometimes by working within them. The basic concept, however, was that the advancement of the social revolution and the achievement of the dictatorship
6661 of the proletariat demanded that the working class should first be basically united in a single party under Communist leadership and that in order to achieve this it was necessary to discredit and to destroy the leadership of competing parties, particularly those which also claimed to represent the interests of the workers.

During 1934 and 1935 an important shift occurred in the conception of the United Front, both as it affected internal and foreign policy.

MR. LAFOLLETTE: You are speaking now of the Soviet Union?

THE WITNESS: Of the separate Communist parties.

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6666 THE WITNESS: In 1935 a considerably revised concept of the United Front was adopted as general policy and was codified at the Seventh Congress of the Communist International, held in Moscow in July and August 1935. Under this concept it was now not only permissible but desirable to enter into arrangements for the cooperation for common aims with the leaders of other non-communist parties and non-communist trade unions and other social

and economic organizations. This was to be a means of preventing the spread of war and Fascism, of stressing the fact that democracy of the western type, as it is now called, was preferable to fascism, a dictatorship which destroyed autonomy of all organizations and subordinated them to a single totalitarian rule. This was a change in that
6667 it merited and encouraged direct agreements with the leadership of other parties and groups which previously it had been the avowed purpose to destroy.

However, in explaining the importance of the United Front concept, the Secretary-General of the Communist International, the late George Dimitrov, emphasized that the purpose should be to move from the first stage, that of a United Front for electoral purposes and for purposes of exerting pressure upon their respective governments by the Communist Parties in defense of peace and democracy and of the Soviet Union, to the creation of a people's democracy, and that the people's democracy would mean that the Communist Party would be one of the leading parties in the respective governments, and that this would be followed by a further stage, that of the establishment of the dictatorship of the proletariat.

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Q. I show you, Dr. Mosely, what has been marked as Petitioner's exhibit for identification 183, which is an
6668 issue of Pravda for August 6, 1935, and an issue of Pravda for August 15, 1935, and which has been marked for identification as Petitioner's Exhibit 184.

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Q. And I ask you whether in arriving at your concept regarding the United Front you took into consideration those two articles. A. I did. The first, No. 183, was an editorial in Pravda, the official organ of the Central Committee and of the Moscow Committee of the All Union Communist Party Bolshevik of the Soviet Union. This was an editorial which appeared in the customary place, on page 1, and would

therefore be regarded by conscientious scholars as representing the viewpoint of the Soviet Government. It advocated union of all anti-fascist forces in defense of democracy and peace.

Exhibit 184 was also published in Pravda and consisted of excerpts from the concluding speech of the secretary-general of the Communist International, the late Mr. Dimitrov, in which he set forth in some detail the general approach and tactic recommended by the Communist International at its Seventh Congress to all its member parties.

Q. Now, Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party of the United States, have you been able to form any
6669 opinion as to what the views and attitude of that Party were toward the United Front concept at the end of 1935? A. I have.

Q. Will you state what the views and attitude were, in your opinion? A. Through its official resolutions and through editorials in its authorized press, the Communist Party of the United States commented frequently and in detail on the decisions concerning the changed concept and tactic of the United Front. It called for cooperation among all anti-fascist groups and parties on a minimum program for the defense of peace and democracy and the repulsion of war and the growth of fascism. The terms in which its recommendations and policies were set forth paralleled closely the terms and recommendations set forth by the Seventh Congress of the Communist International through its published records and the position taken by the Soviet press on the same issue.

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Q. Dr. Mosely, I show you what has been marked for identification as Petitioner's Exhibit 185, which is
6670 an issue of The Communist for December 1935, and direct your attention to page 1182, which contains the resolutions adopted at the November plenum of the Central Committee of the Communist Party, USA, entitled

"The Seventh World Congress of the Communist International and the Tasks of Our Party," and ask you whether you have ever read those resolutions before. A. Yes, I have. I read them at the time and I have read them a number of times since.

Q. In your opinion do these resolutions reflect the views and attitudes of the Communist Party of the United States toward the United Front concept which you have described? A. This represents a resolution adopted by the plenum of the Central Committee of the Communist Party of the United States and would therefore be regarded by any conscientious research worker or scholar as representing the authorized and official point of view of that Party.

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6671 Q. It is a historical fact, is it not, Dr. Mosely, as you have already testified, that the Soviet Union and Nazi Germany entered into a treaty of non-aggression in 1939? A. It is the fact. The treaty was dated August 23, 1939.

Q. In your examination of materials and publications emanating from the Soviet Union have you been able to arrive at any opinion as to the attitude of the Soviet Government toward Nazi Germany prior to the signing of this non-aggression pact? A. Yes, I have. There was abundant comment by leading Soviet spokesmen and also by the Soviet press. During the period 1934 into the middle of 1939 the Soviet point of view as expressed repeatedly through
6672 these official channels, was that Nazi Germany was preparing aggression, that its leaders were warmongers, that its aim was to destroy democracy and peace and to extend its power by military force. The Soviet Government, through many channels, including speeches at the League of Nations, called for the formation of strong and united forces to prevent the outbreak of a new war and to prevent the development of the Nazi plans for expansion.

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Q. Dr. Mosely, have you been able to form any opinion regarding the views of the Soviet Government toward Nazi Germany after the signing of the treaty of non-aggression in 1939? A. Yes, I have.

Q. What was the attitude of the Soviet Government after the signing of the treaty of non-aggression towards Nazi Germany? A. After the signing of the treaty of non-aggression with Germany, of August 23, 1939, the Soviet Government maintained that this treaty was a positive contribution to the maintenance of peace and then when peace was not maintained but was broken by the German attack on Poland, the Soviet Government maintained that this

6673 treaty was still a contribution to peace in that it limited the spread of the war. After the defeat of Poland and the conquest of Polish territory, the Soviet Government through its official spokesmen and press maintained that there was no further reason to fight, that England and France were guilty of prolonging the war through their insistence on opposing Hitler's ambitions, and the Soviet press stated that Hitlerism was not an adequate motive for continuing the war, that it was a matter of taste or, as Mr. Molotov said in an official speech, it was a matter of political opinion.

Q. Dr. Mosely, I would like you to refer to the editorial which I have previously shown you, entitled "Peace or War?" which appeared in Izvestia for October 9, 1939, and which has been identified as petitioner's Exhibit 179, and ask you whether in your opinion this editorial reflects the views and attitudes of the Soviet Union toward Nazi Germany as of that date. A. It does, in my opinion. It is one of the expressions of official opinion at the time that Germany had made valuable proposals for concluding peace on the existing military situation as created by the destruction of Poland, and that any country which rejected those proposals was guilty of prolonging the war and of prolonging it, in the opinion of the Soviet, unnecessarily.

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6689 MR. LENVIN: I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit 186.

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Q. Which is an issue of Pravda for November 1, 1939, and I ask you whether you have ever read that before. A. I have. I read it on the following day in the Tass Radio Record. I read it a few days later in the Pravda published in Moscow in Russian, and I have frequently had occasion to refer to it since, both in Russian and in English translation.

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Q. And in your opinion, Dr. Mosely, is this report illustrative of the attitude of the Soviet Union toward Nazi Germany as of that date?

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6690 THE WITNESS: This statement was made by the Chairman of the Council of People's Commissars and the People's Commissar for Foreign Affairs and a member of the Politburo of the Central Committee of the Communist Party Bolshevik before a meeting of the Supreme Soviet of the USSR. It is typical of the whole explanation and foundation of Soviet foreign policy of that time. Its basic points were repeated in many forms through newspapers and other published channels.

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Q. Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that Party toward Nazi Germany or to the signing of the non-aggression pact between the Soviet Union and Germany? A. I have.

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6691 Q. Will you state your opinion? A. Through the examination of the official pronouncements of the Communist Party of the United States and its official publications of that time, an examination which I made at the

time and have made since, it is my opinion that the Communist Party of the United States prior to the conclusion of the Soviet-German treaty of non-aggression of August 23, 1939, regarded Hitler Germany as the main danger to peace and democracy, the main threat of war for conquest and aggression, favored the widest possible cooperation within individual countries and among countries to
6692 resist this danger. In this position it paralleled in general terms the position taken by the spokesmen and official publications representing Soviet foreign policy.

By Mr. Lenvin:

Dr. Mosely, from your examination of the materials and publications issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that Party toward Nazi Germany after the signing of the non-aggression pact between the Soviet Union and Nazi Germany? A. Yes, I have been able to form an opinion based on a careful study of the published pronouncements of the Communist Party in the United States. After the conclusion of the Soviet-German treaty, the Communist Party of the United States maintained that this was an important contribution to the maintenance of peace and that peace would now be assured. When, however, peace was destroyed by the German invasion of Poland, the Communist official publications in the United States maintained that the Soviet-German pact was a valuable contribution to peace because it would limit the spread of the war. After the completion of the destruction of Poland, the Communist Party of the United States maintained that there was now no reason for further warfare or fighting, that if England and France refused to accept the terms of settlement then offered by Germany, they were guilty of both causing
6693 and prolonging the war and that the war was then merely a war for world domination fought by England and France, and that they should receive no assistance from any person or group or country which was in favor of peace.

In this view the Communist Party of the United States through its official publications followed in very similar terms the position taken by the official organs of the Soviet Union in this matter of foreign policy.

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Q. I show you, Dr. Mosely, what has been marked
6694 as Petitioner's Exhibit for identification 187.

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Q. Which is an issue of the Daily Worker for August 24, 1939, M-33, and I direct your attention to this article " 'Non-aggression Pact Weapon for Peace, Open to All Nations', says Browder," and I ask you if you have ever read that before. A. Yes, I have read this article, both at the time and a number of times since.

Q. In forming your opinion as to the views and attitude of the Communist Party toward the Soviet-German Pact, did you take into consideration that article? A. I did.

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Q. In your opinion, Dr. Mosely, does that article reflect the view of the Communist Party toward the Soviet German non-aggression pact as of that date? A. Yes, it does. Since it appeared in the Daily Worker and since Mr. Brow-
6695 der was then general secretary of the Communist Party of the United States, any conscientious scholar would assume that this represented the statement of his views which, as a Party official, he wished to have presented, and would assume that it represents his views and those of the Communist Party of the United States as of that date.

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Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification 188, which is the Daily Worker for Friday, August 25, 1939, and direct your attention to the editorial appearing on the left-hand side of page 1 entitled "A Smashing Blow at Munich Treachery and Aggression," and I ask you whether you have ever read that

editorial before. A. Yes, I have. I read it at that time and I have read it a number of times since.

Q. In arriving at your opinion as to the views and attitude of the Communist Party toward the Soviet-German non-aggression pact, did you take into consideration that article A. Yes, I did. I took into account this article
6696 and other similar articles of the same period.

Q. In your opinion, does this editorial reflect the attitude and views of the Communist Party toward the Soviet-German non-aggression pact as of that date? A. Since it appeared in the Daily Worker in the position of an editorial, any conscientious scholar would assume that it represented the official view of the Party as of that date.

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6700 Q. Dr. Mosely, what in your opinion was the attitude of the Soviet Union toward wars in general?

. . . . . .

6701 THE WITNESS: Yes, sir.

The leaders of the Soviet Regime and the formulators of the Soviet version of Marxism have devoted a good deal of attention to the analysis of the character of modern wars, and in particular have developed the doctrine and judgment of just and unjust wars. Wars fought between so-called capitalist and imperialist nations they regard as unjust wars. A war fought by a small people or an oppressed or colonial people for its liberation they consider as a just war. A war fought in defense of a Communist or Communist-led regime they regard as a just war.

. . . . . .

Q. In view of your statement, what in your opinion was the attitude of the Soviet Union toward the war which was in progress between England and France on the one
6702 side and Germany on the other subsequent to the signing of the Hitler-Stalin Pact in 1939?

MR. LAFOLLETTE: Is there any termination period on that?

MR. LENVIN: I can put one.

By MR. LENVIN:

Q. The period from the signing of the non-aggression pact between the Soviet Union on the one hand and Germany on the other, and up to June 21, or 22, 1941.

MR. LAFOLLETTE: That conforms with the allegation of your petition.

MR. LENVIN: That is right.

MR. LAFOLLETTE: Proceed.

THE WITNESS: During this period the Soviet Spokesmen described the war then going on between England and France on the one side and Germany on the other (France was forced to withdraw from the war in June of 1940) as a war between imperialist blocs and therefore an unjust war. It stated that the character of the two opposing sides was a matter of indifference to the workers and to Communist parties and that they could not support either side in the war. They stated that this was no longer a war for the defense of democracy or for the prevention of further aggression by Nazi Germany, that it was on both sides a war for the domination and redivision of the world.

6703 By MR. LENVIN:

Q. Dr. Mosely, I would again like to draw your attention to the editorial which has been marked as Petitioner's Exhibit for identification 179, an issue of Izvestia for October 9, 1939, which contains an article "Peace or War?" and ask you whether in your opinion this article is illustrative of the attitude of the Soviet Union toward war as of that date.

. . . . . .

THE WITNESS: The editorial in Izvestia of October 9, 1939 is a typical and also more detailed statement of the Soviet analysis of the nature of the war which I have tried to summarize as briefly as possible.

By Mr. Lenvin:

Q. I also would like to direct your attention, Dr. Mosely, to the issue of Pravda for November 1, 1939, which has been identified as Petitioner's Exhibit 186, a report
6704 of Chairman Molotov, and ask you whether in your opinion that report reflects the views and attitude of the Soviet Government toward the war then in progress.

A. In my opinion it does reflect the basic and public analysis given by the Soviet spokesmen of the nature of the war going on during that period, from September 1, 1939 to June 22, 1941.

Q. Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that Party toward the war in progress in Europe between the date of the signing of the non-aggression pact between Germany and the Soviet Union and June 22, 1941? A. Yes, I have examined the principal pronouncements of the Communist Party of the United States on the nature of the war during that period. The Communist Party through its official publications maintained that this was an imperialist war, an unjust war, that it was nonsense to say that it was a war for the defense of democracy, that both sides involved in it were imperialists, and that no democratic or progressive persons or groups could support either side in the war.

In this position their expressions parallel very closely the analysis given by the Soviet spokesmen and Soviet published announcements.

Q. I show you, Dr. Mosely, what has been identified
6705 as Petitioner's Exhibit 189—

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Q. —an issue of the Sunday Worker for October 1, 1939, and direct your attention to the article "The People Want the Imperialist War to Stop Now," and ask you whether you have ever read that article, written by Earl Browder.

. . . . . .

THE WITNESS: Yes, I have read this article, which is the text of a speech delivered by Mr. Browder on Friday, September 29, 1939, and published in the Sunday Worker on October 1, 1939.

By MR. LENVIN:

Q. In your opinion, Dr. Mosely, is this illustrative of the views and attitude of the Communist Party of the United States toward the war as of that date? A. Yes, in my opinion it is a typical statement of the position taken publicly through its official pronouncements by the Communist Party of the United States at that time.

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6706 Q. Dr. Mosely, again I would like to direct your attention to the article in the Daily Worker of September 19, 1939, which has been identified as Government Exhibit No. 180, which is a statement of the National Committee of the Communist Party, USA, entitled "Keep America Out of the Imperialist War," and ask you whether in your opinion that statement is illustrative of the attitude of the Communist Party of the United States toward the war in progress as of that date. A. Yes, in my opinion it is a typical expression of the public views of the Communist Party in the United States concerning the war then in progress.

Q. I also show you, Dr. Mosely, Petitioner's Exhibit identified as No. 190—

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Q. —which is an issue of The Communist for November 1939, and direct your attention to the article "America and the International Situation," which is a resolution unanimousy adopted October 13, 1939, by the political committee of the Communist Party of the United States of America, and ask you whether you have ever read that report.

6707 A. Yes, I have read this at the time and on several occasions since.

Q. In your opinion, Dr. Mosely, do those resolutions fairly reflect the attitude of the Communist Party of the United States toward the war in progress as of that date? A. In my opinion, they do.

. . . . . .

Dr. Mosely, in your examination of the publications and other materials emanating from the Soviet Union, have you been able to reach any opinion regarding the views and the attitude of the Soviet Union toward the question of the sending of military aid or supplies to either England or France during the period from the signing of the Soviet-German non-aggression pact to June 21 or 22, 1941? A. Yes, I have, on the basis of the official pronouncements of the Soviet Press of that time.

Q. What attitude did the Soviet Union adopt toward that issue? A. The spokesmen of the Soviet regime and the officially controlled Soviet press strongly opposed the
6708 repeal of the United States Neutrality Act, the introduction of "cash-and-carry," the transfer of destroyers, and each step of furnishing material means to Great Britain to continue its part in the war against Germany. It denounced as "warmongers," "imperialists" and "lackies of imperialism," and so forth, all those who advocated extending to Great Britain and earlier to France permission to draw war materials and any other resources from the United States for strengthening its part in the war against Germany.

Q. Dr. Mosely, I show you what has been identified as Petitioner's Exhibit No. 191—

. . . . . .

Q. —which is an issue of Pravda for October 24, 1939, and ask you whether you have ever read this particular article before.

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THE WITNESS: Yes, I read this article in Russian shortly after it was published in Pravda. It is a signed article and analyzes the struggle for and against the Neutrality Act.

By MR. LENVIN:

Q. In your opinion, Dr. Mosely, is this article illus-
6709 trative of the attitude of the Soviet Union toward the question of the sending of aid to either Great Britain or France as of that date? A. It is a typical expression of the Soviet point of view on this question.

Q. I also show you, Dr. Mosely, an issue of Pravda for October 29, 1939, an article entitled "Removal of Embargo on Export of Arms from the USA," and ask you whether you have ever read that article before.

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THE WITNESS: Yes, I read this article in Russian shortly after it was published in Pravda, and I have read it also in the English translation. It is a typical comment and Soviet analysis at that time on the whole question of the removal of the embargo upon the exportation of arms from the United States to belligerent countries.

By MR. LENVIN:

Q. Then in your opinion, Dr. Mosely, that article reflects the attitude of the Soviet Union toward the question of the sending of material aid to England and France as of that time? A. It does. It is a typical expression of the Soviet analysis and viewpoint as frequently expressed at that time in the official Soviet press.

6710 Q. Dr Mosely, in your examination of the materials and publications issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that Party toward the question of sending aid to either Great Britain or France during the period from the signing of the Hitler-Stalin Pact to June 21, or 22, 1941? A. From the outbreak of war on

September 1, 1939, until June 22, 1941, the official press of the Communist Party of the United States strongly opposed in turn each proposed step for enabling France and Great Britain to draw materials and assistance from the United States in their war against Germany. It opposed the repeal of the Neutrality Act, the introduction of "cash-and-carry," it opposed the destroyer deal, it opposed lend-lease. In its step by step opposition to these proposals, the policy which it advocated parallels directly the policies which were approved by the Soviet Government as expressed through the Soviet press.

Q. Dr. Mosely, I would like to direct your attention to the article which appeared in the Daily Worker for September 19, 1939, by the National Committee of the Communist Party of the United States of America, entitled "Keep America out of the Imperialist War," which has been identified as Petitioner's Exhibit 180, and ask you whether in your opinion that article reflects the attitude of the Communist Party of the United States toward the issue of sending aid
6711 to either England or France as of that time.

MR. LAFOLLETTE: Was M-41 marked for identification? I didn't get the number if it was.

MR. LENVIN: Not yet, sir.

THE WITNESS: Yes, I have examined this declaration of the National Committee of the Communist Party of the United States. I read it at the time, and I have examined it on several occasions since. In my opinion it should be regarded as an authoritative expression of the views of the Communist Party in the United States on this question and at that time.

By MR. LENVIN:

Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 193—

. . . . . .

Q. —which is the Daily Worker for May 8, 1941, and I specifically direct your attention to this editorial appearing on

page 1 entitled "Priming America for the Fatal Plunge," and I ask you whether you have ever read that editorial before.

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THE WITNESS: Yes, I have read this editorial.

6712 By MR. LENVIN:

Q. In your opinion, Dr. Mosely, does that editorial reflect the views and attitude of the Communist Party of the United States toward the issue of the granting of aid to either England or France as of that time? A. Yes, in my opinion it constitutes an official and authorized expression of the policies advocated by the leadership of the Communist Party of the United States at that time.

Q. It is a matter of historical fact, is it not, Dr. Mosely, that Nazi Germany attacked the Soviet Union on either June 21 or June 22, 1941? A. Yes, it is.

Q. After this attack on the Soviet Union what was the attitude of that country toward the war then in progress? A. Through its official pronouncements and through the pronouncements published in its official press, the Government of the Soviet Union now declared that the war bore a changed character, that it was now a just war, a war for the defense of the Soviet Union. It also declared that the war between Great Britain and Germany was now a just war, a war for the defense of the rights of peoples, for the defense of democracy, and the restoration of peace. It now declared that aid by the United States to both Great Britain and the Soviet Union was an act of high political
6713 statesmanship and generosity as well as of self-protection for the United States. It urged the continuation and rapid increase of this aid both to Great Britain and to the Soviet Union.

Q. Dr. Mosely, I show you what has been identified as Petitioner's Exhibit No. 194—

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Q. —excerpts from Volume I, "Foreign Policy of the Soviet Union during the Patriotic War"—

. . . . . .

Q. —which is a radio address of Josef Stalin. I ask you whether you have ever read that report. A. I read this in an unofficial transcription on the following day. I read it as published in the official Soviet Press within a few weeks after it had been published in Moscow, and I have had occasion to consult frequently this report in both Russian and English. This version appears in an official collection of policy statements issued by the Government of the Soviet Union and entitled "Foreign Policy of the Soviet Union During the Patriotic War." Volume I.

Q. In your opinion, Dr. Mosely, does thaf item reflect the views and attitude of the Soviet Union toward the
6714 character of the war in progress as of that date?

A. Yes, it does. It is an authoritative statement by an influential member of the Politburo of the Central Committee of the Communist Party Bolshevik, also chairman of the Council of People's Commissars, and also chairman of the very powerful Committee on Defense. In my opinion it is an authoritative statement of the Soviet analysis of the changed character of the war.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 195.

. . . . . .

Q. An issue of Izvestia for August 17, 1941, an article entitled "The United Front of the Nations Against Hitler is Growing and Waxing Stronger," and ask you whether you have ever read that before. A. Yes, I read this in Russian shortly after it was published in Moscow, and I have also had occasion to consult it several times since then in Russian and in English.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Soviet Union toward the
6715 war then in progress as of that date. A. It does. It

again describes the changed character of the war. It describes the war which was being fought by Great Britain as a just war in defense of the people's rights and it praises the cooperation given by the United States and urges even greater contributions by the United States, and it urges the early opening of a Second Front in Europe, on the mainland of Europe. It praises the growing collaboration and cooperation among the powers in the anti-Hitler coalition and urges all democratic and progressive people throughout the world to support this struggle against aggressive fascism.

Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States have you been able to form any opinion as to what the views and attitude of that party were toward the war after the German attack on the Soviet Union? A. Yes, I have.

Q. What, in your opinion, was the attitude of the Communist Party at that time? A. On the basis of the published announcements and declarations of the Communist Party of the United States following June 22, 1941, my opinion is that the Communist Party now considered that the war had changed its character, that it was now being fought
for the defense of democracy and people's rights and
6716 for the destruction of aggression. It praised the
struggle being waged by Great Britain, and it urged all-out support by the United States both to Great Britain and the Soviet Union. It now attacked all those groups and persons who opposed such assistance and declared that they were now agents of Hitler.

Q. I show you, Dr. Mosely, Petitioner's Exhibit marked for identification 196—

* * * * * * * * * *

Q. —which is the Sunday Worker for July 13, 1941, and specifically direct your attention to Article by Gil Green entitled "The Nazi Aggression Against the Soviet Union and the Changed Character of the World War," and ask you

whether you have ever read that article before. A. Yes, I read this article at the time and have had occasion to re-read it since.

Q. In your opinion, Dr. Mosely, does this article fairly reflect the attitude of the Communist Party of the United States toward the war in progress as of that date? A. It is a detailed statement of the changed view of the Communist Party of the United States toward the war following the events of June 22, 1941. It is typical of many such comments, and its arguments and its presentation run
6717 directly parallel to the views expressed in the official Soviet press at that time and on that issue.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 197—

. . . . . .

Q. —The Communist for July 1941, and direct your attention to the statement of the Communist Party, USA, commencing on page 579, entitled "Support the USSR in its fight against Nazi war," and ask you whether your have ever read that statement before. A. Yes, I have read the statement. It was published first on June 22, 1941, a few hours after the invasion of the Soviet territory by the German Nazi armies, and it was republished as a basic statement of the position adopted by the Communist Party of the United States and of the policies which it advocated.

Q In your opinion, Dr. Mosely, does that statement reflect the attitude of the Communist Party of the United States toward the war then in progress as of that date. A. Yes, it does. It urged full support for the Soviet war. It attacked all those who would hesitate or doubt any matter of providing aid to the Soviet Union.

. . . . . .

6719 Q. Dr. Mosely, you have already testified that prior to the attack on the Soviet Union by the Nazi Government, both the Soviet Union and the Communist Party of the United States opposed any material aid to England

and France. My question is, did that same opposition continue after the German attack on the Soviet Union. A. No, that opposition ceased. The Soviet press now praised American aid to both Great Britain and the Soviet Union, and urged its very rapid increase. The official press of
6720 the Communist Party of the United States similarly now urged all-out aid and attacked bitterly all persons and groups who wished to limit or not to support such aid.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 198 for identification—

. . . . . .

Q. Which is an issue of Pravda for August 16, 1941—and which you have marked as M-46, Mr. Chairman.

. . . . . .

Q. I ask you whether you have ever read this before. A. Yes, I read a telegraph summary of this on the following day after it was issued in Moscow. I read the full text in the Russian language a few weeks afterwards, and I have also examined it in Russian and English more recently. It is an official statement of the point of view of the
6721 Soviet Government and of the All Union Communist Party concerning the relations among the Allies, Great Britain and the Soviet Union, and between them and the United States.

Q. I would also like to direct your attention, Dr. Mosely, to the issue of Izvestia of August 17, 1941, an article which is entitled "The United Front of the Nations Against Hitler is Growing and Waxing Stronger," which was previously marked as Petitioner's Exhibit for identification No. 195, and ask you whether in your opinion that article reflects the changed attitude of the Soviet Union toward both the United States and Great Britain in connection with their collaboration in the conduct of the war. Would you like to see that one again? A. I would like to see that one, too, to be certain of my identification.

(Document handed to the witness.)

Yes, I have read that at the time and since this editorial in Izvestia of August 17, 1941. It, like the preceding document, praises the growing cooperation among the allies, including both those that were actively engaged in hostilities against Germany and those who were not, which was the case of the United States at that time. It praises the common war efforts and assures its readers of the community of aims in defense of peace and democracy as pursued by the Soviet Union, Great Britain and the United States.

6722 Q. Dr. Mosely, in your examination of the publications and other material issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that Party regarding the question of the granting of aid to the Western Allies after the German attack on the Soviet Union? A. Yes, I have.

Q. What was that attitude? A. After the German Nazi attack upon the Soviet Union in June 1941 the official pronouncements and the official press of the Communist Party of the United States were entirely in favor of all-out support to the war effort both of Great Britain and the Soviet Union, and it urged to American people the urgency of giving full aid and support to the struggle of Britain and the Soviet Union against Germany.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 199—

(The document referred to was marked for identification Petitioner's Exhibit No. 199.)

By Mr. Lenvin:

Q. —which is The Communist for August 1941, and specifically direct your attention to the Manifesto of the National Committee, Communist Party, United States of America, adopted at its plenary meeting June 28-29, 1941, entitled "The People's Program of Struggle for the

6723 Defeat of Hitler and Hitlerism!" and ask you

whether you have ever read that manifesto before. A. Yes, I read this manifesto shortly after it was issued and also on other occasions more recently. It is an official pronouncement of the National Committee of the Communist Party of the United States, urging all-out American support to the Soviet Union and also to Great Britain, and attacking as agents and supporters of Hitler all persons and groups who opposed the fuller contribution of the United States to this side in the struggle.

Q. Dr. Mosely, again I would like to direct your attention to what has been marked as Petitioner's Exhibit No. 196, which is the article appearing in the Sunday Worker for July 13, 1941, entitled "The Nazi Aggression Against the Soviet Union and Changed Character of the World War," by Gil Green, and ask you whether in your opinion that article reflects the views and attitude of the Communist Party of the United States towards the issue we have just been discussing. A. This article, which I have read on several occasions, is a clear and detailed statement from the point of view of the Communist Party of the United States of the changed character of the war, of the just struggle being waged by the Soviet Union and Great Britain as well as by the liberation groups and resistance groups, and
6724 it demands all-out support by the United States in the struggle. In its line of reasoning it is, like the preceding three exhibits, directly parallel with the analysis and viewpoint expressed by the official press of the Soviet Union.

Q. Dr. Mosely, after the attack on the Soviet Union by Germany did the Soviet Union as far as you know propose any specific military expedition to the British Government? A. Yes. It is a matter of historic and documentary record that the Soviet Government now urged the British Government to prepare and carry out as soon as possible the landing of a large expeditionary force on the mainland of Europe in order to open a second front on the mainland of Continental Europe.

Q. Now I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 200—

(The document referred to was marked for identification Petitioner's Exhibit No. 200.)

By Mr. Lenvin:

Q. —an excerpt from "The Second World War," specifically the volume entitled "The Grand Alliance," by Winston S. Churchill, and specifically direct your attention to the excerpt which contains a translation of a letter from Josef Stalin to the Prime Minister of England, Mr. Churchill, dated the 18th of July 1941, and ask you whether
6725 you have ever read that before. A. Yes, I have read these pages in volume 3, of the Second World War, by Winston S. Churchill. This purports to be an English translation of the message communicated by Mr. Stalin to Mr. Churchill, then Prime Minister. As Mr. Churchill was the recipient and also replied to this letter and is the author of the volume in which it appears as a document, I should feel obliged as a scholar to accept it as documentary evidence.

Q. In your opinion, Dr. Mosely, does that letter reflect the attitude of the Soviet Union toward the question of the opening of a second front as of that time? A. Yes, it does. It states forcefully the reasons why the Soviet Government strongly desired to have a second front immediately. It entered into the factors which in its opinion made it possible for Great Britain to establish a second front immediately, and it implied that this front could be established at once.

Q. I also show you, Dr. Mosely, a copy of the New York Times for Friday, February 27, 1942, which contains the text of Ambassador Litvinov's address before the Overseas Press Club at the Waldorf Hotel, and ask you whether you have ever read that address before.

. . . . . .

6726 The Witness: Yes, I read the text of this address at the time and since.

By Mr. Lenvin:

Q. In your opinion, Dr. Mosely, does that address reflect the attitude and views of the Soviet Government toward the issue of the opening of the second front as of that date? A. Yes, it does. It states fully the reasons why the Soviet Government considered the second front urgent and stated the factors which in the opinion of the Soviet Government made it possible to open the second front at that time and without delay.

Q. Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of the Communist Party toward the question of the opening of a second front at that time? A. Yes, I have. This problem was commented upon continually by the official press of the Communist Party of the United States. The spokesmen of the Communist Party maintained
6727 that a second front must be opened immediately and that it could be opened without delay. The spokesmen discussed and brushed aside all reasoning based upon the lack of such preparation in trained manpower and equipment and shipping, as well as in the accumulation of airpower, and frequently maintained that delay in establishing a second front, which it considered was urgently needed in the interest of the defense of the Soviet Union, was due to ill will or to persons influenced by German fascism. Its reasoning on this problem followed in general the point of view advanced by official spokesmen and the official press of the Soviet Union.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 202, which is M-50(a), which is an issue of The Communist for April 1942 and specifically direct your attention to an article by Eugene Dennis, commencing on page 199, entitled "For a Second Front in Europe! To the Offensive Against Hitler!" and ask you whether you have ever read that article before.

(The document referred to was marked for identification Petitioner's Exhibit No. 202.)

THE WITNESS: Yes, I have read this article by Mr. Dennis both at the time and more recently. It develops more fully than I have tried to do in my very brief summary, the reasons why the second front was urgently demanded in the view of the Communist Party of the United States and the factors which in its opinion were responsible for the delay.

6728 By MR. LENVIN:

Q. In your opinion, Dr. Mosely, does that article fairly reflect the view and attitude of the Communist Party toward the question of the opening of a second front as of that date? A. Yes, it does. In my opinion it is a typical expression of the views officially presented by the Communist Party of the United States on that issue at that time, and an exposition of the policies advocated by it.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 203—

(The document referred to was marked for identification Petitioner's Exhibit 203.)

By MR. LENVIN:

Q. —which is an issue of The Communist for May 1942, and direct your attention to the Manifesto of the National Committee of the Communist Party, USA, entitled "Attack Hitler Now, Open a Western Front in Europe," and ask you whether you ever read that article before. A. Yes, I have read the manifesto referred to. I read it at the time and since.

Q. In your opinion, does that manifesto reflect the views and attitude of the Communist Party as of that date on the question of the opening of a second front in Europe?

A. Yes, it is a typical and detailed expression of the
6729 views and policies advocated by the Communist Party of the United States on that issue and at that time.

Q. Dr. Mosely, it is a historical fact, is it not, that the Communist International was dissolved in May of 1943? A. Yes, it is. The dissolution of the Communist International, which was founded in March 1919 in Moscow, was announced in Moscow in May 1943.

Q. Now I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 204, which is M-55—

(The document referred to was marked for identification Petitioner's Exhibit No. 204.)

By Mr. Lenvin:

Q. —"Foreign policy of the Soviet Union during the Patriotic War," J. Stalin, which contains the reply of Comrade Stalin to a question asked by the chief correspondent of the British Agency Reuters, and ask you whether you have ever read this before. A. Yes, I read it at the time as transmitted by the press and also read it in the Soviet newspapers of the time. I have re-read it in the collection of documents and pronouncements on the "Foreign Policy of the Soviet Union during the Patriotic War," volume I.

6730 Q. In your opinion, Dr. Mosely, does this item reflect the attitude of the Soviet Union toward the dissolution of the Comintern? A. Yes, it does, in my opinion. Marshal Stalin was then the chairman of the Council of People's Commissars of the USSR and a leading member of the Politburo of the Central Committee of the Communist Party Bolshevik. Hence, in my opinion, it is a highly authoritative statement of the point of view of the Soviet leadership on this problem. In this statement Marshall Stalin explained why he considered that this step would promote victory over the common enemy, why it would promote greater unity among the freedom loving nations, and therefore why it was a useful and necessary step.

Q. Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party of the United States, have you been able to form any opinion as to what the views and attitude of that party were toward the dissolution of the Communist International in May of 1943? A. Yes, I have. Through its official pronouncements the Communist Party of the United States expressed its full concurrence and approval in the abolition of the Communist International and stated that this form of organization was no longer useful or expedient in the new stage of the struggle for democracy and socialism, and it stated that of course cooperation among the workers and workers' parties, meaning of course the Communist parties, in their terminology, would continue and would take on new forms.

6731

Q. Dr. Mosely, I show you what has been marked for identification as Petitioner's Exhibit No. 205—

(The document referred to was marked for identification Petitioner's Exhibit No. 205.)

By Mr. Lenvin:

Q. —which is the Daily Worker for May 26, 1943, and direct your attention, first, to the series of articles by James S. Allen, entitled "The Comintern Decision: Historic Step Long Maturing," and ask you whether you have ever read that article before. A. Yes, I read this article at the time and have reread it more recently. It is a detailed statement of the point of view which I have tried to outline as briefly as possible. It follows the same line of reasoning as that set forth in the manifesto of the executive committee of the now dissolved Communist International and in general it follows the line of reasoning as set forth in the interview of Marshal Stalin with the foreign correspondent.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit 206 for identification, which is the Daily Worker for Monday, May 31, 1943, and direct your attention to the article by James S. Allen, entitled "Comin-

tern Decision Marks New Period of Working Class
6732 Activity," and ask you whether you have ever read that article before.

. . . . . .

THE WITNESS: Yes, I read this article at the time it appeared and also more recently.

By MR. LENVIN:

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Communist Party of the United States toward the dissolution of the Communist International? A. Yes, in my opinion it does. It is a typical expression of the interpretation given to that event by the Communist Party of the United States through its official pronouncements.

. . . . . .

Q. I now show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 207—

. . . . . .

Q. —The Communist for July 1943, and direct your attention to the resolution on the dissolution of the Communist International, part of the resolutions and statements of the National Committee plenum.

. . . . . .

6733 Q. I ask whether you have ever read this resolution before. A. Yes, I have read this resolution at the time and since.

Q. In your opinion, Dr. Mosely, does that resolution fairly reflect the attitude of the Communist Party of the United States towards the dissolution of the Communist International as of that date? A. Yes, in my opinion this should be regarded as an official and authoritative statement of the viewpoint and policy of the Communist Party of the United States on this issue at that time, and it is parallel with the resolution adopted in May 1943 by the Executive Committee

of the Communist International and also with the interview given by Marshal Stalin to a foreign correspondent in May 1943, and Marshal Stalin was of course a member of the Executive Committee of the Communist International
6734 prior to its dissolution.

Q. Dr. Mosely, it is a historical fact, is it not, that the Communist Party itself was dissolved in May of 1944 and the Communist Political Association established? A. Yes, I read of that in the press at the time.

Q. Have you ever, as a result of the research and study that you have made, been able to arrive at an opinion as to the reasons for the dissolution of the Communist Party and the substitution therefor of the Communist Political Association?

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6735 Q. It is a historical fact, is it not, Dr. Mosely, that the Communist Party of the United States was reconstituted in July of 1945? A. Yes, according to the official pronouncements of the press, first of the Communist Political Association and then of the reconstituted Communist Party of the United States, this was the case. It was reconstituted in July 1945.

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6743 Q. Dr. Mosely, can you identify Jacques Duclos?

A. Yes, on the basis of his writings and facts published concerning his career in the Communist press of France, particularly France, he has been a leading member of the French Communist Party for many years, was a member—

MR. LAFOLLETTE: For how many years, if you can recall?

THE WITNESS: My recollection, without consulting anything, is since 1934, but that may not be right.

MR. LAFOLLETTE: That is more helpful to me than many years. Some people's idea of him is five, some people's idea is 15.

THE WITNESS: The reason I think it was in 1934 is that my recollection is that he was back and forth between Moscow and Paris quite a bit in the preceding six years, but I couldn't on the spur of the moment identify the exact dates.

He was a member of the Executive Committee of the Communist International, dissolved in 1943. Since
6744 1947 he has attended a number of meetings and conferences held by the Communist Information Bureau as the authorized spokesman of the French Communist Party. He is frequently described in the French Communist Press as a leading theorist of Marxism-Leninism.

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6745 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 208—

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Q. —which is an issue of Political Affairs for July 1945—

* * * * * * * * * * *

Q. —and direct your attention to an article mentioned on page 656 entitled "On the Dissolution of the Communist Party of the United States," by Jacques Duclos, and ask you whether you have ever read that article before. A. Yes,

I read this article in French, in the French Commu-
6746 nist organ, and I have re-read it more recently in this English translation which appeared in Political Affairs for July 1945. In this article Monsieur Duclos states the reasons—

* * * * * * * * * * *

Q. Will you continue, Dr. Mosely? A. Monsieur Duclos comments on both national and international reasons why, from the point of view of a French Communist, it was a mistake to dissolve the Communist Party of the United States and was necessary to reconstitute the Party. I should prefer to concentrate on the international aspects of his reason for the sake of brevity. Monsieur Duclos states that the United States political and economic system

remains under the control of what he calls capitalists, plutocrats, reactionaries, that therefore its foreign policy aims will be guided by that dominant power, as he describes it, and therefore it is essential for the United States to have a Communist Party which could undertake from the point of view of Marxist-Leninist criticism of events and policies of other parties to defend the basic principles of Marxism and Leninism. He also states that during the period
6747 of the Communist Political Association in the United States, this association exaggerated the durability and long-range value of the Teheran and other common declarations issued by the three governments, the United States, Great Britain, and the Soviet Union, and that it was dangerous to assume that such cooperation would continue after the war, that it was necessary for a well organized and carefully identified Communist Party to defend the interests of true peace and true democracy in the United States and not to rely upon any alleged change in the character of the government and society of the United States.

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6748 Q. Dr. Mosely, do you have any knowledge of the extent to which this Duclos article was publicized?

MR. LAFOLLETTE: Where? In the United States?

MR. LENVIN: All over the world.

6749 MR. LAFOLLETTE: Do you include "all over the world" in your question?

MR. LENVIN: Yes.

THE WITNESS: It was issued through the official theoretical organ of the French Communist Party in April 1945.

MR. LAFOLLETTE: What is the name of that article?

THE WITNESS: Cahiers du Communisme. It was reissued in English translation in the American organ, The Communist, of July 1945.

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6756 Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 209—

(The document referred to was marked for identification Petitioner's Exhibit No. 209)

By Mr. Lenvin:

Q. —which is an issue of Political Affairs for September 1945, and specifically direct your attention to the article commencing on page 800, entitled "The Reconstitution of the Communist Party," by John Williamson, and ask you whether you have ever read that article before. A.
6757 Yes, I have. I read it at the time and more recently.

Q. In your opinion, Dr. Mosely, does that article indicate the view of the Communist Party of the United States regarding the dissolution of the Communist Party and its reconstitution following the Duclos article? A. It does. In my opinion it parallels very closely the criticisms and suggestions contained in the Duclos article—

. . . . . .

Q. Dr. Mosely, I also show you what has been marked as Petitioner's Exhibit for identification No. 210 which is an issue of Political Affairs for September 1945 and specifically direct your attention to the resolution of the National Convention of the Communist Party, USA, adopted July 28, 1945, entitled "Present Situation and the Next
6758 Tasks," and ask you if you have ever read those resolutions before. A. Yes, I read them at the time and I have read them more recently.

Q. In your opinion do these resolutions reflect the views and attitude of the Communist Party toward the dissolution of the Communist Party and its reconstitution as stated in the Duclos article. A. Yes, in my opinion it does. It lists the next tasks to be pursued by the Communist Party of the United States, and it recognizes the criticisms in lines exactly parallel to those laid down in the Duclos criticism. It calls for the strengthening of the foreign policy pursued by the Soviet Government. It calls for prevention of the victory of Fascism in the United States. It attacks many aspects of the policy of the United States along the same lines which were already beginning to appear in the summer of 1945 in the official Soviet press.

Q. Dr. Mosely, what in your opinion is the significance of the Duclos article?

. . . . . .

6759 THE WITNESS: In my opinion the Duclos article represented an authoritative criticism and series of suggestions or recommendations made by an outstanding—

MR. ABT: I didn't get the word. Series of suggestions and what?

THE WITNESS: And recommendations of action which were made by an outstanding leader of the international Communist movement, by a man who had served frequently as the spokesman of his own party in the French Chamber and in French public life and in his published writings, and who prior to 1943 and after 1947 appeared regularly as a spokesman for the international organization of the Communist Parties.

MR. LAFOLLETTE: Which international?

6760 THE WITNESS: Prior to 1943 Monsieur Duclos was a member of the Executive Committee of the Communist International. After 1947 he frequently represented the French Communist Party at the conferences of the Cominform or Information Bureau of the Communist parties.

MR. LAFOLLETTE: What position did he hold in any of the international organizations of the Communist Party, if any, at the time the question arose of the American Communist Party?

THE WITNESS: At that time, sir, there was no public organization uniting the various Communist Parties. However, a few weeks before the article was published by Monsieur Duclos he returned to Paris from Moscow.

MR. ABT: Object, Mr. Chairman, and move to strike the answer as not responsive to the question, and it has no probative value whatsoever.

MR. LENVIN: The witness testified—

MR. LAFOLLETTE: I think it might have some probative value. How do you arrive at your information concerning the last fact you stated?

THE WITNESS: From the French Communist newspaper, Humanité, of that time, March 1945.

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6761 Q. Dr. Mosely, in view of your last answer do you know of any other instance where an article or statement by Duclos indicated or revealed or announced a change of policy or attitude in either the attitude of the Soviet Union or the Communist Party of the Soviet Union or the International Communist movement.

MR. ABT: I object, Mr. Chairman.

MR. LAFOLLETTE: He is only asking now if he knows of any other instance. Overruled. Just answer whether you know of any other instance.

THE WITNESS: I recall clearly two other instances in which Monsieur Duclos gave the basic line.

BY MR. LENVIN:

Q. Will you state those two instances that you recall?

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THE WITNESS: One instance occurred at the beginning of September 1939, when there was a speech by Monsieur Duclos which sets the pattern of the resistance of the French Communist Party to French participation in the war against Germany, stating that this war was against the interests of the working class in France and that it represented a conspiracy of the so-called ruling groups in France with
6762 Germany. As a result of this line, the French Communist Party was outlawed and Monsieur Duclos disappeared from the public scene, and later re-emerged in Moscow.

* * * * * * * * * * * *

6764 Go ahead. You said there were two. What was the other instance, please?

THE WITNESS: The second instance which I recall immediately and in detail, is that Monsieur Duclos inaugurated a very strong campaign of the French Communist Party

against the Marshall Plan by his major speech at a large public gathering in Paris in August 1947.

. . . . . .

BY MR. LAFOLLETTE:

I ask you, Doctor, as a result of your reading and study and pursuing this subject of Russian foreign policy, whether or not there was an announced Russian foreign policy on the Marshall Plan? If your answer is yes, when it was announced?

THE WITNESS: Yes, sir.

. . . . . .

When was it announced?

THE WITNESS: A firm Russian position on the Marshall Plan was taken on July 4, 1947, roughly one month before the Duclos speech which marked the inauguration of a major campaign to disrupt the arrival, distribution and use of Marshall Plan aid in France.

. . . . . .

6766 Q. Dr. Mosely, can you tell us briefly what was the Montreux Convention, please?

MR. ABT: I object.

6767 MR. LENVIN: Just background, Mr. Chairman. We can't clearly understand the issue involved as stated in paragraph (m) unless we have some historical background material. I don't mind if you want to eliminate it all, if the Panel feels they don't need this historical background for a full understanding of the issues.

MR. LAFOLLETTE: I think we know something about it, but I don't see how it would do any harm. Briefly, Doctor.

THE WITNESS: The Montreux Convention of the year 1936 regulated the passage of the Turkish Straits and the passage of the air space over the Turkish Straits. It returned this area and the territorial waters and the air space over them to full Turkish sovereignty, including the right to fortify them and to hold military exercises in them. This convention was signed by the Soviet Government, which had taken a detailed part in its negotiation. It is still in force.

By Mr. Lenvin:

Q. Did there come a time when the Soviet Government made some proposal to revise this convention? A. There did, yes. Beginning in 1939, the Soviet Government proposed to the Turkish Government that they should disregard the Montreux Convention and that joint Soviet-
6768 Turkish bases should be established, both Naval and air bases, in the vicinity of the Straits.

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Q. Dr. Mosely, in 1946 what in your opinion was the position of the Soviet Union regarding the Montreux
6769 Convention in 1936?

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The Witness: In 1946, by a series of notes addressed by it to the Turkish Government and published by the Soviet Government, the Soviet Government demanded the establishment of joint Soviet-Turkish bases in and near the Turkish Straits and joint control over the waters of the Straits and the air space above them. It also demanded at this time through its published statements a change in the Turkish Government, declaring the existing government unfriendly because it rejected these Soviet demands.

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Q. Dr. Mosely, I show you what has been identified as Petitioner's Exhibits for identification No. 211—

(The document referred to was marked for identification Petitioner's Exhibit No. 211)

. . . . . .

Q. —which is an issue of Izvestia for August 24, 1946, and specifically direct your attention to page 4, article entitled "From the History of the Question of the Black Sea Straits," and ask you whether you have ever read that article before. A. Yes, I have. I read it at the time and reread it in the English translation.

6770 Q. In your opinion, Dr. Mosely, does this article

reflect the views and attitude of the Soviet Union toward the Montreux Convention of 1936? A. Yes. It summarizes the Soviet arguments for revising the Montreux Convention, destroying the rights of other signatories besides Turkey.

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6772 MR. LAFOLLETTE: You may elaborate your answer on this document marked for identification Exhibit 211.

THE WITNESS: The article in question states that the Soviet proposals for a new regime for the Turkish Straits are just and well founded. It attacks all opponents of those proposals as imperialists.

BY MR. LENVIN:

Q. I show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 212—

(The document referred to was marked for identification Petitioner's Exhibit No. 212)

BY MR. LENVIN:

Q. —which is an issue of the Daily Worker for Monday, August 26, 1946, and direct your attention to an article entitled "Our Dardanelles Policy," by James S. Allen, and ask you whether you have ever read that article before. A. Yes, I have read it.

Q. In your opinion, Dr. Mosely, does that article fairly reflect the views and attitude of the Communist Party of the United States toward the Montreux Convention of 1936? A. Yes, in my opinion it does. It is a signed article by a regular contributor to the Daily Worker. It supports
6773 fully the Soviet proposals concerning the Turkish Straits and makes many accusations against all those who objected to or criticized those proposals. Its reasoning is directly parallel to that of the Soviet official press at the same time on this question.

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Q. Merely as background, Dr. Mosely, will you describe briefly the internal political situation in that area of Europe generally known as the Balkans, and specifically the countries of Roumania, Bulgaria, Hungary, and Yugoslavia?

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6774 THE WITNESS: In the case of Hungary, Roumania and Bulgaria, these three countries were under armistices concluded with their new regimes by the three major allies, the Soviet Union, Great Britain and the United States, and at the Yalta Conference in February 1945 the three major powers agreed upon a statement of policy toward these three countries. They agreed to promote the development of the basic freedoms—

MR. ABT: Just a moment, Mr. Chairman.

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6780 MR. PAISLEY: We will avoid questions on background from now on.

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6783 MR. LENVIN: My next question will be directed to the Panel and inquire whether the Panel will take judicial notice of the fact that in Balkan countries, Roumania, Hungary, Bulgaria, and Poland, there were coalition governments established which included a Communist Party.

6784 MR. LAFOLLETTE: Yes, immediately following the end of World War II.

BY MR. LENVIN:

Q. Dr. Mosely, in your examination of the publications and other materials emanating from the Soviet Union, have you been able to form any opinion as to the views and attitude of the Soviet Union toward the Communist Parties of the Balkan countries in the period, let's say, from about 1945 to 1947. A. During this period from 1945 to roughly the middle of 1947, the official Soviet press praised the coalition governments in these east European and Balkan—

MR. ABT: I understood the question to be the attitude of the Soviet Union toward the Communist Parties in these countries.

MR. LENVIN: Let him finish his answer. He said they were praising the coalition governments. Give the man a chance to finish.

MR. LAFOLLETTE: Go ahead.

THE WITNESS: It praised the coalition governments and the role of the Communist Parties within them and asserted that this system of cooperation between Communist and non-Communist governments formed the basis of the so-called people's democracy which was presented as a very important step in the political progress of these countries. The Soviet official press assumed that this status would continue. In other words, the coalition government
6785 was a desirable and useful and progressive step.

BY MR. LENVIN:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 213 for identification—

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Q. —which is an issue of Izvestia—

. . . . . .

Q. —which is an issue of Izvestia for September 20, 1945, and direct your attention to page 4 which contains a reprint of Comrade V. M. Molotov's speech at the press conference at the Soviet Embassy in London, and ask you whether you have ever read that before. A. Yes, I have. I read it on the same day in London, and I have referred to it frequently since.

Q. In your opinion, Dr. Mosely, does that speech reflect the views and attitude of the Communist Party toward the Balkan countries we have been discussing as of that date? A. Yes, it does. As the Commissar of Foreign Affairs and member of the Politburo of the Central Committee of the Communist Party Bolshevik, Mr. Molotov spoke authoritatively, and in his opinion the situation and the

political development in Roumania, Bulgaria and Hungary was entirely satisfactory, and he rejected out of hand all criticisms which had been made concerning the alleged failures of these three governments in the area under Soviet military control to carry out the conditions which had been agreed upon at Yalta among the big three powers.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 214—

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Q. —which is an issue of Pravda for October 22, 1947, and an article by A. Zhdanov.

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Q. Entitled "The International Situation," which is a report made to the informational conference of representatives of a number of Communist parties held in Poland at the close of September 1947, and ask you whether you have ever read that before. A. Yes, I read this in an excerpt on the following day, and I read it in full in Russian about a week later and I have frequently used it in full as reference in my research work. I have reread it recently both in Russian and in English.

Q. In your opinion, Dr. Mosely, does that report by Zhdanov reflect the views and attitude of the Soviet Union toward the Governments of the Balkan countries that we have been discussing? A. In my opinion it does. Zhdanov was then a member of the Politburo of the Communist Party of the Soviet Union. He was also the principal Soviet representative at the organizing conference of the Information Bureau of several Communist Parties held at an unnamed place in Poland in the second half of September 1947. His statement was reprinted in many languages roughly one month after it was held and has been frequently republished since and referred to as a basic statement of the Soviet position on international policy at that time.

MR. LAFOLLETTE: Referred to by whom, the Soviet Government?

THE WITNESS: By the Soviet Government. It has been made available in many editions, both in pamphlet form and republished in editions of several hundred thousand copies at a time.

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Q. Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party
6788 of the United States, have you been able to form any opinion as to the views and attitude of that Party toward those Balkan countries which we have been discussing in the period from about 1945 to about 1947?

. . . . . .

THE WITNESS: Yes, I have. In the official publications of the Communist Party of the United States the point of view taken throughout this time was a strong defense of the people's democracies, so-called people's democracies as they were developing, a strong defense of Soviet policy in this part of Europe, and praise for the role of the Communist Parties in the so-called people's democracies. At the same time the official publications of the Communist Party of the United States accused the United States and Great Britain of striving to destroy democracy in these countries and to extend their so-called imperialist control over them. In its expressions of published views the Communist Party of the United States used the terms and followed lines of reasoning directly parallel with that of the official Soviet press and the official Soviet spokesmen.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 215 for identification.

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6789 Q. Which is an issue of Political Affairs for November 1945, and direct your attention to an article by Eugene Dennis, entitled "The London Conference," and ask you whether you have ever read that article before.

A. Yes. I read it at the time and reread it more recently. It is a statement of full praise for the development and events in the so-called people's democracies, of praise for the Soviet policy and of condemnation for the allegedly imperialist policy of the United States in relation to these countries.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 216 for identification—

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Q. —which is our M-67, an issue of Political Affairs for June 1947 and direct your attention to an article entitled "The National Question in Europe," by William Z. Foster, and ask you whether you have ever read that article before. A. Yes, I have read this article by Mr. Foster.

Q. In your opinion, does that article reflect the views and attitude of the Communist Party toward the Balkan
6790 countries of that date? A. Yes, it does. It is a full statement of approval for the policies followed by the Governments in the so-called people's democracy and for the leading role of the USSR in guiding the postwar development of those countries. It also attacks the policies advocated by the United States Government in relation to these countries along lines directly parallel with the views published by the Soviet Press and presented by Soviet official spokesmen.

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6791 Q. It is a historical fact, is it not, Dr. Mosely, that the Communist Party, which was a part of the coalition governments of certain Balkan countries, such as Hungary, Roumania, Albania, and Bulgaria, gained complete control of those governments?

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6792 THE WITNESS: Since the process of establishing complete control by the Communist Parties in each country occurred by stages, it may be necessary to mention several dates.

MR. LAFOLLETTE: You may elaborate.

THE WITNESS: Thank you.

In the case of Hungary the major change occurred in the last week of May 1947, when the Communist Party and those ministries which it controlled, including the Ministry of Interior, controlling the police, destroyed effectively the party organizations of the other parties which had been members of the coalition government.

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6793 THE WITNESS: It is true that a number of persons belonging to other parties aside from the Communist Party continued to hold certain positions until May 1949 in Hungary, but from that time on there was no longer any prominent non-Communist in the government, and even before that time no non-Communist party had been allowed to organize and to carry on what would be regarded as a normal democratic political activity.

In the case of Roumania major changes toward completion of Communist control came in August and September 1947, when the principal non-Communist members of the government were removed and in the following months the Communist Party completed the establishment of its complete domination over the government.

In the case of Bulgaria a turning point also occurred in May 1947 when the non-Communist parties were forced to disband themselves, and while a few individuals were continued in government positions for some months,
6794 their parties had already been destroyed. By the end of 1948 the complete monopoly of control by the Communist Party in Bulgaria had been established.

MR. LAFOLLETTE: Is there any other?

MR. LENVIN: No, I think that satisfies us.

MR. LAFOLLETTE: I didn't know whether you included Albania in your question.

MR. LENVIN: Yes, I think I did include Albania.

MR. LAFOLLETTE: I don't believe you answered that part of the question, Doctor.

THE WITNESS: The situation in Albania at the close of the war was that the so-called people's front, which was dominated by the Communist Party in Albania, had come into power and that since that time, from that time in January 1946 to be exact, non-Communist parties were prevented from carrying on their activities. Thus the name of a people's front was maintained, but an actual monopoly of political activity and the exercise of political power was established as early as January 1946 in Albania and, with various disputes and purges within the Communist Party, has continued in control since then.

BY MR. LENVIN:

Q. Dr. Mosely, from your examination of the publications and other materials emanating from the Soviet Union, have you been able to form any opinion as to the views and attitude of the Soviet Government toward the governments of these Balkan countries that I have just mentioned after the Communist Party in those countries gained complete control of the respective governments? A. Yes, I have. The Soviet press and Soviet official spokesmen have commented frequently on these developments. They have given their full approval to each step by which complete Communist control was established. They have rejected vehemently all objections made from outside, and they have also changed their interpretation of the nature of the so-called People's Democracy. And beginning in 1948 it was declared that the coalition governments of the first two years after the war had been merely an expedient and a transitional form and that the real purpose of the Communist Parties during that time had been to increase their power at the expense of the other parties which had been members of the same coalitions. The theory that the so-called People's Democracy represented a different type of socialism was now rejected. It was stated it was simply a variation of tactics leading toward the establishment of the so-called dictatorship of the proletariat. In other words, after having maintained for some two

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and a half years that the so-called People's Democracy represented a different, in other words a non-Soviet, path of development, it was now declared this was not the case and
that this was simply another way of leading up to
6796 the establishment of a so-called dictatorship of the
proletariat. Since any proletarian, so-called proletarian, who does not loyally support the Communist party is considered simply a stooge of capitalism, the connection between Communist Party control and dictatorship of the Proletariat has traditionally been very close.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 217—

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Q. —which is an issue of Pravda for March 11, 1950, and contains a speech by Comrade V. M. Molotov—

. . . . . .

Q. —at the meeting of the voters of the Molotov election district of the city of Moscow, delivered March 10, 1950. I ask you whether you have ever read that speech before. A. Yes, I have read the speech in full in Pravda in Russian, and I have also read this extensive excerpt presented in the English translation in this document. Mr. Molotov at the time was a member of the politburo of the Central Committee of the Communist Party, and this is considered an
authoritative statement of the official Soviet position.
6797 Q. Dr. Mosely, from your examination of the publications and other materials issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitudes of that party toward the Balkan countries we have been discussing from approximately the middle of 1947 on? A. Yes, I have. The official spokesmen of the Communist Party of the United States and its authoritative publications have commented frequently on each development of events, each major development of events in the so-called People's Democracies in Eastern Europe.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 218, M-69—

. . . . . .

Q. —which is an issue of Political Affairs for March 1948 and direct your attention to a report commencing on page 195, which is a report on the international situation delivered at the meeting of the National Committee of the Communist Party, United States of America, held February 3 to 5, 1948, and entitled "World Democracy's Struggle Against American Imperialism," by William Z. Foster, and ask you whether you have ever read that before. A. Yes,

I have read this article by Mr. Foster, both at the
6798 time and since. It is a full justification of the various steps taken in the so-called People's Democracies. It approves the Soviet policy of supporting that course of development. It attacks the policy of the United States in relation to those countries. In all these attitudes it parallels directly the position taken in the official Soviet press of that time.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 219—

. . . . . .

Q. —which is an article in Political Affairs for June 1950, and direct your attention to an article commencing on page 14, entitled "People's Front and People's Democracy," by William Z. Foster, and ask you whether you have ever read that article before. A. Yes, I have read this article of Mr. Foster.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitudes of the Communist Party toward those Balkan countries which we have been discussing as of that date? A. Yes, in my opinion it is an authoritative presentation of the point of view of the leader of the Communist Party of the United States. It approves each named

step in the political development of the so-called
6799 People's Democracies. It praises the decisive role, as he describes it, of the Soviet armies and of Soviet

power in promoting this course of development. It renounces as mistaken the approval which Mr. Foster states was given in 1946 and 1947 to the theory that the People's Democracies represented a new path of development toward socialism and states that this should have been regarded simply as a variation in tactics in striving for the same goal of the dictatorship of the proletariat. He also attacks as imperialism, each step as described by him, taken by the United States Government in trying to influence the course of developments in that part of Europe.

His presentation is directly parallel to the official presentation of this problem by the Soviet press.

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6801 Q. Dr. Mosely, it is agreed that the Panel will take judicial notice that in the immediate postwar period there was a coalition government existing in Czechoslovakia, of which the Communist Party of Czechoslovakia was a part. Will you tell the Panel for how long that coalition government continued? A. The coalition government continued from October 1944 until the second half of February 1948.

Q. And what happened after that date?

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THE WITNESS: In February 1948 during a cabinet crisis the Communist Party, which maintained control of the police through control of the Ministry of Interior, and which maintained control of the state radio through the Ministry of Information, took over control in the country. In doing so it also called upon the support of a large number of action committees organized in advance.

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THE WITNESS: After the new government was formed, the other parties either were dissolved, or dissolved themselves, by the end of April 1948 and from that time the only legal party was the Communist Party of Czecho-
6802 slovakia. Some individuals who had formerly be-

longed to other parties continued for a time in office. Some of them were admitted to membership in the Communist Party. But all organized parties aside from the Communist Party were dissolved and by new laws forbidden to reorganize.

By Mr. Lenvin:

Q. I show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 220—

(The document referred to was marked for identification Petitioner's Exhibit No. 220.)

By Mr. Lenvin:

Q. —which is an issue of a publication known as "For a Lasting Peace, for a People's Democracy," published by the Communist Information Bureau, the issue being that of March 1, 1948, and direct your attention to an article entitled "Victory of the People of Czechoslovakia," and ask you whether you have ever read that article before. A. Yes, I read this article at the time and have reread it recently.

Q. In your opinion, does that article fairly reflect the view of the Communist Information Bureau toward the internal political situation existing in Czechoslovakia as of that date? A. Yes, in my opinion it does, since it is published in the official organ of the Information Bureau
6803 of the Communist Parties, at that time published in Belgrade under the responsible editorship of Mr. Yudin, who had been for 25 years a recognized spokesman of the Communist Party in the Soviet Union, and was at this time the editor of this journal located in Belgrade.

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6804 Q. Dr. Mosely, this article which you have stated you have read comes from the publication entitled "For a Lasting Peace, for a People's Democracy," organ of the Information Bureau of the Communist Parties, Belgrade. I wonder if you would tell us, if you know, about

the Information Bureau of the Communist Parties. A. The Information Bureau of the Communist Parties was established as a result of a decision taken at a conference held somewhere in Poland toward the end of September 1947.

At this founding conference, which was announced
6805 publicly on October 22, 1947, the authorized representatives of several Communist Parties were present. These were the Communist Parties or in certain cases they are called the Workers' Parties, of the Soviet Union, Poland, Czechoslovakia, Hungary, Roumania, Bulgaria, Yugoslavia, Italy, and France. At that time it was announced that the representatives of these parties had decided that it would be useful and expedient in promoting unity of action among these parties to establish a central organ for the exchange of experience and for consideration of common problems, and this center was established as the Information Bureau at first in Belgrade, where it began publication of this journal, "For a Lasting Peace, for a People's Democracy," in November 1947, and in July 1948 its headquarters were removed to Bucharest. The original name given to the Information Bureau was the Information Bureau of the Communist Parties of Several Countries. Its present title is the Information Bureau of the Communist and Workers Parties.

Q. In your opinion, Dr. Mosely, is this publication "For a Lasting Peace, for a People's Democracy," the official mouthpiece of the Information Bureau of the Communist Parties? A. It contains both signed and unsigned articles. The signed articles have been published under the names of leaders and prominent spokesmen of many of the Communist Parties, including Communist Parties outside
6806 those which are members of the Bureau itself.

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Q. Dr. Mosely, I would like to call to your attention
6810 again the issue of Pravda of October 22, 1947, which contains the report by Zhdanov on the international situation.

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6811 Q. I ask you whether in your opinion that report fairly reflects the views and attitude of the Soviet Union toward the Communist Party of Czechoslovakia as of that date.

Would you like to see that again? A. Yes.

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THE WITNESS: In this major report on the international situation the late Mr. Zhdanov praised the role of the Communist Party in Czechoslovakia, which was then a member of a coalition government with four other parties. It stated that the policy of the Communist Party in Czechoslovakia and of the coalition government in Czechoslovakia was progressive and democratic and it rejected all criticism of it and assured it of Soviet approval.

By MR. LENVIN:

Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 221—

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6812 Q. —which is the Daily Worker for Wednesday, May 29, 1946, and direct your attention to the editorial entitled "Czechoslovakia's Way," and ask you whether you have ever read that editorial before.

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THE WITNESS: Yes, I have examined this editorial in the Daily Worker for May 29, 1946.

By MR. LENVIN:

Q. And in your opinion, Dr. Mosely, does that editorial reflect the views of the Communist Party of the United States toward the Communist Party of Czechoslovakia as of that date? A. Yes, this editorial praises the activity and successes of the Communist Party in Czechoslovakia, praises its support of a coalition government and states that the conduct of free elections in Czechoslovakia proves that

the Communists are the best fighters for democracy and that the power of the Communist Party is not incompatible with democracy. In other words, it praises fully the then policy of the Communist Party of Czechoslovakia along lines directly parallel with the expressions of official opinion by the leaders of the Soviet Government and by the official and party press in the Soviet Union.

Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 222—

. . . . . .

6813 Q. —which is an issue of "For a Lasting Peace, for a People's Democracy," for January 1, 1949, and direct your attention to this little article entitled "Results of Czechoslovak-Soviet Talks," and ask you if you have ever read that before. A. Yes, I have.

Q. In your opinion, Dr. Mosely, does that article reflect the attitude of the Soviet Union and the International Communist movement toward the Communist Government of Czechoslovakia as of that date? A. Yes. This is a typical expression of the support of the Soviet Government for the Czechoslovak government of that date.

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6814 Q. Dr. Mosely, in your examination of the publications and other materials issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that party toward the events in Czechoslovakia leading to the control of the Czechoslovak government by the Communist Party?

. . . . . .

THE WITNESS: Yes, I have, on the basis of the published statements of the official press of the Communist Party in the United States.

. . . . . .

6815 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 223—

. . . . . .

Q. —which is an issue of the Daily Worker for Friday, February 27, 1948, and specifically direct your attention to an article appearing on page 3, entitled, "The Czechoslovak People Lick the Warmongers," by William Z. Foster, and ask you whether you have ever read that article before.

THE WITNESS: Yes, I have read this article at the time and since.

By MR. LENVIN:

Q. In your opinion, Dr. Mosely, does that article fairly reflect the views of the Communist Party of the United States toward the Czechoslovak government as of that date? A. Yes, in my opinion it does. It relates the alleged sequence of events and expresses its full approval with them in terms parallel to those in which approval was expressed by the officials and the press of the Soviet Union.

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6816 Q. I also show you, Dr. Mosely, what now has been marked as Petitioner's Exhibit for identification No. 224.

(The document referred to was marked for identification Petitioner's Exhibit No. 224.)

By MR. LENVIN:

Q. —which is an issue of Political Affairs for April 1948, and direct your attention to an editorial commencing on page 291 entitled "The People's Victory in Czechoslovakia," and ask you whether you have ever read that editorial before. A. Yes, I have read this editorial at the time and since.

Q. In your opinion, Dr. Mosely, does that editorial reflect the views and attitude of the Communist Party toward the Czechoslovak government as of that time? A. Yes, in my opinion it does. It is an unsigned editorial published in the official magazine of the Communist Party of the United States.

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6820 Q. Dr. Mosely, will you describe briefly the internal political situation within China for approximately the last nine months of 1945 and the beginning of 1946.

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6821 THE WITNESS: During the last nine months of 1945 and the first three and a half months of 1946 the Nationalist government of China was in control of certain provinces and the administration set-up by the Chinese Communist Party was in control of certain other areas. As part of the process of receiving the surrender of the Japanese forces there developed a grace between the two forces, the two governments and the two armies, to extend their respective control over as wide areas as possible in the country. At the same time the Nationalist Government and the Chinese Communist administration, de facto administration, in these areas were conducting negotiations for the establishment of a unified government and a unified army for the entire country. At this time both the Soviet Union and the United States recognized the Chinese Nationalist Government as the legal government of China and the representative of China in all international affairs.

6822 By MR. LENVIN:

Q. Dr. Mosely, in your examination of publications and other materials emanating from the Soviet Union have you been able to arrive at any opinion as to the attitude of the Soviet Union toward the internal political situation in China which you have just described as of that period? A. Yes, I have, on the basis of official publications issued by the Soviet Government and by the Communist Party in the Soviet Union.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 225—

(The document referred to was marked for identification Petitioner's Exhibit No. 225.)

By MR. LENVIN:

Q. Which is an issue of War and the Working Class.—

MR. ABT: What is your number?

MR. LENVIN: M-75.

By MR. LENVIN:

Q. —for April 15, 1945, and direct your attention to an article by M. Avarin, the title "Which Way is China Going," and ask you if you have ever read that article before. A. Yes, I read this article at the time in Russian, and I have read it more recently in its English translation.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitudes of the Soviet Government toward the political situation in China as of that date?

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A. Mr. Avarin has been well known as early as 1931 as an authorized and frequent commentator on Far Eastern and particularly Chinese affairs in the official Soviet Press. This journal was issued by the Council of Trade Unions in the Soviet Union.

Q. Dr. Mosely, from your examination of the publications and other materials issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that Party toward the political situation in China as of that date? A. Yes, I have. Through its official publications and spokesmen, the Communist Party of the United States commented frequently throughout this period on events in China and recommended definite policies which it urged should be followed in respect to China, by the United States and other governments.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 226,—

Q. —which is an issue of Political Affairs for September 1945, and direct your attention to an article commencing on page 843, entitled "Avert Civil War in China," by Frederick V. Field, and ask you whether you have ever read that article before.

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6824 THE WITNESS: Yes, I read this article in Political Affairs, which is the monthly magazine of the Communist Party in the United States.

By MR. LENVIN:

Q. In your opinion, does this article reflect the views and attitude of the Communist Party of the United States toward the political situation in China as of that date? A. In my opinion it does. In analyzing the Chinese situation and problem, it gives full support to the claims and demands of the Chinese Communist Party. It paints a completely black picture of the policies and situation of the Chiang government. It supports the program followed at that time by the Chinese Communist Party. In this its recommendations and its analysis run directly parallel with those presented through the official press of the Soviet Union on the same issue and at that time.

Q. I would also like to call your attention to the issue of Political Affairs of September 1945, which has been marked as Petitioner's Exhibit for identification No. 210, which contains the resolution of the National Committee of the Communist Party, which you have already seen, and ask you, too, whether these resolutions likewise reflect the views and attitude of the Communist Party toward the
6825 political situation in China as of that date.

. . . . . .

THE WITNESS: Yes, I read these resolutions at the time they were first published, and I read them on several occasions since. In the section of the resolutions which deals with the situation in China and the policy which is advocated by the Communist Party with respect to Chinese developments, its resolution is parallel to the policies and recommendations advocated in the official press of the Soviet Union at that time.

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6828 Q. Dr. Mosely, I show you what has been marked for identification as Petitioner's Exhibit No. 227—

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Q. —which is an issue of the—

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Q. The Daily Worker—for May 25, 1946, and direct your attention to an article appearing on page 2 and ask you whether you have ever read that article before.

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THE WITNESS: Yes, I have read this article.

By MR. LENVIN:

Q. In your opinion does that article reflect the views and attitude of the Communist Party toward the political situation in China as of that date? A. Yes, in my opinion it does. It reflects the interpretation given to those events by the Communist Party of the United States, it reflects the policies which it advocated in relation to Chinese developments, and it reflects the criticism and objections to the policies which it alleged were pursued by the
6829 United States Government. In these respects it directly parallels the criticisms and recommendations expressed in the Soviet Press at the same time on this question.

. . . . . .

6831 Q. Again referring back to that matter which the Panel has agreed to take judicial notice of, I ask, Dr. Mosely, if in your examination of the publications and other materials emanating from the Soviet Union, you have been able to form any opinion as to the views and attitude of the Soviet Union toward the Civil War in China and the eventual emergence of the people's government as the government in China. A. Yes, I have. Through frequent comments in the official Soviet press and the press of the Communist Party of the Soviet Union, Soviet spokesmen

regularly expressed full support and approval for the general policies of the Communist Party in China and welcomed each step in the growth of its military and political power. Upon the completion of the basic conquest of the Chinese mainland by the forces of the so-called people's republic, the Soviet government withdrew its recognition from the Chinese Nationalist Government, which it recognized up to then, and extended recognition to the so-called people's government, which has always stated that it is led by the Chinese Communist Party, that the Chinese Communist Party is the leading force within the so-called
6832 people's republic. The Soviet Government and the Communist Party of the Soviet Union congratulated both the Government of the so-called people's republic and the leadership of the Chinese Communist Party upon its victory at the beginning of October 1949.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 228—

(The document referred to was marked for identification Petitioner's Exhibit No. 228.)

By Mr. Lenvin:

Q. —which is an issue of the Soviet Press Translations issued by the Far Eastern Institute of the University of Washington, issue for 15 February 1947, containing a translation of an article in Izvestia for December 8, 1946, by A. Perevertailo, and ask you whether you have ever read that article before. A. Yes, I read this article shortly after it appeared, in Russian, in Izvestia in Moscow, and I later read it in translation issued under the auspices of the Soviet Press Translations of the University of Washington.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Soviet Union toward the political situation in China as of that date? A. Yes, in my opinion, since it was published in Izvestia, it is an authoritative statement of the Soviet view of Chinese de-
6833 velopments. It gives full approval to the general

course followed by the Chinese Communist Party and the administration of that Party in certain provinces of China, and it places all responsibility for the failure of any efforts to unify the regime in China upon the Chinese Nationalist Party and government, although that failure was not yet a final one as far as it could be foreseen at the time.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 229—

(The document referred to was marked for identification Petitioner's Exhibit No. 229.)

By Mr. Lenvin:

Q. —which is an issue of Soviet Press Translations by the Far Eastern Institute of the University of Washington, for February 15, 1948, which contains an article from Pravda for December 6, 1947, entitled, "The Rising Struggle for National Liberation in China," by K. Yevgenyev, and ask you whether you have ever read that article before. A. Yes, I read this article in Pravda shortly after it appeared, and I have read it in the English translation prepared by the Soviet Press Translations of the University of Washington.

Q. In your opinion does that article reflect the views and the attitude of the Soviet Government toward the political situation in China as of that date? A. Yes, in my
6834 opinion it does. It appeared in the official organ of the Central Committee and the Moscow Committee of the Communist Party Bolshevik. It is a typical expression of the Soviet interpretation of the situation and the development in China, and a typical set of recommendations concerning those developments.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 230—

(The document referred to was marked for identification Petitioner's Exhibit No. 230.)

By MR. LENVIN:

Q. —which is an issue of Soviet Press Translations for November 15, 1949, which contains the translation of an editorial from Pravda dated October 5, 1949, entitled, "The Historic Victory of the Chinese People," and ask you whether you have ever read that before. A. Yes, I read the major part of this editorial in Pravda of October 5, 1949, as transmitted by the Soviet Press agency on the following day. I read the completed editorial in Russian a few days later, and I have read the translation into English.

Q. In your opinion, Dr. Mosely, does that article reflect the view and attitude of the Soviet Union toward the political situation in China as of that date? A. Yes. This is in my opinion an authoritative statement of the
6835 Soviet view and recommendations and hopes concerning the then existing situation in China. It states the official attitude of the Soviet Government toward the newly created People's Democratic Republic of China.

Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 231—

(The document referred to was marked for identification Petitioner's Exhibit No. 231.)

MR. LENVIN:

Q. —which is an issue of "For a Lasting Peace, for a People's Democracy," for November 11, 1949, which issue contains a report delivered by G. M. Malenkov at the anniversary meeting of the Moscow Soviet November 6, 1949, and ask you whether you have ever read this report before. A. Yes, I have. I read extensive excerpts from it on the following day reproduced in the American Press, and I read the full text in Pravda in a few days after it was published in Moscow, and I have read the English version as published in the organ of the Information Bureau of the Communist and Workers Parties.

Q. In your opinion, Dr. Mosely, does that report or do portions of that report fairly reflect the views and attitude

of the Soviet Union toward the political situation in China as of that date? A. In my opinion it does. This is a report delivered by a member of the Politburo of the Cen-
6836 tral Committee of the Communist Party Bolshevik upon the solemnization celebrating the anniversary of the October Revolution in Russia, and this occasion is traditionally made the time of formal authoritative pronouncements by leading members of the Communist Party and of the Soviet regime.

Q. I now show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 232—

(The document referred to was marked for identification Petitioner's Exhibit No. 232.)

By Mr. Lenvin:

Q. —an issue of Political Affairs for July 1946, and direct your attention to an article commencing on page 602 entitled "U. S. Imperialist Intervention in China," and ask you whether you have ever read that article before. A. Yes, I have read this article.

Q. In your opinion, Dr. Mosely, does that article fairly reflect the attitude of the Communist Party of the United States toward the political situation in China as of that date? A. In my opinion it does. It was published in the magazine of the Communist Party of the United States, and it is typical of other expressions of opinion on the same problem at about that time by the Communist Party
6837 of the United States.

The interpretation which it gives to events in China and the recommendations which it makes concerning policy toward those developments is directly parallel with the interpretations and recommendations as published by the official Soviet Press at about that time.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 233—

(The document referred to was marked for identification Petitioner's Exhibit No. 233.)

By MR. LENVIN:

Q. —Political Affairs for December 1948, which reprints the text of a cablegram sent on December 6, 1948, entitled "Greetings to the Glorious Communist Party of China," and ask you whether you have ever read that before. A. Yes, I have read this at the time and since. It is a greeting extended by the Communist Party of the United States over the signature of Mr. Foster and Mr. Dennis, "To the Victorious Fighters and Leaders of the People's Liberation Army led by the Great Communist Party of China and Helmsman, Mao Tse-tung."

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 234—

(The document referred to was marked for identification Petitioner's Exhibit No. 234.)

6838 By MR. LENVIN:

Q. —Daily Worker for Tuesday, October 4, 1949, and direct your attention to an article appearing on page 2 entitled "Foster-Dennis Hail New China," and ask you whether you have ever seen that before. A. Yes, I read this message as published in the Daily Worker for October 4, 1949, page 2. It is an official greeting from the National Chairman and General Secretary of the Communist Party of the United States addressed to the Chairman of the People's Republic in China. It extends the congratulations of the Communist Party in the United States to the newly formed People's Republic government of China. It praises the leading role of the Chinese Communist Party in the victories which have been achieved in China.

. . . . . .

6840 Q. Dr. Mosely, in your examination of the publications and other materials emanating from the Soviet Union, have you been able to arrive at any opinion as to the views and attitude of the Soviet Union toward the Civil War existing in Viet Nam in the years following the cessation of hostilities in Asia? A. Yes, I have.

Q. Will you state what those views and attitudes were in your opinion? A. When large-scale guerilla fighting broke out in the summer of 1946 in Indo-China, of which Viet Nam is one part, the Soviet press expressed its full approval of the struggle waged by the so-called liberation forces and urged victory of that side in the struggle. It attacked the French in Indo-China and the Government of the French Republic for continuing to wage its war in the area. Then it declared its full sympathy and support for the so-called people's liberation forces, and later it
6841 recognized the Government of the People's Republic of Viet Nam which was then headed by Ho Chi Minh, who was described in the Soviet Press as an experienced Communist of many years' standing. It rejected the protest of the French Government made against this recognition of the People's Republic of Viet Nam by the Soviet Union.

Q. I show you, Dr. Mosely what has been marked for identification as Petitioner's Exhibit No. 235—

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Q. —which is an issue of New Times, No. 6, 1950, and direct your attention to an article entitled "The Soviet Union and Viet Nam," and ask you whether you have ever read that article before. A. Yes, I read this article shortly after it was published in the Russian language edition of New Times, and I have also read it in the English language version of New Times.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Soviet Union toward the political situation existing within Viet Nam as of that date? A. In my opinion it does. This is a typical Soviet interpretation of the events in Viet Nam, expressing full
6842 support for the so-called democratic republic of Viet Nam and its military forces and justifying the recognition of the government of Ho Chi Minh as the Government representing the entire Viet Nam people.

Q. The Chairman has stated that the Panel take judicial notice of the fact that there was guerilla warfare going on within the Philippines. Can you state the names of the opposing factions in this guerilla warfare in the Philippines? A. In the Philippines the fighting of guerillas had been led by the organization known as Hukbalahops, commonly abbreviated Huks, and Tagalog, which means the People's Liberation Army.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 236—

. . . . . .

Q. —which is an issue of New Times, No. 31, 1950, and direct your attention to the article entitled "The Philippine Scene," by I. Lapitsky, and ask you whether you have ever read that article before.

. . . . . .

THE WITNESS: Yes, I have read this article in both the Russian and English language versions of New Times. I have read this article by I. Lapitsky in both the Rus-
6843 sian language and the English language versions of New Times which is an authoritative journal published in Moscow dealing with world affairs.

By MR. LENVIN:

Q. In your opinion does that article reflect the views and attitude of the Soviet Union toward the guerilla warfare situation in the Philippines as of that date? A. This is a typical expression of the Soviet approval and support for the Huks, which has been expressed frequently since the guerilla fighting broke out in July 1946.

MR. ABT: Will you give me the date of that New Times article?

MR. LENVIN: August 2, 1950. Some of them don't carry a date.

By Mr. Lenvin:

Q. I show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 237—

* * * * * * * * * * *

Q. —which is Soviet Press Translations for November 1, 1948, and direct your attention to the translation of an article which appeared in Izvestia for September 12, 1948, which I. Plyshevsky wrote, entitled "The Situation in Burma," and ask you whether you have read that
6844 article before. A. Yes, I read this article in Russian in Izvestia shortly after it was published in Moscow, and I have read an English version published in Soviet Press Translations.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Soviet Union toward the political situation in Burma as of that date? A. Yes, in my opinion it does. It is a typical Soviet expression of views concerning the nature of the struggle in Burma, expressing its opposition to the legally recognized government of Burma and expressing full support to the Communist-led guerilla forces against both the government and other guerilla forces which are not communist-led.

Q. Dr. Mosely, from your examination of the publications and other materials issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that party toward the political situations in Indo-China, Burma, and the Philippines. A. Yes, I have, on the basis of the published statements of the spokesmen, commentators and official press of the Communist Party of the United States.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 238—

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6845 Q. —which is an issue of Political Affairs for January 1951, and direct your attention to the main resolution of the 15th National Convention of the Commu-

nist Party, USA, entitled "Working-Class and People's Unity for Peace," and ask you whether you have ever read that before? A. Yes, I have read this main resolution of the 15th National Convention.

Q. In your opinion, Dr. Mosely, does that resolution reflect the attitude of the Communist Party of the United States toward the political situation existing in Indo-China and Burma as of that date? A. Yes, in my opinion it does. It expresses support for the cause of the movement of colonial liberation, and names Indo-China and Burma and the Philippines among those areas in which it supports that struggle.

Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 239—

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Q. —which is Political Affairs for October 1950, and I direct your attention to page 1 which contains the main report to the plenary session of the National Committee of the Communist Party, USA, held on September 19
6846 and 20, 1950, entitled "The Present Situation and the Tasks of Our Party," by Gus Hall; and ask you whether you have ever read that report before. A. Yes, I have read this speech or report delivered by Mr. Hall and published in Political Affairs for October 1950.

Q. In your opinion, Dr. Mosely, does this report reflect the attitude of the Communist Party toward the political situation in Burma and the Philippines? A. Yes. It is a highly authoritative statement of the views advocated by the Communist Party of the United States and it expresses full support for the so-called liberation movement in Burma, the Philippines, and Indo-China. In this it is directly parallel to the expressions of views published in the Soviet Press.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 240—

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Q. —which is the Daily Worker for June 29, 1949, and direct your attention to an article "Around the Globe," by Joseph Starobin, and ask you whether you have ever read that before. A. Yes, I have read this article by Mr.
6847 Starobin in the Daily Worker for June 29, 1949.

Q. In your opinion, Dr. Mosely, does that article reflect the view of the Communist Party toward the political situation in Viet Nam as of that date? A. In my opinion it reflects the policies advocated by the Communist Party of the United States with respect to the struggle going on in Indo-China, of which Viet Nam is one part. It makes definite recommendations concerning both French and United States policy on this question.

These recommendations and this interpretation are directly parallel with those advanced by the official Soviet press on this question and at that same general time.

Q. Dr. Mosely, in your examination from the publications and other materials emanating from the Soviet Union have you been able to form any opinion regarding the views and attitude of the Soviet Government toward the Civil War which raged in Greece during the postwar years? A. Yes, I have, on the basis of numerous statements made by Soviet spokesmen at public meetings and at international conferences, as well as through the Soviet press and the press of the International Communist movement.

Q. I would like to direct your attention again, Dr. Mosely, to that article which appears in Pravda for October 22, 1947, the article by Zhdanov entitled "The International
6848 Situation," Petitioner's Exhibit for identification No. 214, and ask you whether in your opinion this report reflects the views and attitude of the Soviet Union toward the political situation existing in Greece as of that date. A. Yes, in my opinion it does. This is a highly authoritative statement of the Soviet interpretation of the situation and of its recommendations and policy.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 241—

(The document referred to was marked for identification Petitioner's Exhibit No. 241.)

By Mr. Lenvin:

Q. —which is the USSR Information Bulletin for April 22, 1949, which contains the text of a speech on the question of "The Veto and the Aggressive North Atlantic Bloc," made by Soviet Deputy Foreign Minister Andrei Gromyko at the General Assembly of the United Nations on April 13, 1949 and direct your attention to what is marked "A, the Greek Question" in that speech, and ask you whether you have ever read that before. A. Yes, I have read this speech.

Q. In your opinion, Dr. Mosely, does that speech reflect the views and attitude of the Soviet Government toward the so-called Greek question. A. Yes, in my opinion it does. It is a detailed and authoritative statement of the Soviet position concerning the struggle which has been go-
6849 ing on in Greece since the mid-summer of 1946 which came to an end a few weeks after the speech.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 242—

(The document referred to was marked for identification Petitioner's Exhibit No. 242.)

By Mr. Lenvin:

Q. —which is the verbatim minutes of the 99th Plenary meeting of the United Nations held in the General Assembly Hall at Flushing Meadows, New York, Tuesday 21 of October 1947, and direct your attention to the speech made by Mr. Kiselev, representative of Byelorussian Socialist Republic, and ask you whether you have ever read that report. A. Yes, sir. I have read this verbatim report of the speech made by Kiselev. Mr. Kiselev is the representative of the Byelorussian Soviet Socialist Republic, which has a Ministry of Foreign Affairs, but according to the Soviet constitution those republics which have separate ministries of

foreign affairs follow the broad lines of policy laid down by the All-Union Mfnistry of Foreign Affairs.

Q. In your opinion, Dr. Mosely, would this speech reflect the views and attitude of the Soviet Union toward the Greek guerilla question as of this date? A. Yes, it does. It is a typical presentation of the nature and course of the struggle in Greece. It advocates the same measures
6850 which have been advocated since the summer of 1946 by the Soviet Government, down to the termination of the struggle in Greece in 1949.

Q. Dr. Mosely, with your examination of the publications and other materials which have been issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that party toward the Civil War in Greece? A. Yes, I have, on the basis of the official statements, resolutions, and other authorized articles published in the official press of the Communist Party in the United States.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 243—

(The document referred to was marked for identification Petitioner's Exhibit No. 243.)

By Mr. Lenvin:

Q. —which is an issue of Political Affairs for November 1948, and direct your attention to an article commencing on page 969 entitled "Greece and the American People's Tasks," and ask you whether you have read that article before. A. Yes, I have read this article at the time and since. It is a typical interpretation of the events in Greece. It gives its full approval to the policy followed by and advocated by the Soviet Government and urges that the
6851 American Government should adopt the same policy. It is directly parallel to the contemporaneous expressions of official Soviet opinion.

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6854 Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 244—

. . . . . .

Q. —a publication put out by the Ministry of Foreign Affairs of the USSR, documents on the Soviet Union and the Berlin question, and direct your attention to the note from the Soviet Government to the Government of the United States of America, July 14, 1948 and ask you whether you have ever read that before. A. Yes, I have read this document, in Russian in the Soviet Press shortly after it was issued, and I have read it in translation into English.

Q. In your opinion, Dr. Mosely, does that document reflect the views and attitude of the Soviet Government toward the internal political situation in Germany as of that
6855 date? A. Yes, it does. It throws upon the three western powers and the freely elected German authorities in Western Germany all responsibility for the division of the country into these two major parts. It advocates the reunion of the two major parts of the country on a basis of equality of representation of the two parts in a constituent council, despite the fact that the population of the Western zones is about 48 million and that of the Eastern zone about 19 million. The basis of parity of representation was thus advocated by the Socialist Unity Party in Germany, in the Soviet zone of Germany, and by the Soviet Government. It throws upon the elected leaders of the people of Western Germany, upon the Governments of the United States, Great Britain and France, all responsibility for failure to overcome the division of Germany into these two major parts.

Q. Dr. Mosely, I would like to show you what has been marked as Petitioner's Exhibit for identification No. 245—

. . . . . .

Q. —which is an issue of Pravda for October 22, 1950, which contains a declaration of the Ministers of Foreign Affairs of the USSR, Albania, Bulgaria, Czechoslovakia,

Poland, Roumania, Hungary, and the German Demo-
6856 cratic Republic, concerning the decisions of the New York three-power conference on the remilitarization of Western Germany, and ask you whether you have ever read that declaration before. A. Yes, I read this declaration on the following day as transmitted by the American press, and I also read it in Russian a few days later and in Pravda. I have read the translation which is presented here.

Q. In your opinion, Dr. Mosely, does that declaration reflect the views and attitude of the Soviet Union toward the internal political situation of Germany, on the so-called German question, as of that date? A. Yes, in my opinion this is a highly authoritative statement of the position of the Soviet Government of the whole question of Germany as of that time. It repeats and expands the main assertions concerning the origins of the situation and it advocates the same proposals for the unification of Germany on the bases which had all along been described by the Soviet Government as the only acceptable ones and which were not acceptable to the freely elected government in Western Germany or to the three western powers.

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6857 Q. Dr. Mosely, was there a blockade of Berlin in 1948? A. Yes, in effect there was. Beginning in early April 1948, various measures, allegedly technical in character, were taken which began to impede the movement of persons and goods between Berlin and the Western zones. In the second half of June 1948 these technical measures ordered by the Soviet military authorities were intensified to the point where all movement by land or water on the part of goods and persons going to or from the western zones and western Berlin, including allied personnel, was cut off except for one purely allied military train each way per day.

Q. I would like to refer to the notes of the Soviet Government to the Government of the United States, July 14, 1948, and October 3, 1948, contained in the publication, The Soviet

Union and the Berlin Question, which you have already stated you have read, and ask you whether in your opinion—

MR. ABT: That is an exhibit which has been identified earlier?

6858 MR. LENVIN: Yes.

MR. LAFOLLETTE: That is 244, Mr. Abt.

By MR. LENVIN:

Q. And I ask you whether in your opinion, Dr. Mosely, those notes reflect the attitude and views of the Soviet Government toward the blockade of Berlin which you have just described. A. Yes, in my opinion they do. I have read and studied carefully both notes in both Russian and English. These are official notes transmitted by the Soviet Government to the Government of the United States, and similar notes were transmitted by it to the governments of France and Great Britain. They set forth the interpretation, the claims and the recommendations of the Soviet Government on the whole question of the future of Germany as well as of the access to Berlin.

. . . . . .

6859 A. The Soviet Government maintained that the breakdown of the joint allied administration of Berlin from whatever causes that development arose, meant that three western powers had no further right to maintain their forces or their authority in any part of Berlin. The Soviet Government offered to withdraw these measures and to restore the previous position prior to June 1948 if the western powers would agree to the conditions which the Soviet Government had advanced as the basis for forming a unified German government.

. . . . . .

6860 Q. Dr. Mosely, in your examination of the publications and other material which have been issued by the Communist Party of the United States have you been able to form any opinion as to what the views and attitude of that Party were toward the political situation in Ger-

many and the blockade of Berlin? A. Through its official statements and the published statements of their spokesmen, the Communist Party of the United States gave strong criticism to the course of events in the three Western Zones, opposed the formation of the West German Republic, praised the developments in the Soviet Zone and the formation of the people's democratic republic in the Soviet Zone. It upheld the Soviet contentions concerning the basis for putting a stop to land and water traffic between West Berlin and the Western Zones. At each stage in my opinion the Communist Party of the United States supported the Soviet contentions and the recommendations of policy advanced by the Soviet Government. Its reasoning and its
6861 recommendations were directly parallel to those advanced by official Soviet spokesmen and the official Soviet press.

MR. MARCANTONIO: Just so that the record will from time to time show it, we have a continuing objection to all these questions and these answers.

MR. LAFOLLETTE: That is correct.

BY MR. LENVIN:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 246—

(The document referred to was marked for identification Petitioner's Exhibit No. 246.)

By MR. LENVIN:

Q. Which is the Daily Worker for Tuesday, July 20, 1948, and direct your attention to page 3, which contains an article entitled "U.S. Spurs Cold War in Berlin Crisis" and an editorial entitled "Adventures in Germany," and ask you whether you have read those items before. A. Yes, I have read these items in the Daily Worker of July 20, 1948, at the time and since.

Q. In your opinion, Dr. Mosely, do those items reflect the views and attitude of the Communist Party toward the German situation as of that date? A. Yes, in my opinion they

are typical expressions of the opinions and recommendations of the Communist Party in the United States regarding the situation in Germany and in Berlin. They
6862 are parallel to the positions advanced by the Soviet spokesmen at that time.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 247—

(The document referred to was marked for identification Petitioner's Exhibit No. 247.)

By Mr. Lenvin:

Q. Which is the issue of Political Affairs for March 1947, and direct your attention to an article commencing on page 204 entitled "The German Problem and Big Three Unity," and ask you if you have ever read that article before. A. Yes, I have read this article by Joseph Clark, which appeared in Political Affairs for March 1947.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Communist Party toward the German question as of that date? A. Yes, in my opinion it expresses full support for the policy pursued by the Soviet Government in Germany as a whole, in the Soviet Zone, and its support of the Soviet Unity Party of Eastern Germany. It runs directly parallel with the main contentions and recommendations of Soviet policy at that time.

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6863 Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 248—

(The document referred to was marked for identification Petitioner's Exhibit No. 248.)

By Mr. Lenvin:

Q. —which is an issue of Political Affairs for November 1948, and direct your attention to an article commencing on page 951 entitled "The Wall Street-Washington Peace Panic," and ask you whether you have ever read that article before. A. Yes, I have read this article at the time

and since. It is a typical presentation of the views of the Communist Party of the United States concerning the developments in Germany and Berlin. It gives full support to the position taken by the Soviet Government at that time and on this question. Its explanation of the background and the possible remedies for the situation are directly parallel with those advanced in the official Soviet press.

6871 Q. I would like to ask, Dr. Mosely, whether in your examination of the publications and other materials emanating from the Soviet Union, you have been able to form any opinion regarding the Soviet views and attitude toward those facets of American foreign policy generally termed the Truman Doctrine and the Marshall Plan and the resultant program of Economic Cooperation Administration.

THE WITNESS: I have formed an opinion. The Soviet Press, of the Government and the Communist Party Bolshevik of the Soviet Union, has commented frequently and at great length on these two major aspects of United States policy since 1947.

6872 By MR. LENVIN:

Q. Referring for a moment to that exhibit which is already in for identification which we have marked as Exhibit M-1 and which is Petitioner's Exhibit marked No. 214, in your examination of that report by Mr. Zhdanov appearing in Pravda for October 22, 1947, does that report reveal one of the purposes of the founding meeting of the Information Bureau of the Communist Party, do you recall? A. Yes, it does. The purpose of the Conference of several Communist Parties called in Poland in the second half of September 1947 was to mobilize all possible forces in opposition to the Truman Doctrine and the Marshall Plan of Economic Aid for the recovery of Europe. It attacked both of these policies bitterly as aggressive steps,

preparation for war, for an aggressive war, and for the establishment of United States domination over the world, and declared that the Parties there represented had as their duty to combat it in every way and to defeat both of these plans as they described them, and called upon all like-minded persons and groups throughout the world to join in the struggle which it described as a struggle against American Imperialism and Militarism.

. . . . . .

6873 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 249—

. . . . . .

Q. —which is an issue of For a Lasting Peace, for a People's Democracy, for December 2, 1949, and would like to direct your attention to the report submitted to the meeting of the Information Bureau of the Communist Parties held in the second half of November 1949 by M. Suslov, entitled "Defense of Peace and the Struggle Against the Warmongers," and ask you whether or not you have ever read that report. A. Yes, I have read this both in the Russian language in the Soviet press at the time and in the English version presented by the magazine For a Lasting Peace, for a People's Democracy, under date of December 2, 1949. Mr. Suslov has for many years since roughly 1934 been considered an important and authoritative spokesman of the Soviet Government. He has served at different times as alternate member of the Politburo of the Central Committee of the Communist Party Bolshevik of the Soviet Union and as a member at various times of the very important Committee on Organization and the Committee on Propaganda, both subdivisions of the
6874 Central Committee of the Communist Party Bolshevik. This statement is, then, one that I consider authoritative as an expression of the Soviet point of view.

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Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 250 for identification—

. . . . . .

Q. —which is the USSR Information Bulletin for May 26, 1948, and direct your attention to the statements of V. M. Molotov and U.S. Ambassador Smith, which is a translation of a Tass release published by the Soviet Daily Press, and ask you whether you have ever read these statements before. A. Yes, I read these statements on the day following their release in Moscow. I read them again carefully
6875 in Russian in the Soviet Press, and I have read them in this English version presented by the USSR Information Bulletin of May 26, 1948.

Q. In your opinion, Dr. Mosely, does the statement of Mr. Molotov reflect the views and attitude of the Soviet toward those facets of American foreign policy which we have mentioned previously? A. Yes, in my opinion it does. Mr. Molotov, then Minister of Foreign Affairs of the USSR, was speaking on instructions of his government, and this statement that he made was reduced to writing and published widely by the Soviet Government. In this statement the Soviet Government attacks the Truman Doctrine, the Marshall Plan or ECA program, and the North Atlantic Treaty organization as aggressive steps preparatory to attacking the Soviet Union and establishing domination over the world.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 251—

. . . . . .

Q. —an issue of Pravda for January 29, 1949, which contains a statement of the Ministry of Foreign Affairs of the USSR concerning the North Atlantic Pact, and ask you whether you have ever read that before. A. Yes, I
6876 read this in excerpt on the following day as transmitted by Tass to the United Press. I read it in full in Pravda in Russian within a few days and have studied it frequently since. I have read the English translation from the Russian into English.

. . . . . .

THE WITNESS: It is an official statement of the Ministry of Foreign Affairs of the USSR. It attacks strongly, in concept and in its details, the North Atlantic Pact. It describes the world as divided into two camps, the camp for peace which is led by the USSR, and the camp for war which it states is led by the United States. It asserts that the purpose of the conclusion of this regional pact is to prepare an aggressive war against the Soviet Union and those states allied to it.

By MR. LENVIN:

Q. I would like to refer again to what has been marked as Petitioner's Exhibit No. 249, which we first marked Exhibit M-2, which is the issue For a Lasting Peace, for a People's Democracy, for December 2, 1949, and which contains the report by Suslov entitled "Defense of Peace and the Struggle Against the Warmongers," and ask you whether in your opinion that article reflects the view of the Soviet Government on the proposition that the world is divided into two camps, the imperialist camp being
6877 that of the United States and the peace camp that of the Soviet Union. A. Yes. The speech by Mr. Suslov takes this concept of the division of the world into two opposite and contrasting camps as the whole basis of his analysis of the world situation at the time he was speaking.

Q. Dr. Mosely, from your examination of the publications and other materials which have been issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that party toward those facets of American foreign policy that we have been discussing, to wit, the Truman Doctrine, the Marshall Plan, and the ECA? A. Yes, I have. Through its official pronouncements and through the publications of its official press the Communist Party of the United States has taken a definite position in respect to each of these major aspects of United States foreign policy since 1947.

The Communist Party has attacked all three of those aspects of policy as imperialist, militarist, aggressive. It has contrasted the policy of the Soviet Union and of the countries which support its position, calling their position one of support of peace and democracy, and stating constantly that the position upheld by the United States and those countries and groups which support it is one of militarism, imperialism, aggression, of preparing an aggressive war for the destruction of the Soviet Union.

6878 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 252—

(The document referred to was marked for identification Petitioner's Exhibit No. 252.)

By Mr. Lenvin:

Q. —which is our M-100, and direct your attention to an article commencing on page 675, which is the text of a report delivered at the June 27-30 meeting of the National Committee of the Communist Party, USA, entitled "American Imperialism and the War Danger," by William Z. Foster, and ask you whether you have ever read that article before. A. Yes, I have read this article at the time it was published, and since. It was published in the August 1947 issue of Political Affairs. It characterizes the world as divided into two contrasting camps. It attributes the support of peace and democracy solely to what it calls the Soviet Camp and it attributes the aims of imperialism, militarism, aggression and domination of the world to the United States. In its interpretation of world affairs of that date and in its recommendations of policy it parallels closely the official position of the Soviet Government and of the Soviet official and Party press.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 253—

6879 (The document referred to was marked for identification Petitioner's Exhibit No. 253.)

By Mr. Lenvin:

Q. —which is an issue of Political Affairs for April 1948, and direct your attention to a statement commencing on page 304, entitled "The Communist Position on the Marshall Plan, Statement of the Communist Party, USA, to the Foreign Affairs Committee, House of Representatives, on the Proposed European Recovery Program," submitted February 17, 1948, and ask you whether you have ever read that statement before. A. Yes, I have read this statement at the time and more recently. It is an official statement presented by the Communist Party of the United States to the Foreign Affairs Committee of the House of Representatives. It sets forth the interpretation of that body of the then State of Foreign Affairs and presents concrete recommendations for the conduct of United States foreign policy. Its interpretations and its recommendations parallel closely the interpretations and recommendations of the Soviet official policy and of the Soviet Press.

. . . . . .

6880 Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 254—

(The document referred to was marked for identification Petitioner's Exhibit No. 254.)

By Mr. Lenvin:

Q. —which is an issue of The Worker for Sunday, April 3, 1949, and specifically direct your attention to an editorial entitled "Peace Pact or War Axis?" and ask you whether you have ever read that editorial before. A. Yes, I read this editorial in the Sunday Worker April 3, 1949.

Q. In your opinion, Dr. Mosely, does this editorial reflect the views of the Communist Party toward the North Atlantic Pact? A. Yes, in my opinion it does. It is an editorial in the customary place of editorials. It is also typical of many of that general time on the same problems of foreign

policy. Its interpretation and its recommendations are parallel to those presented by the Soviet official press and by the International Communist organ.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 255—

(The document referred to was marked for identification Petitioner's Exhibit No. 255.)

6881 By MR. LENVIN:

Q. —which is an issue of Political Affairs for July 1950, and I direct your attention specifically to the text of the farewell address, slightly abridged, of an extemporaneous farewell address delivered at the Manhattan Center, New York, on May 2, 1950, by Eugene Dennis entitled "Let us March Forward with Supreme Confidence," and specifically direct your attention to page 11 of the Exhibit which contains the speech, and ask you whether you have ever read that before. A. Yes, I have read this.

Q. In your opinion, Dr. Mosely, do those remarks as stated on page 11 reflect the views of the Communist Party toward those facets of American Foreign Policy which we have been discussing? A. Yes, in my opinion they do. Mr. Dennis stated that his Party had spearheaded the opposition to the Truman Doctrine, the Marshall Plan, and the North Atlantic Anti-Communist War Pact, that it also headed the campaign to achieve a pact of peace with the Soviet Union and to prevent the revival of Nazism and militarism in Germany and in Japan.

. . . . . .

6883 Q. Dr. Mosely, in your examination of the publications and other materials which have emanated from the Soviet Union have you been able to form any opinion as to the views and attitude of the Soviet Union toward the State of Yugoslavia from the period commencing with the cessation of hostilities in Europe, World War II, until June of 1948? A. Yes, I have.

Q. Will you state what in your opinion that attitude was? A. On the basis of many expressions of opinion and interpretation by the Soviet press and Soviet spokesmen, I conclude that during that period between the end of the war in Europe and approximately the beginning of June 1948 the Soviet Government and the leaders of the Communist Party Bolshevik in the Soviet Union highly approved of the development in Yugoslavia, regarded the political development in Yugoslavia as a progressive and important step and held up the Yugoslav development as a model for other so-called people's democracies to follow. In international affairs the Soviet Government gave general and very considerable support to the new Yugoslav regime in the assertion of its position and its claims. At the founding meeting of the Information Bureau of the Communist Parties, the Yugoslav representative gave the second speech directly after the representative of the Soviet Union and before the representatives of Communist or Workers Parties participating in the conference were heard.

6884

Q. Dr. Mosely, I would like again to refer to what has been marked as Petitioner's Exhibit for identification No. 213, which was Comrade V. M. Molotov's speech at the Press Conference at the Soviet Embassy in London, which appeared in Izvestia for September 20, 1945, and what has been marked as Petitioner's Exhibit for identification No. 214, which is the report or article by Zhdanov entitled "The International Situation," as it appeared in Pravda for October 22, 1947, and ask you whether in your opinion both Mr. Molotov's speech and Mr. Zhdanov's report reflect the views and attitude of the Soviet Union toward the State of Yugoslavia as of those times. A. Yes, I have examined both of these statements in detail on a number of occasions. In the statement of September 1945 Mr. Molotov expressed full satisfaction with the course of development in Yugoslavia and praised the regime in control of that country. In his speech at the founding conference of the Cominform

in late September 1947 the late Mr. Zhdanov similarly expressed great pride in the achievements of the regime then in control of Yugoslavia.

From these statements one must conclude that at
6885 both times these two responsible Soviet leaders were completely satisfied with and pleased with the course of development in Yugoslavia, and these expressions of views are merely typical of many other similar expressions of Soviet views during that period.

Q. Dr. Mosely, in your examination of the materials and publications issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that Party toward the State of Yugoslavia from about 1945 to June of 1948? A. Yes, I have.

Q. Will you state what in your opinion those views and attitudes were? A. On numerous occasions the Communist Party of the United States, through official statements and through its official press, expressed its approval of the course of developments in Yugoslavia, expressed its pride in the achievements of the Communist Party of Yugoslavia in reshaping the whole political and economic structure of the country, and expressed support for the aims of the Yugoslav Government at that time. These interpretations of events and recommendations of policy were directly parallel to the official Soviet view and official Soviet policy of that time.

Q. Dr. Mosely, I would like to refer briefly to what has been marked as Petitioner's Exhibit for identification No.
216, which is the article entitled "The National Ques-
6886 tion in Europe," by William Z. Foster, which appeared in Political Affairs for June 1947, and ask you whether in your opinion that article fairly reflects the views and attitudes of the Communist Party toward the state of Yugoslavia as of that date. A. Yes. I have examined this article by Mr. Foster on a number of occasions and in detail. It is in my opinion an authoritative statement of the views of the Communist Party of the United States concerning the problems of Eastern Europe and including

the problems of Yugoslavia. It expresses full approval of the developments in Yugoslavia and its interpretation is directly parallel to the official interpretations of the Soviet Press of that time.

Q. Dr. Mosely, was I correct in my understanding that you testified that you were a member of the Yugoslav Commission—I don't have the name correctly—on the question of settling the matter of Trieste? A. Yes. From early February 1946 until the Commission ended its work in the middle of May 1946, I was the United States Commissioner on the four-Power Commission to investigate the Yugoslav-Italian boundary and to make recommendations to the Council of Foreign Ministers. The Commission held 138 meetings, averaging four hours each, sometimes beginning at nine in the morning and lasting until two or three the next morning. The record was 4:30 one morning, having begun at ten o'clock the previous morning.

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6887 Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 256—

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Q. —which is an issue of the Daily Worker for May 28, 1946, and direct your attention to the article "Trieste and the Right of Self-Determination," which is a statement by the Secretariat of the Communist Party, USA, and ask you whether you have ever read that before. A. Yes, I have read this article.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Communist Party toward the State of Yugoslavia as of that date? A. Yes, in my opinion this was presented as an official analysis and recom-
6888 mendation by the Secretariat of the Communist Party of the United States. It supports fully the Yugoslav contentions concerning this issue, and its recommendations as of that time were directly parallel with those which were supported by the Government of the Soviet Union.

Q. I also show you, Dr. Mosely, an issue of the Worker for Sunday May 19, 1946, which has been marked as Petitioner's Exhibit for identification No. 257—

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Q. —and direct your attention to an editorial entitled "The Aid-Quisling Policy," and ask you whether you have ever read that editorial. A. Yes, I read this editorial in the Sunday Worker of May 19, 1946.

Q. In your opinion does that editorial reflect the view of the Communist Party toward the State of Yugoslavia as of that date? A. Yes, in my opinion it does. It expresses close support for the actions taken by the Yugoslav Government at that time on this particular question. It describes Mikhailovich as a Judas. Its attitude on this matter as of that time was directly parallel to the attitude taken by the official Soviet and the International Communist publications.

6889 Q. Dr. Mosely, did there come a time when the views and attitude of the Soviet Union toward Yugoslavia, which you have previously described, underwent a change? A. Yes, this change became known officially on June 28, 1948, through the publication of the report of the Second Conference of the Cominform which had been held in Roumania in early June. This report was published first in the Communist newspaper in Prague, Rudé Právo, and simultaneously published in The Communist and other organs of the Communist press in many parts of the world.

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Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 258—

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6890 Q. —which is an issue of For a Lasting Peace, for a People's Democracy, for November 29, 1949, and specifically direct your attention to the article appearing in that issue which is a resolution of the Information Bureau entitled "Communist Party of Yugoslavia in the Power of Murderers and Spies," and ask you

whether you have ever read that article before. A. Yes, I read this resolution published in For a Lasting Peace of November 29, 1949, the report of a meeting held in the second half of November 1949 at an unnamed locality in Hungary. This resolution was widely publicized at the time primarily in the Communist Press of various countries, including the Soviet Union.

Q. In your opinion, then, Dr. Mosely, does that article reflect the view and attitude of the Soviet Union and the International Communist movement toward the State of Yugoslavia as of that date? A. Yes, in my opinion this was intended to be received as an authoritative statement of the attitude of the conference of Communist Parties held at that time in Hungary. Among the Communist Parties which were reported to be represented were those of Bulgaria, Roumania, Hungary, Poland, the Soviet Union, France, Czechoslovakia, and Italy. Among the representatives listed as representing their parties were Mr. Suslov for the Communist Party of the Soviet Union, together with Mr. Yudin, who has frequently been referred to as the responsible editor of the magazine For a Lasting Peace. Among the representatives of the French Party was Mr. Duclos.

6891 Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 259—

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Q. —which is an issue of New Times identified as No. 48, 1950, and direct your attention to an article appearing therein by A. Piradov, entitled "Tito Yugoslavia—Ramp for American Aggression," and ask you whether you have ever read that article before.

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THE WITNESS: Yes, I have read this article in the Russian version of New Times shortly after it appeared in Moscow, and I have read it in the English version of New Times under No. 48 of 1950.

By Mr. Lenvin:

Q. In your opinion does this article reflect the attitude of the Soviet Government toward Yugoslavia as of that date? A. Yes, in my opinion this is a typical Soviet interpretation of the development in Yugoslavia and affecting Yugoslavia.

6892 Q. Dr. Mosely, in your examination of the materials and other publications which have been issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that party toward the State of Yugoslavia or the Government of Yugoslavia after June of 1948? A. Yes. I have. In its official publications the Communist party of the United States has commented frequently and in great detail on Yugoslav developments since June 28, 1948. In fact, it is my recollection that the first comment along the new line came on June 29, 1948, in the form of a denunciation of the regime in Yugoslavia, which for several years prior to that date and since that date has been headed by the same person, with one or two minor exceptions. Marshal Tito now in his turn was called a Judas.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 260—

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Q. —which is an issue of Political Affairs for August 1948, and direct your attention to "Statement on the Information Bureau Resolution Concerning the Situation in the CP of Yugoslavia," issued to the Press June 29, 1948, and ask you whether you have ever read that statement before. A. Yes, I have read the statement at the

6893 time and since.

Q. In your opinion, Dr. Mosely, does this statement reflect the views and attitude of the Communist Party toward the Government of Yugoslavia as of that date? A. Yes, in my opinion it does. It was issued to the press on June 29, 1948. It accuses the leadership of the Communist Party of Yugoslavia of abandoning working class in-

ternationalism, of expressing hostility to the Communist Party of the USSR. It accuses it of many other matters with which I need not take up your time. It calls for strong opposition to the Communist Party of Yugoslavia and thereby to the regime in Yugoslavia and implies that the United States has brought this about through its war-mongering policy. In its general interpretation it follows closely the point of view taken publicly on the previous day by the published resolution of the Cominform.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 261—

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Q. —which is the Daily Worker for November 20, 1950, and direct your attention to an editorial entitled "Tito Sells Cannon Fodder," and ask you whether you have ever read that editorial before.

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6894 THE WITNESS: Yes, I have read this editorial in the Daily Worker of November 20, 1950.

By MR. LENVIN:

Q. In your opinion, Dr. Mosely, does that editorial reflect the views and attitude of the Communist Party toward the Government of Yugoslavia as of that date? A. Yes, in my opinion it does. It is generally typical of the interpretation of Yugoslav events which has been given by the Communist Party of the United States since the end of June 1948.

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Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 262—

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6895 Q. —which is an issue of Political Affairs for August 1948, and direct your attention to an article commencing on page 701 entitled "The Yugoslav leaders on the Path of Betrayal," by V. J. Jerome, and ask you

whether you have ever read that article before. A. Yes, I read this article in Political Affairs for August 1948 by Mr. V. J. Jerome.

Q. In your opinion, does that article reflect the views and attitude of the Communist Party toward the Yugoslav government as of that date? A. Yes, as of that general time, following the rupture of June 28, 1948, it is a typical expression of views of the Communist Party of the United States on this problem. As such, it follows very closely the interpretation and recommendations put forward at that same general time by the official Soviet Press and by the organ of the International Communist movement.

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6896 Q. Dr. Mosely, in your examination of the publications and other materials emanating from the Soviet Union have you been able to form any opinion as to the views and attitude of the Soviet Union toward the national elections which were held in Italy in 1948? A. Yes, I have. In the Soviet Press the interpretation given to the elections was that the Communist Party of Italy was struggling for the defense of peace and democracy and against war and against world domination allegedly sought by the United States. The Soviet Press made very clear its attitude toward the elections in Italy and its full support for the position set forth by the Communist Party of Italy, and the same position was taken by the Cominform Journal, "For a Lasting Peace."

Q. Now I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 263—

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Q. —which is an issue of For a Lasting Peace, for a People's Democracy, for May 1, 1948, and direct your attention to an article entitled "The Italian Election," and ask you whether you have ever read that article before.

A. Yes, I have read this article which appeared in
6897 "For a Lasting Peace" of May 1948.

Q. In your opinion does this article reflect the views and attitude of the International Communist movement concerning the Italian election of 1948? A. Yes, in my opinion it does represent the interpretation which was approved by the Cominform.

Q. Dr. Mosely, will you identify for the Board Mr. Palmiro Togliatti?

. . . . . .

THE WITNESS: Since his return to Italy in approximately February 1944 Mr. Togliatti has been the leading figure and spokesman of the Communist Party of Italy. He was previously known under the name of Ercoli. Mr. Togliatti was for a number of years a member of the Executive Committee of the Communist International and he has represented the Communist Party of Italy at conferences of the Information Bureau of the Communist and Workers Parties known as the Cominform.

By MR. LENVIN:

Q. There was an attempt on Mr. Togliatti's life, was there not, Dr. Mosely? A. Yes. I read of this in the press.

6898 Q. In your examination of the materials issued or emanating from the Soviet Union or from the Communist Information Bureau, have you been able to form any opinion as to whether the Communist Information Bureau or the Soviet Union took a certain stand or attitude toward this attempted assassination?

. . . . . .

6899 THE WITNESS: Yes, I have. Both the Soviet Press of that time and the organ of the Cominform commented in considerable detail upon this attempted assassination of Signore Togliatti. The Soviet Press stated roundly that the attempted assassination had been instigated by the United States. The only evidence which it presented in support of that contention was that Mr. Togliatti's name appeared along with that of several hundred other names of Communist leaders in a report which

had been prepared under the auspices of the Committee on Foreign Affairs of the United States House of Representatives.

By Mr. Lenvin:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 264—

(The document referred to was marked for identification Petitioner's Exhibit No. 264.)

By Mr. Lenvin:

Q. —which is an issue of For a Lasting Peace, for a People's Democracy, for August 1, 1948, and direct your attention to an article appearing on Page 1 entitled "Powerful Demonstration of Forces in Democratic Camp," and ask you whether you have ever read that article before. A. Yes, I have read this article which appears in For a Lasting Peace, for a People's Democracy for August 1, 1948.

Q. In your opinion, Dr. Mosely, does that article reflect the view and attitude of the International Communist
6900 movement toward the attempt on the life of Togliatti? A. Yes, it does, in my opinion.

. . . . . .

Mr. Lenvin: I asked whether or not he had been able to form any opinion on the Italian election of 1948.

. . . . . .

6901 The Witness: Through its official press the Communist Party of the United States expressed frequently its views concerning the election which was held in Italy in March 1948.

By Mr. Lenvin:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 265—

(The document referred to was marked for identification Petitioner's Exhibit No. 265.)

By Mr. Lenvin:

Q. —which is an issue of Political Affairs for June 1948, and specifically direct your attention to an article commencing on page 529 entitled "The Italian Elections," by John Gates, and ask you whether you have ever read that article before. A. Yes, I have read this article which appeared in Political Affairs for June 1948.

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Communist Party toward the Italian Elections of 1948? A. Yes, in my opinion it represents an authoritative and official statement of the views of the Communist Party of the United States toward the Italian elections of 1948.

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Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 266—

(The document referred to was marked for identification Petitioner's Exhibit No. 266.)

By Mr. Lenvin:

Q. —which is the Daily Worker for Thursday, July 15, 1948, and direct your attention to the box appearing at the top of page 3, with the heading "Communist Party Cables Togliatti," and ask you whether you have ever read that before. A. Yes, I read this item in the Daily Worker of July 15, 1948.

Q. In your opinion does that show the attitude or the view of the Communist Party toward this attempted assassination? A. Yes, this is the publication of the official message from the offices of the Communist Party of the United States. In it it is stated as part of the same general item here that this attempted assassination is the fruit of American imperialism's policy of intervention in Italy's affairs.

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Q. Dr. Mosely, from your examination of materials and other publications emanating from the Soviet Union and in your general research on the question of

Soviet foreign policy, will you tell us something about the World Congress of Partisans of Peace?

. . . . . .

6905 THE WITNESS: The World Congress of Partisans of Peace was organized at the Congress of organizations held in Paris in April 1949, and its organization was further rounded out by an immediately subsequent congress held in Prague. At a meeting of representatives of the different national committees and organizations which joined this Congress held in Stockholm in March 1950 the so-called Stockholm Peace Appeal was drafted and submitted through these organizations to persons in many countries of the world to solicit their signatures. The so-called peace appeal called for an immediate ban upon the use of atomic weapons and declared that any power which first used those weapons would be regarded, under the rule of war, criminals. Through national committees and organizations very large numbers of signatures were collected to this petition.

By MR. LENVIN:

Q. Dr. Mosely, in your examination of the publications and other materials emanating from the Soviet Union have you been able to form an opinion as to the attitude and the view of the Soviet Union toward the world peace movement, the partisans of peace and the Stockholm Peace Appeal? A. Yes, I have. The official Soviet spokesmen and representatives of Soviet organizations as well as the Soviet Press gave a great many comments and in-
6906 terpretations of the work of the so-called partisans of peace. The Soviet press stated that since the world was divided into two camps, one of them the Soviet-led camp described as the camp of peace and democracy, and those who supported the so-called Stockholm Peace Appeal or Petition were therefore supporters of the camp for peace and therefore of Soviet foreign policy.

. . . . . .

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 267, which is the USSR Information Bulletin for July 7, 1950, and direct your attention to the material commencing on page 400 entitled "Supreme Soviet Gives Full Approval to World Peace Congress Appeal," and ask you whether you
6907 have read this material before. A. Yes, I have read this material at the time and since. This purports to be the full transcript in English translation of speeches on this subject made in the Supreme Soviet of the USSR.

MR. ABT: May I see the exhibit just a moment, please.

THE WITNESS: It states the full support of the Soviet Government for the contents of the Appeal. It also claims that only the Soviet Government, governments friendly to the Soviet Union, and those persons who signed the so-called Stockholm appeal are supporters of peace, and those who opposed or criticized the Congress of the so-called Partisans of Peace or who criticized the so-called Stockholm Appeal were therefore enemies of peace and warmongers.

By MR. LENVIN:

Q. I would like to call your attention again, Dr. Mosely, to the exhibit which has been marked for identification as Petitioner's Exhibit No. 231, which was the issue of For a Lasting Peace, for a People's Democracy, for November 11, 1949, which contains a report delivered by G. M. Malenkov at the anniversary meeting of the Moscow Soviet, November 6, 1949, and ask you whether in your opinion this report reflects the views and attitude of the International Communist movement and of the Soviet Union toward the World Congress of Partisans of Peace as of that date.

. . . . . .

6908 THE WITNESS: The speech by Mr. Malenkov on November 6, 1949, is in my opinion an authoritative statement of the official Soviet view and view of the Com-

munist Party Bolshevik of the Soviet Union concerning the world situation as of that general time. In his report Mr. Malenkov gives very strong support to the so-called World Peace Congress and asserts that its aim and those of Soviet policy coincide. He identifies the Soviet Union as the camp of peace and its opponents and critics as the camp of war and aggression. This same theme has been elaborated on very many occasions in the Soviet official press and by Soviet spokesmen.

By Mr. Lenvin:

Q. Now, Dr. Mosely, I would also like to show you what has been marked as Petitioner's Exhibit for identification No. 268—

6909 (The document referred to was marked for identification Petitioner's Exhibit No. 268.)

By Mr. Lenvin:

Q. —headed "Soviet Monitor," issued by Tass Agency, and direct your attention to reprint of a Pravda editorial entitled "The Front of the Struggle for Peace is Broadening," and ask you whether you ever read that before. A. Yes, I have read this translation presented by the Tass Agency of the editorial in Pravda.

Q. In your opinion, Dr. Mosely, does that editorial reflect the views and attitude of the Soviet Union toward the so-called peace movement, the World Congress of Partisans of Peace? A. Yes. It expresses complete support of the Soviet Government and the Communist Party Bolshevik of the Soviet Union for the World Peace Congress. It states that this movement is the strongest obstacle to the spread of war and aggression and states that the Soviet people are marching at the head of the camp for peace and democracy. It also places the entire responsibility for the outbreak of hostilities in Korea upon the United States and states that those who support peace also oppose the United States and the United Nations policy and action in Korea.

Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States have you been
6910 able to form any opinion as to the views and attitude of that party toward the World Congress of Partisans of Peace and the Stockholm Peace Appeal? A. Yes, I have. The Communist Press in the United States has commented frequently upon the so-called World Peace Congress or the movement of the Partisans of Peace. It has asserted that it was the duty of the members of the Communist Party and of supporters to strive in every way to make the Stockholm Appeal known and to secure signatures for it in support of the policy of peace. It has at the same time approved the Soviet attitude toward the World Peace Congress. The attitude which it has taken has been directly parallel to that taken by the official Soviet Press and by the organ of the Cominform.

. . . . . .

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 269, which
6911 is the Daily Worker for June 9, 1950, and direct your attention to the story commencing on page 1, and ask you whether you ever have read that before. A. Yes, I have read this article in the Daily Worker of June 9, 1950.

Q. In your opinion does that reflect the attitude of the Communist Party of the United States toward the Stockholm Peace Pledge? A. It does. It urges full support by all Americans for the Peace Pledge and urges a campaign to gather five million signatures in support of the specific world peace pledge, which is also reproduced on page 1 of the Daily Worker of this date, June 9, 1950.

. . . . . .

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 270—

(The document referred to was marked for identification Petitioner's Exhibit No. 270.)

By Mr. Lenvin:

Q. —which is the Daily Worker for July 13, 1950, and direct your attention to an article appearing on the
6912 editorial page, entitled "The Peace Movement is America's only Salvation," by Michael Russo, assistant National Organizational Secretary, Communist Party, and ask you whether you have read that article before. A. Yes, I have read this article by Mr. Russo.

Q. In your opinion, does that article reflect the views and attitude of the Communist Party toward the Stockholm Peace Movement as of that date? A. Yes, in my opinion it does, while Mr. Russo disclaims the intention of speaking for the non-Communist organizations and committees or individuals who have supported the Stockholm Appeal, he does make it clear that he considers that basically signature to the Stockholm Appeal is equivalent to condemning what he describes as the United States attack upon North Korea. In his interpretation and his recommendations he follows very closely the line taken by the official Soviet Press and by the Cominform organ.

. . . . . .

Q. It is a matter of historical fact, is it not, Dr. Mosely, that the Western Powers and the Soviet Union signed a treaty of peace with the Italian Government?

. . . . . .

6913 The Witness: Yes, it is. This treaty was signed approximately on February 15, 1947, and came into force on September 15, 1947.

. . . . . .

6915 Q. Dr. Mosely, from your study and research have you been able to form any opinion as to what the Soviet views and attitudes were toward the projected Italian peace treaty some time between the cessation of hos-
6916 tilities in Europe after World War II and the final signing of the Peace Treaty in 1947? A. Yes, I have.

Q. Will you state what those views and attitudes were? A. Among the principal Soviet demands made in connection

with the negotiation of the treaty were that Trieste and surrounding territory should be transferred to Yugoslavia, that a Soviet trusteeship be established in Tripolitania, that large scale reparations be paid by Italy to the Soviet Union and to certain other states. At an early stage in the negotiation the listing of the points of dispute totaled 179.

By MR. LENVIN:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 271—

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Q. —which is an issue of New Times for May 15, 1946, and direct your attention to an article entitled "The Paris Session of the Council of Foreign Ministers," by A. Sokolov, and ask you whether you have ever read that article before.

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6917 THE WITNESS: Yes, I read the article by A. Sokolov in New Times for May 15, 1946, in Russian, at the time in Paris, in fact in the Palace of Luxembourg where the negotiations of the treaty were going on, and I have reread it in English in this version.

By MR. LENVIN:

Q. In your opinion does this article reflect the Soviet position regarding the negotiations of the Italian Peace Treaty? A. Yes, in my opinion it is a typical expression of the Soviet views on the negotiations of the Italian Peace Treaty as of that time.

Q. In your examination of the publications and other materials which have been issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that party toward the negotiations toward the Italian Peace Treaty? A. Yes, I have. The official press of the Communist Party of the United States commented frequently on these negotiations.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 272—

6918 (The document referred to was marked for identification Petitioner's Exhibit No. 272.)

By Mr. Lenvin:

Q. —which is the Worker for Sunday, May 19, 1946.

Mr. Abt: What is your number?

Mr. Lenvin: 120.

By Mr. Lenvin:

Q. And direct your attention to an article appearing on page 4 entitled "Byrnes' Acts Hearten Axis States," and ask you whether you have ever read that report. A. Yes, I have read this article in the Sunday Worker of May 19, 1946, page 4. It reviews the negotiations for the Italian Peace Treaty and its interpretation and its recommendations parallel closely those presented by the Soviet Press and by the Soviet official spokesmen, in this case by the Minister of Foreign Affairs, Mr. Molotov.

Q. In your opinion, Dr. Mosely, that article reflects the views and attitude of the Communist Party toward the then negotiations for an Italian Peace Treaty? A. Yes, in my opinion it is an authoritative statement of the position of the Communist Party of the United States on this question at that time, and it recommends that the United States Government adopt the Soviet position on all points in dispute which we listed here.

. . . . . .

6920 Q. Dr. Mosely, it is a historical fact, is it not, that one of the major points of disagreement between the United States and the Soviet Union during certain sessions of the United Nations was on the question of control of atomic energy?

. . . . . .

The Witness: It is a historical fact that there has been continuing disagreement over the problem of the owner-

ship, control, and inspection of fissionable materials between the Soviet Union and certain states supporting its position and the majority of the United Nations, including the United States.

By Mr. Lenvin:

6921 Q. Dr. Mosely, I would like again to refer to what has been marked as Petitioner's Exhibit No. 241, which is the USSR Information Bulletin for April 22, 1949.

* * * * * * * * * * *

Q. —and the text of the speech contained therein by Andrei A. Gromyko, entitled "The 'Veto' and the Aggressive North Atlantic Bloc," and ask you whether in your opinion the statement made therein by Mr. Gromyko is a fair statement of the Soviet position on the question of the international control of atomic energy. A. I have read this speech by Mr. Gromyko in the records of the United Nations and also as reproduced in the USSR Information Bulletin under date of April 22, 1949, and in my opinion his interpretation of the whole long debate over the question of control over atomic energy is authoritative and typical exposition of the Soviet point of view.

* * * * * * * * * * *

6922 Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that Party toward the question of the control of atomic energy? A. Yes, I have formed an opinion on the basis of numerous statements issued by the Communist Party of the United States on this question, particularly between July 1946 and the summer of 1949, but also continuing since that time.

Q. I show you, Dr. Mosely, what has been identified as Petitioner's Exhibit No. 273—

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6923 Q. —which is an issue of the Daily Worker for October 12, 1949, and also what has been identified as Petitioner's Exhibit No. 274—

* * * * * * * * * * *

Q. —which is the Daily Worker for October 13, 1949, and for the issue October 12 I would like to direct your attention to the article by Joseph Starobin, entitled "Soviets Offer A-Bomb Count; Challenge U.S. to do Likewise." And in the issue of October 13, to the column by Joseph Starobin entitled "Around the Globe," and ask you whether you have taken these two articles into account in arriving at your opinion as to the attitude of the Communist Party of the United States towards the question of international control of atomic energy.

* * * * * * * * * * *

THE WITNESS: I have read these two articles. They are typical of the interpretation given to this problem by
6924 the Communist Party of the United States through its official publications, and they support in every particular the Soviet proposals concerning control and inspection of atomic energy. Such expressions of opinion and such interpretation are found constantly throughout these past five years in the official press of the Communist Party of the United States, and they directly parallel the proposals and augmentation advanced by the Soviet Government in this matter.

* * * * * * * * * * *

Q. It is also a matter of historical fact, is it not, Dr. Mosely, that another matter of disagreement that arose between the United States and the Soviet Union in the United Nations was on the question of whether the representatives of the People's Republic of China should be seated as representatives of that country rather than the present Nationalist Government delegates?

* * * * * * * * * * *

THE WITNESS: This question has been a matter of dispute in the United Nations since roughly October 1949,
6925 and on this question the Soviet Government and the United States Government have taken opposite points of view.

By MR. LENVIN:

Q. From your examination of the material and publications emanating from the Soviet Union and from your examination of the debates in the Security Council have you been able to form any opinion as to the views and attitude of the Soviet Union toward this question of the seating of the representatives of the People's Republic of China? A. From the time when the Soviet Government recognized the so-called People's Democratic Republic of China at the beginning of October 1949 as the Government of all of China and therefore qualified to represent China in the community of nations, it has pressed for the seating of the representatives of the Chinese Democratic People's Republic as the representatives of China in all international gatherings and bodies, including the United Nations and its various organs.

It has at the same time pressed for the exclusion of the representatives of the Chinese Nationalist Government from those conferences, meetings and international bodies.

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6926 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 275, Security Council Official Records, Fifth Year, 461st Meeting, 13 January 1950, and direct your attention to pages 1 to 18, and ask you whether you have ever read this before. A. Yes, I have read the minutes of this meeting of the Security Council of the United nations, the 461st meeting, January 13, 1950.

* * * * * * * * * *

Q. In your opinion, Dr. Mosely, is that material to which I have just directed your attention illustrative of the

6927 views and attitude of the Soviet Union toward the question of the seating of the delegates from the People's Republic of China? A. Yes. The section of these minutes which reports the speech of the representative of the Soviet Union on this question is a speech by the Deputy Minister of Foreign Affairs, in the most important international organization, and it is to my mind an authoritative summary of the Soviet view on the question of which Government in China should fill the seat assigned to China in the Security Council and in other organs of the United Nations. May I point out that the resolution to which the discussion was directed at that session had been presented at the 459th meeting on January 10, 1950, as Security Council Resolution 1443, and therefore the text is not in these minutes.

MR. ABT: Mr. Chairman, as I read this exhibit it is minutes of the Security Council, which contain a debate in which first the Ecuadorian representative starts off and then the representatives of a number of the other countries, and Malik's statement occupies only a portion of pages 910, a very brief statement. Then starting on page 16 the Council takes up an entirely different question, regulation and production of armaments and armed forces.

* * * * * * * * * * *

6928 Q. Dr. Mosely, in your examination of the publications and other material issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that party toward the question of the seating of the representatives of the People's Republic of China in the United Nations? A. Yes, I have, on the basis of frequent comments and recommendations made by the official spokesmen and official press of the Communist Party in the United States, especially from the beginning of October 1949, when the Government of the People's Republic of China received recognition from the Soviet Government.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 276—

* * * * * * * * * * *

6929 Q. —which is the Daily Worker for November 24, 1950, and direct your attention to the article on the editorial page entitled "People's China should be Seated in the UN," by William Z. Foster, and ask you if you have ever read that before.

. . . . . .

THE WITNESS: Yes, I have read this article by Mr. Foster.

By MR. LENVIN:

Q. And in your opinion is that article typical of the statements which you have read indicating the attitude and views of the Communist Party of the United States toward the question of the seating of the representatives of the People's Republic of China? A. Yes. This is a typical expression of views giving an interpretation and a series of recommendations which are consistent with the frequently repeated expressions of views of the Party. Its recommendations and interpretations are directly parallel with those advanced by Soviet spokesmen and by the Soviet Press.

Q. Dr. Mosely, it is a matter of historical fact, also, is it not, that another matter of dispute between the United States and the Soviet Union related to the election
6929-A of Yugoslavia as a non-permanent member of the Security Council in 1949? A. It is a fact. This issue was before the United Nations for approximately five weeks and was the occasion of many speeches in the General Assembly of the United Nations. It is a fact that opposite points of view on this question, the election of Yugoslavia or the election of Czechoslovakia to a non-permanent seat for the year 1950, was sharply discussed between the representatives of the Soviet and United States Governments.

MR. LAFOLLETTE: Are you abandoning M-124, interview with Josef Stalin, Pravda correspondent, and so forth?

MR. LENVIN: Yes.

By Mr. Lenvin:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 277—

(The document referred to was marked for identification Petitioner's Exhibit No. 277.)

By Mr. Lenvin:

Q. —summary minutes of the 231st plenary meeting of the UN Security Council, particularly pages 102 and 103, and ask you whether you have ever read these summary minutes. A. Yes, I read these summary minutes in mimeographed form a few days after the date of the meeting, which was October 20, 1949, and I have also read them in the final printed form.

6930 Q. Have you also read them in the Russian Press?

A. Yes, I have read a similar summary printed in Izvestia for October 22, 1949. The Soviet summary has very minor verbal differences, none of them substantial, as compared with the summary minutes as published by the official reporter of the United Nations.

. . . . . .

Q. In your opinion, Dr. Mosely, do these summary minutes reflect the views and attitude of the Soviet Union toward the question of the election of Yugoslavia as a non-permanent member of the UN Security Council in

6931 1949? A. Yes, they represent the statement of the official spokesman of the Soviet Union on this question.

Q. I now want to show you, Dr. Mosely, what has been identified as Petitioner's Exhibits for identification 278, 279 and 280; 278 being the issue of the Daily Worker for October 19, 1949, and direct your attention to the article appearing on page 3 by Robert Friedman, entitled "USSR Won't Accept Tito on UN Council, 'Vishinsky Warns.'" Then I would like to direct your attention to Petitioner's Exhibit 279, a column by Joseph Starobin, "The Election

in UN a Test of Sincerity," in the Daily Worker for October 20, 1949, page 8—

. . . . . .

Q. Then Petitioner's Exhibit 280, Daily Worker, Friday, October 21, 1949, article, "U.S. Forces UN Election of Yugoslavia."

. . . . . .

6932 Q. I ask you, Dr. Mosely, whether in arriving at your opinion as to the views and attitude of the Communist Party toward the question of Yugoslavia as a non-permanent member of the Security Council in 1949 you took those three items into account. A. Yes, I did, among others. These three items in my opinion represent typical interpretations of this problem and typical recommendations concerning it by the Communist Party of the United States, and they are directly in support of and parallel to the position taken by the Soviet representatives on this problem and at that time.

. . . . . .

Q. Dr. Mosely, will you describe briefly the political situation in Korea following the cessation of hostilities in Asia and prior to the outbreak of hostilities in Korea?

. . . . . .

THE WITNESS: In the final stage of the Japanese surrender it was agreed that Soviet troops should re-
6933 ceive the surrender of Japanese forces in the area of Korea north of the 38th Parallel and that the forces of the allied powers in the Pacific, and particularly United States forces, would receive the surrender of Japanese forces in Korea South of the 38th Parallel. The first real attempt to overcome the results of this division—

. . . . . .

THE WITNESS: —was the agreement made at the conference of three foreign ministers at Moscow in December 1945. The carrying out of the arrangements for establishing a

coordinated policy in the two zones and for establishing a provisional government over all of Korea broke down. The Soviet and United States representatives in Korea did not agree. A further effort was made in April and May 1947 during the Moscow meeting of the Council of Foreign Ministers, and this was expressed in an exchange of letters between Secretary of State Marshall and Minister of Foreign Affairs, Mr. Molotov. Again the representatives of the two powers in Korea were unable to agree on the implementation of this agreement.

The issue was then brought before the United Nations by the United States, and the General Assembly adopted resolutions and recommendations which were rejected by the Soviet Union.

MR. LAFOLLETTE: What is the date of that last event?

THE WITNESS: The General Assembly is able to

6934 make the recommendations not binding--

MR. LAFOLLETTE: What date?

THE WITNESS: Pardon me. Those recommendations were adopted approximately in November 1947.

The General Assembly of the United Nations established a commission on Korea again in an effort to overcome the division. The Soviet Government declined to be represented on this Commission, and the Government established in North Korea refused to admit the United Nations Commission to its territory or to recognize it in any way.

In the following two years, by 1949, a government had been established in North Korea and a government had been established in South Korea. In June of 1950 the forces of North Korea advanced into the territory of South Korea—

MR. MARCANTONIO: I object and move to strike.

THE WITNESS: I haven't completed the sentence.

MR. LENVIN: Just one minute.

MR. LAFOLLETTE: Overruled.

MR. ABT: Are we going to get into the question of who fired the first shot in Korea, Mr. Chairman?

MR. LAFOLLETTE: Proceed.

THE WITNESS: If I may complete that sentence: According to the findings of the United Nations Commission on Korea, which was in South Korea at the time and had
6935 personnel and observers in the area. Since that time the armed struggle has continued in Korea.

By MR. LENVIN:

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 281—

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Q. —which is the Security Council official records, Fourth Year, 423rd Meeting, April 8, 1949, and direct your attention to a speech by Mr. Malik commencing on page 2 and ask you if you have ever read that before. A. Yes, I have read the minutes of the Security Council, 423rd meeting, April 8, 1949, including the text of the remarks by Mr. Malik, the representative of the Soviet Government.

Q. In your opinion, Dr. Mosely, does that speech reflect the attitude and views of the Soviet Union both toward the records of North and South Korea as of that date?

• • • • • • • • • • •

THE WITNESS: In my opinion this statement reflects the Soviet interpretation of the events and conditions in
6936 both North and South Korea at that time, and similar interpretations and recommendations of policy were frequently made by the Soviet Government through its spokesmen and through the official press.

By MR. LENVIN:

Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 282—

• • • • • • • • • • •

Q. —supplement to New Times, July 12, 1950, and direct your attention to a statement by Deputy Minister of Foreign Affairs of the USSR, A. A. Gromyko—

• • • • • • • • • • •

Q. —on the American armed intervention in Korea and ask you whether you have ever read that report. A. Yes, I read extensive excerpts from this statement by Mr. Gromyko on the following day in the American press, and a few days later I read the entire text in Russian in the Soviet press, and I have read this English version which was issued as a supplement to New Times, an authoritative Soviet magazine dealing with foreign affairs. This
6937 is in my opinion a detailed and authoritative statement of the Soviet view of the situation in Korea as of the time when Mr. Gromyko spoke.

By Mr. Lenvin:

Q. I also show you, Dr. Mosely, the issue of New Times for November 15, 1950, which is M-128—

. . . . . .

Q. Have you read that article before, Dr. Mosely? A. Yes, I have read the article entitled "In Defense of Korea," in New Times No. 46 for 1950.

Q. In your opinion, Dr. Mosely, does that article fairly reflect the view of the Soviet Union toward the situation in Korea as of that date? A. In my opinion this statement reflects the Soviet view of the situation in Korea as of that time and also the Soviet view of the attitude of the Chinese People's Republic toward the situation in Korea.

. . . . . .

The Witness: This declaration quotes with ap-
6938 proval the assertion of the China Peace Committee that the United States Aggression in Korea was to be extended as aggression against China, and that to assist Korea was simply to protect China.

By Mr. Lenvin:

Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitude of that Party

toward the Government of North Korea prior to the outbreak of hostilities in Korea and to the views and attitude of that Party toward the participants in the hostilities in Korea? A. Yes, I have. Through its frequent pronouncements, appeals, and official statements, and through its official press, the Communist Party in the United States has repeatedly expressed its opinions, its interpretations and its recommendations of policy concerning the hostilities in Korea and has expressed its full support for the Government of North Korea and support of the position taken by Soviet policy during this struggle, as well as its approval of the participation of forces coming from China proper, and taking part in the struggle in Korea itself. In taking these positions the official press of the Communist Party in the United States has followed a line closely parallel to the position taken by the Soviet Government and the Soviet press.

6939 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 284 for identification—

. . . . . .

Q. —and direct your attention to an editorial entitled "Wall Street's War Against the Korean People," by Betty Gannett, and ask you whether you have ever read that article before.

. . . . . .

THE WITNESS: Yes, I have read this article, which appeared in Political Affairs for August 1950, entitled "Wall Street's War Against the Korean People," subtitle: "An Editorial Article."

. . . . . .

Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Communist Party toward the situation in Korea as of that date? A. Yes, in my opinion it is an authoritative statement of the point of view and recommendations of policy of the Communist Party of the United States concerning the situation of that general time

in Korea. It supports the position taken by the Soviet
6940 Government in dealing with that question within the United Nations and outside.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 285—

. . . . . .

Q. —the Sunday Worker for September 24, 1950, and direct your attention to an editorial entitled "The Message of Bombs," and ask you whether you have ever read that before.

. . . . . .

THE WITNESS: Yes, I have read this article which appeared in the Sunday Worker for September 24, 1950, page 5.

By MR. LENVIN:

Q. In your opinion, Dr. Mosely, is that editorial illustrative of the views and attitude of the Communist Party of the United States toward the situation in Korea on that date? A. Yes, in my opinion it is typical of the interpretations and recommendations presented by the official press of the Communist Party in the United States and is in close parallel to the expressions of the Soviet Press on that same problem at that general time.

. . . . . .

6941 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 286—

. . . . . .

Q. —which is an issue of Political Affairs for February 1949, and direct your attention to an article "The Peace Can Be Won," by Joseph Clark, and ask you if you have ever read that before. A. Yes, I have read this article by Mr. Clark at the time and since.

Q. In your opinion, noting especially the material on pages 21 and 22, does that article reflect the view of the Communist Party towards Korea as of that date?

. . . . . .

6942 THE WITNESS: Yes, in my opinion Mr. Clark's analysis of the Korean situation is a typical example of the presentation made during that same general period by the Communist Party of the United States through its official publications and is directly parallel to the analysis presented in the Soviet official press.

. . . . . .

Q. Dr. Mosely, do you recall approximately the date when it was announced or publication was made in the press of the United States concerning the intervention of the Chinese forces in the Korean conflict? Or the entrance. I won't use the word "intervention," the entrance of the Chinese forces into the Korean conflict? A. Chinese Communist forces were first reported in combat in Korea during the last ten days of November 1950, approximately November 25.

. . . . . .

6943 Q. Dr. Mosely, I show you what has been marked for identification as Petitioner's Exhibit No. 287—

. . . . . .

Q. —which is the issue of the Daily Worker for June 26, 1950, and direct your attention to the editorial on page 1.

. . . . . .

Q. Have you read that editorial before? A. I have read this editorial on page 1 of the Daily Worker, June 26, 1950.

Q. In your opinion does that editorial reflect the view of the Communist Party toward the Korea situation as of that date? A. Yes, in my opinion this is a typical expression of the interpretation of events in Korea as presented by the Communist Party of the United States, and it paral-
6944 lels very closely the interpretations published by the official Soviet Press.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 288—

. . . . . .

Q. —which is the Daily Worker for June 27, 1950, and direct your attention to the editorial headed "Dulles—Triggerman Who Started War in Korea," and ask you whether you ever read that before.

. . . . . .

THE WITNESS: Yes, I have read the editorial in the Daily Worker of June 27, 1950, page 1 and 2.

By MR. LENVIN:

Q. In your opinion does that editorial reflect the view of the Communist Party toward the situation in Korea as of that date? A. Yes, in my opinion this is a typical statement of the position taken officially by the Communist Party of the United States on this question as of that time, and it is directly parallel to the interpretation published by the Soviet official press and by the official organ of the Cominform.

6945 Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 289—

. . . . . .

Q. —which is also from the Daily Worker for June 27, 1950, and I would like to direct your attention to the article entitled "Truman Maps Use of Army in Korea; Liberation Forces at Gates of Seoul," by Rob F. Hall, and ask you if you have read that before.

. . . . . .

Q. Confine it to the "Truman Maps Use of Army in Korea," story.

. . . . . .

THE WITNESS: Yes, I have read the signed news dispatch by Mr. Rob F. Hall and published in the Daily Worker of June 29, 1950, pages 3 and 9.

By Mr. Lenvin:

Q. Dr. Mosely, on the date mentioned previously when it was announced in the Press of the United States that the Chinese forces had entered Korea, have you from
6946 your examinations of materials and publications emanating from the Soviet Union been able to arrive at any opinion as to what the views and attitudes of the Soviet Union were toward the entrance of the Chinese forces into the war in Korea? A. Yes, I have, on the basis of official Soviet statements and the constant stream of comments by the official Soviet press.

* * * * * * * * * * *

Q. Dr. Mosely, I would like again to direct your attention to what has already been marked for identification as Petitioner's Exhibit No. 283, which is the New Times, No. 46, 1950, which contains the article "In defense of Korea" and ask you whether in your opinion that article reflects the attitude of the Soviet Union toward the entrance of the Chinese forces into the armed conflict in Korea.

* * * * * * * * * * *

6947 The Witness: Yes, in my opinion this article entitled "In defense of Korea," in New Times, No. 46 for 1950, expresses strong Soviet approval of the urgings put forward by committees and other organizations in Communist China urging that China should defend itself in Korea against what it declared was the American intention to commit aggression against China itself. It declared that the Chinese volunteers, so called, in coming to the aid of the Korean people, were following a glorious tradition. It stated that this movement on the part of important elements in China, which it did not identify at that time as the Government of the so-called People's Democratic Republic of China, would be assisted by the committee in defense of world peace. It quoted with approval Chinese statements that helping Korea, meaning by that North Korea, was in China's own interest and was necessitated by the requirements of self-defense.

By MR. LENVIN:

Q. In your examination of the publications and other materials issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that Party toward the entrance of the Chinese forces into the Korean conflict? A. Yes, I have. The official press of the Communist Party of the United States commented frequently and made urgent
6948 recommendations of policy in connection with the action of Chinese forces in Korea.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 290—

(The document referred to has been marked for identification Petitioner's Exhibit No. 290.)

Q. —which is the Daily Worker for Friday, November 17, 1950, and specifically direct your attention to an article entitled "Wall Street's aggression in China," by William Z. Foster, and ask you whether you have ever read that article before. A. Yes, I have read this article by Mr. Foster in the Daily Worker for November 17, 1950.

Q. In your opinion, Dr. Mosely, does that article reflect or is that article illustrative of the views of the Communist Party toward the matter of the entrance of the Chinese into the armed conflict in Korea? A. In my opinion this is a typical statement of the interpretation given to events and prospects in that part of the world by the Communist Party in the United States. It accused the Government of the United States of intending to conquer China proper. It stated it is determined to push its campaign of imperialist conquest into China proper. It accused the United States of treating the hostilities in Korea as a springboard
6949 for the conquest of China. This, I might note, was published prior to the first overt military action of the Chinese forces in Korea and it paralleled exactly the accusations which were being spread by the Soviet Press at that time, as well as by the Cominform Press.

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6963 **Manning Johnson** called as a witness on behalf of Petitioner, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * * * * * * * * *

BY MR. PAISLEY:

6975 Q. Do you know whether or not any minutes were kept of the meetings of the Central Committee when you were serving on it? A. Yes, complete records of the meetings of the Central Committee were kept. In fact, they had a number of stenographers who took down in shorthand everything that was said by all of the speakers during the entire meeting of the Central Committee. They had typewriters in the anteroom where the stenographers transcribed their shorthand and typed up the individual remarks of the speakers.

Q. The members receive copies of the minutes? A. Yes. Each member was given a copy only of what he said at the Central Committee meeting for the purpose of cor-

6976 recting any mistakes or making any additions to his remarks that he could not get in because of time limitations. He was not permitted to keep those minutes. He had to turn them in.

Q. Do you know what distribution was made of the minutes? A. The minutes of the Central Committee, like the minutes of all committees of the Party, are typed out in copies of five on onion skin paper—

MR. ABT: Copies with what?

MR. LAFOLLETTE: Copies of five on onion skin paper.

THE WITNESS: —on onion skin paper, and copies of the minutes are sent to Soviet Russia—

* * * * * * * * * * * *

BY MR. PAISLEY:

6978 Q. Mr. Johnson, how do you know that the minutes of the Central Committee went to Soviet Russia? A. I know from instructions that I received in the National Training School of the Communist Party and, sec-

6979 ondly, what I was told by the leaders of the National Committee and the Political Bureau of the Communist Party with regard to the procedure and handling of minutes. This was necessary because we were told that our advancement in the Communist Party depended upon the reflection of our work in the reports that were sent to Soviet Russia and that no positions of leadership in the Party held by any individual member could be held without the approval of the Communist International in Moscow.

* * * * * * * * * * *

6981 Q. I believe you joined the Party at Buffalo? A. I did, in Buffalo, New York.

Q. How long did you remain there? A. From 1930 up until 1934, about the middle of 1934.

Q. Then what did you do? A. I was transferred by the Political Bureau of the Central Committee to the city
6982 of New York.

Q. Did you go to school somewhere? A. I went to the National Training School of the Communist Party in the City of New York in 1932.

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6988 Q. You were telling us about some of the instructors. Will you now continue? A. J. Peters was one of our instructors. He taught us with regard to the illegal and underground apparatus of the Party and how it functions and how it operates. We had Jack Stachel or Jacob Stachel, who taught us on trade unionism. We had a lecture, too, by William Z. Foster. We had B. D. Amis, who gave us lectures on the Negro question; Max Bedacht on fraternal organizations, language groups; lectures by Fred Brown, alias Alpi, Gilbert Green on the YCL, Com-
6989 munist work and activities among the American youth. We had some lectures by Rose Wortis. A. Moreau lectured to us on Communist infiltration of the Latin American countries.

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6990 Q. Did any of the teachers, leaders or instructors tell you why you where there? A. We were told by Abe Markoff at the time that the school opened in an indoctrination lecture that we were being trained to be professional revolutionists in the strictest sense of the word, that at the completion of our course we would become professional revolutionists, devoting our entire lives to the revolutionary cause, bringing about the Soviet form of Government in the United States and throughout the world.

Q. Just what were you told as to the aims and purposes of the Communist movement in this country? A. We were taught that the aims and objectives of the Communist Party in the United States is the overthrow of the Government of the United States and the establishment of the Soviet form of Government similar to the one that is in Russia at the present time.

Q. What, if anything, were you told about the position of Soviet Russia and the Communist Party of Soviet Russia in the world communist movement?

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6991 THE WITNESS: We were taught that the Communist Party of the Soviet Union is the leading Party in world organization of Communism, that is, the Communist International; that the Communist Party of Soviet Russia, by virtue of the fact that it was the first Communist Party to achieve success in the overthrow of the capitalist, feudalistic government in Russia, were the indisputable leaders of the world Communist movement; that the Communist Party of Soviet Russia, under the leadership of V. I. Lenin, formed the Communist International, that is, the Communist Party of Soviet Russia formed Communist parties in countries throughout the world to work under the guidance, the leadership, and the control of the Communist Party of Russia to effect and bring about revolutions in every country throughout the world for the purpose of forming a world union of Socialist Soviet Republics, of which the USSR, that is, the Union of Socialist Soviet Republics is the prototype.

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6997 Q. On the subject of allegiance by Communist Party leaders, were you taught anything at this school that you attended on that subject? A. Yes, we were. We were taught that Soviet Russia is our fatherland, that is, it is the fatherland of all Communists, and that we do not owe allegiance to Washington but to Moscow.

Q. Was anything taught you about the duty of Communist Party members in the United States in the event of war between the United States and the Soviet Union?

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THE WITNESS: Yes, we were. We were taught that in the event of war between the United States and Soviet Russia it was the duty of every Communist to bring about the defeat of the Government of the United States and to secure the victory of the Soviet Red Army. In this connection we were given as reading material the article by a former member of the Central Committee of the Communist Party by the name of Wicks. We were told to read this particular article which was published in The Communist in the latter part of the 20's because it set
6998 forth clearly and succinctly the line of the Communist Party with regard to war between the Government of the United States and Soviet Russia. In addition to that, of course, it covered the general attitude of the Communists toward war.

MR. PAISLEY: I show you what has been marked Petitioner's Exhibit 292, which is an issue of The Communist, July 1929, the first article of which is an article by H. M. Wicks. I hand you one of the original issues of The Communist for that month. Do you recognize the Wicks article?

THE WITNESS: Yes, I do.

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Q. That Wicks offer deals with this subject, does it not? A. It does. It deals specifically with regard to what each Communist must do in the event such a war broke out.

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6999 MR. LAFOLLETTE: The objection is overruled, and the document may be received as Petitioner's Exhibit No. 292.

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Q. I notice that this article deals with the position of the Communist Party in the matter of strikes in this country also. Will you tell the Board briefly what students were taught in that school concerning the policy of the Communist Party as to strikes in industry in this country. A. Yes. We were taught that it was important for the Communist Party to sink its roots deep in the basic and key industries of the nation, particularly railroads, steel, mining, communications, transportation generally,
7000 including the maritime, the automobile industry, the aircraft and chemical industries, et cetera, for the purpose of placing the Party in a position through its anti-war committees formed in these industries to cripple and paralyze these industries in the event of war, that even if these strikes were crushed by the Government, the disruption or delay would objectively support the Soviet Government and its war machine.

Q. What if the demands of the workers in the particular industry were met in the strike, were you given any instructions as to what the attitude should be of the Communists? A. Our attitude was that we would call strikes ostensibly around the issue of wages, hours, and working conditions, but our objective would not be limited by the making of economic demands. Our objective would be a political objective. But in order to involve the majority of the workers in a given action that had as its objective the crippling of the war machine of the Government of the United States, such tactics and methods of drawing the workers into a given strike or stoppage, et cetera, were to be used by the Party. In other words, while we generally agitate the workers on the issue of opposition to the war, at the same time we tie them up with the basic economic grievances of the workers, raising such demands that we

know the management of a given industry would refuse to grant, and that would bring about a prolonged
7001 conflict between management and the employees; in the course of that, constantly to hammer away on the issue of defense of the Soviet Union and opposition to Wall Street and Wall Street's Government of warmongers.

Q. You were in this school in the depths of the depression, were you not, about 1932? A. That is right.

Q. Was anything taught at that school concerning the functioning of Communists in the event of a revolutionary movement in this country? A. Yes. We were taught at that time that it was our duty to take full advantage of the present, that is, the then crisis of capitalism in America, to rally the masses of the workers for its revolutionary overthrow. It was explained to us at the time, further, that it would be impossible for us during that crisis to overthrow the government of the United States because of the Communist Party's weak contacts with the masses, that all we could hope to do was to exploit the crisis at that time to the utmost to build the Party and to strengthen the party's ties and connections with the workers, the farmers, and the Negro people and the foreign-born of this nation. They also stated that it would be precisely during a far-reaching and deep-going crisis of the nature that we went through at that particular time that would afford the opportunity for the Communists if they were fully prepared to use the issue of the crisis to bring about a critical
7002 political situation in so far as the American Government was concerned and to strike out for political power.

Q. Was this question of possible revolution in this country the subject of lectures in this school? A. Yes. The subject of revolutions was the subject of discussion in the school.

Q. Was the role of the Red Army ever mentioned in that possible situation? A. Yes, it was mentioned. It was mentioned in this respect, that because of the tremendous strength of American capitalism, it might be extremely

difficult, if not impossible for the Communist Party to overthrow the Government of the United States of itself but that it was the duty of the Communists to build themselves up to that position where they could challenge the power of Wall Street and this Government, and that the Red Army would not hesitate to throw its weight into the scales to tip the scales of the conflict in favor of the Communist revolutionists in America. That was one phase. The other phase was that in the midst of World War, when masses of the workers have arms in their possession, the Communist cells in the Armed Forces, that is, in the Air Force, the Navy, the Marine Corps, et cetera, would agitate and work for the demoralization of the Armed Forces of the Government of the United States, to urge them and convince them to refuse to fight against the Soviet
7003 Red Army and go over on the side of the Red Army and use their guns against the Government of the United States and all of the forces that remained loyal to it.

Q. After you were indoctrinated in the manner that you have just testified, did you later on teach yourself? A. In lectures, speeches, yes. What I learned in that school was the policy of the Party throughout the time that I was there. It was further developed and elaborated upon by the leaders of the Party, such as William Z. Foster, Earl Browder, Max Bedacht, Alexander Bittelman, Jack Stachel, and others at meetings of the National Committee and at conventions of the Party when there was discussion of the general world situation and the question of peace or war. This was in connection also with the work of the various so-called peace organizations of the Party, like the—

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7006 Q. Just in general, what were you taught on the subject?

MR. LAFOLLETTE: At the national training school.

MR. PAISLEY: Yes.

THE WITNESS: At the national training school we were taught that the Negro people in America constitute a na-

tional minority in the same sense that various national and racial groups in Soviet Russia were considered by Lenin as national minorities, and as a national minority they were entitled to the right of self-determination. The right

7007 of self-determination pre-supposes that a racial group is a national minority in accordance with the definition of a nation as set forth by V. I. Lenin, that is, that they must have a common language, common territory, and historic traditions reflecting themselves in a common culture, et cetera. This definition, according to the instructions we received, applied to the Negroes in America. Their common territory was considered the black belt in the South, that is, the old cotton belt, which begins on the eastern shore of Maryland and extends for about 219 or more counties, through nine states, driving a wedge into Texas. In addition to this being the common territory, they considered English the common language, and its common culture is reflected in the Negro spirituals, Negro literature, Negro art, and so forth and so on. Its common economic ties are reflected in the general economy that prevails in the black belt, the share cropping system, the plantation system that prevails. That they, as a result of having all of these things which Lenin pointed out are the things that are necessary to characterize a racial group, they were entitled to the right of self-determination. By the right of self-determination, it was explained to us, the Negroes there have a right to rebel against the constituted authority in that particular area and to unite that vast area into a single political unit, an autonomous or independent state or government. That is as far as the black belt is concerned.

7008 Generally we were to work for equal rights for Negroes throughout all parts of the United States. "Equal rights," they taught us, expressed almost all of the desires and aspirations of the Negroes generally, but specifically for the black belt it was rebellion and civil war to form an independent and autonomous Soviet Republic. That this movement toward the establishment of this autonomous Negro Republic should be guided and steered in such

a way by the Negro Communists activity in the movement so that it would take place simultaneous with the general proletariat or Communist revolution in America.

MR. PAISLEY: I have just one more question on that subject.

By MR. PAISLEY:

Q. You say you lectured on this subject in other schools. Did you teach the same thing? A. Yes, I did. I not only taught it in lectures at the school and in lectures before Party membership and study groups in the Party, but also in speeches that I delivered from time to time in various cities.

MR. LAFOLLETTE: Who taught this course at the national training school?

THE WITNESS: We had as our instructor at that time a Negro member of the Central Committee of the Communist Party by the name of B. D. Amis. We used as subject matter the Theses and Resolutions of the Sixth
7009 World Congress, the 13th Plenum of the Executive Committee of the Communist International, and articles written by Harry Haywood, who was a member of the Central Committee and member of the Political Bureau, by James Allen, and also some articles written by B. D. Amis and James W. Ford. James W. Ford was Communist Candidate for Vice President of the United States. He was also a member of the Central Committee and the Political Bureau of the Communist Party.

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7012 Q. Did any CI representatives ever come out to your district?

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THE WITNESS: Yes, I had a Communist International representative in my district while I was district organizer.

By MR. PAISLEY:

Q. Do you know his name? A. Yes. Gerhard Eisler was in my district when I was district organizer.

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7021 Q. I said prior to this convention in 1936 when you were elected to the Central Committee, had you met Gerhard Eisler? A. Yes, I had.

Q. Did he attend that convention? A. I don't think he was at the 1936 convention. I am not sure. About that time he left the country for Spain.

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7022 THE WITNESS: The selection of persons for membership on the National Committee is based upon an old established procedure in the Communist Party as set forth in the constitution and by-laws of the Communist International. No person can hold any leading position in the Communist Party without the approval of the Communist International, and no person can resign from that position of leadership in the Party without the approval of the Communist International. So any position of leadership that a person holds in the Communist Party is a gift of the Party, and that position belongs to the Party and not to the individual.

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7040 Q. I will go to the subject of the Daily Worker. Were you ever in the offices of the Daily Worker? A. Yes, I was.

Q. Where was that office? A. The Daily Worker office was in the Communist Party building at 50 East 13th Street.

Q. What opportunity, if any, did you have to learn of its policies and how it operates? A. The manager of the Daily Worker was either a member of the National Committee—

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7041 THE WITNESS: Yes. I was stating that the editor of the Daily Worker was either a member of the

Central Committee or the National Committee of the Communist Party and he was invited to the meetings of the National Committee of the Communist Party and the Political Bureau, and at meetings of the National Committee and the Political Bureau reports and discussions on the reports with regard to the Daily Worker were given with regard to its policy, its activities, the raising of finances and so forth and so on, for its support.

By Mr. Paisley:

Q. Do you know how it was financed? A. The Daily Worker ran financial drives from time to time. The Daily Worker also sold subscriptions, six months, a year, and week-end editions. In addition to that the expenses of operation were cut down by the supplying of international news to the Daily Worker through what was known as the International press correspondents, or the Imprecord. The Imprecord was somewhat like the Associate Press and the International Press. The Imprecord was a Communist controlled press service that supplied the Daily Worker constantly with news of what was transpiring throughout the world.

Q. What authority, if any, did the Executive Committee or Central Committee of the Communist Party
7042 undertake to exercise over the Daily Worker, and its editorial policies? A. The Central Committee and the Political Bureau of the Communist Party had absolute control over the editorial policy of the Daily Worker. The Daily Worker editor and other associated editors submitted their copy to the Political Bureau and Central Committee representatives, who went over it and discussed the policy to make sure that it carried and reflected the line and policy of the Communist Party.

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7048 Q. Do you recall any conversation with any party leader as to the extent to which students were sent over there? A. From conversations with Markoff, Peters,

Stachel, Browder and others, there were approximately several hundred from 1928 up until 1935 or '36, who had gone over to the Lenin Institute and other schools of higher learning in Russia.

Q. Did the subject ever come up while you were attending any meeting of the Political Bureau? A. Yes, it did come up. Abraham Markoff, who was responsible to the Central Committee of the Communist Party for the training of Communist Party leaders, the training of professional revolutionists, would give from time to time a report to the Central or National Committee meeting with regard to how many communists had been trained for leadership in the section, district, regional, national, and international schools. Later on these reports were given by Mendel, who was placed in charge of the educational work and activities of the Party after the death of Abraham Markoff.

Q. Can you give the Board the names of any students that you know who attended that school? A. Yes, I can.

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7049 Q. Give us the names of any individuals that you know who went over there and studied at that school.

7050 A. Harry Haywood, a member of the national Committee and Political Bureau, an authority and theoretician on the Negro question in America; Otto Hall, also a Negro; Odell Newell; Charles White; Leonard Patterson; Timothy Holmes; Steve Nelson; William L. Patterson; Rudy Baker; Hutch Hutchison; Albert Steel; Wilbert Parkhill—

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Q. When you were on the Central Committee, what contact, if any, was maintained between the American Communist Party and Soviet Russia? A. When I was a member of the Central Committee the contact was maintained through the representative of the Communist International and through the transmission of minutes of all committee meetings both in the higher and the lower echelons of leadership. This was transmitted through the resident

OGPU agent, who in turn was responsible for the transmission of these minutes to Moscow.

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7052 Q. When you were on the Central Committee did the Communist Party in this country maintain a representative at the Communist International over in Moscow? A. They had representatives of the American Party on the Communist International. William Z. Foster was a member of the Executive Committee of the Communist International and also a member of the Presidium of the Communist International. Earl Browder was also a member of the Executive Committee of the Communist International. Gilbert Green was a member of the Executive Committee of the Communist International and he was also a member of the Secretariat of the YCI, the Young Communist International, which also had headquarters in Moscow, and it is the youth section of the World Communist Movement. Alexander Bittelman was for a time on the Executive Committee of the Communist International. In addition to these representatives of the American Party serving on the Executive Committee and the Presidium of the Communist International, of course we had leaders of the Party who worked in both the Comintern and the Profintern. The Comintern is short for Communist
7053 International, and Profintern is short for the Red International Labor Unions. There were representatives of the American Party on both of these groups.

Q. As to representatives of the Communist International over in this country, do you have any knowledge as to whether or not the Communist International maintained any representatives in this country? A. Yes. The Communist International maintains representatives in this country and in all countries where there exists a Communist Party.

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7054 Q. Was there more than one type of Communist International Representative? A. Yes, there were different types of Communist representatives.

Q. How many? A. There was the Communist International representative. That is one. Then they had the Com-

munist International technical representatives. They were individuals who were specially trained and skilled in specific phases of the Communist Work and Communist activities. The third type was the resident OGPU agents or Soviet secret police agents.

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7063 Q. Will you tell us just what authority the different types had and exercised?

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7068 THE WITNESS: The speeches of Stalin were published in a pamphlet, and this pamphlet deals concretely with this specific situation in the American Party in relation to Pepper.

In connection with the discussion in the school we were told that the authority and the power of the Communist International representatives supersedes that of any leader in the American Party, that they are the direct representatives of the Communist International, that they are not permitted to take sides or play favorites as far as the leaders are concerned, that their responsibility is to see to it that the Moscow Party line is carried out by the American Party.

MR. LAFOLLETTE: Who taught this course?

THE WITNESS: J. Peters lectured on that, and also Abe Markoff.

The Communist International representative is the complete boss over the policy of the Communist Party of the United States.

7069 In 1933 when I was district organizer in the Buffalo District, I met Gerhard Eisler. Gerhard Eisler at that time was introduced to me under the name of Brown. Later, at a meeting of the National Committee, I met him. At that time he was using the alias of Edwards. Gerhard Eisler was a representative of the Communist International to the American Party.

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THE WITNESS: He spoke at meetings of the National Committee of the Communist Party. His word was law.

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THE WITNESS: It was shortly after my meeting with Gerhard Eisler in Buffalo and at subsequent meetings that he attended in New York that I came to the knowledge of his position and standing in the American Party.

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7073 Q. How many times did you see this man, approxi-
mately? A. The first time I saw him was in 1933, and
7074 subsequently I should say altogether I saw him at a
number of meetings.

Q. What kind of meetings? A. Meetings of the National Committee of the Communist Party in 1933, 1934, and part of 1935.

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7082 Q. When was the last time you saw him? A. The last time I saw Gerhard Eisler, that is personally, I saw him at the trial in Washington in 1947.

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7083 Q. When you were district organizer will you tell us whether any records of membership were kept and if so, how they were kept?

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THE WITNESS: We kept the membership records
7084 in a secret place. We used the home of a person that was either a secret member of the Party or a very close sympathizer, who never attended meetings, who was not known except to a very few people in the top as being a party member, who was instructed never to keep any Communist Party literature or anything of that nature around the house. In other words, that particular person that was used to secrete that material was a person that one would not in the least suspect of being identified with the Communist Party.

By Mr. Paisley:

Q. Were those records open to inspection by any one who might want to see them? A. The records were not open to inspection by anyone except the District Organizer or a representative of the Political Bureau so designated that authority by the Political Bureau of the Communist Party.

Q. During your membership in the Party was there any policy with reference to whether or not a member of the Party could admit his membership?

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The Witness: Yes. The Party policy was that no member was permitted to publicly reveal his membership in the Party without the authorization of the leadership of the Party.

Mr. LaFollette: Where did you learn this?

7085 The Witness: I learned that when I first became a member, and secondly when I was a student at the National Training School where it was further developed and elaborated upon. That was told me in connection with the advice of the Party leaders at that time that instead of using my real name I should use an alias.

Mr. LaFollette: Did you use an alias?

The Witness: No, I did not use an alias. I said at the time I preferred to use my own name in preference to an alias. They told me that the purpose of the use of the alias was to protect me in case the place where I was staying was raided by the police and my Party membership book was found, it would not be made out in my name but would be made out in another name, and I could always explain to the police or any other law enforcement agency that someone who lived there formerly left it or I had found it or some other such excuse. In that way the burden of proof of that book being my personal Party membership book would rest upon the government.

By Mr. Paisley:

Q. Did you know others who used aliases? A. Yes, I do.

Q. About these minutes, to which counsel made an objection a moment ago, were they open to inspection by anyone? A. No. The minutes of the Committees of the Party that were put in the secret files were not available
7086 or open to inspection by anyone except myself, and as I said before, representatives so designated by the political bureau to inspect them.

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7087 Q. Have you ever received any instructions as to what methods and tactics the Party would adopt in the event the Party decided to go underground?

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The Witness: Yes, I did.

Q. Will you explain to the Board what the instructions were and what you did about it, if anything?

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The Witness: The first instructions that I received on the illegal apparatus and the illegal operation of that
7088 apparatus was when I read the mimeographed confidential document written by Lazar Kaganovich, member of the Political Bureau of the Communist Party of the Soviet Union. That pamphlet went into detail explaining the structure of the apparatus. It dealt with the establishment of a parallel apparatus similar to the open apparatus, that is, an underground Central Committee, political bureau, underground departments of the central committee, underground district committees, underground section committees. That was number one. Number two, the division of the Communist nuclei into smaller organizations called cells, these cells to be limited to not more than five members, with one of the members selected as captain of the cell, the captain of the cell to be responsible for the calling of meetings, the arranging of meetings and directing all of the affairs of the cell, keeping the members in

good standing, all membership books to be turned in, to be kept in a secret place, members to destroy all Communist Party literature, and so forth and so on, that they might have in their possession, that is, in the place where they lived.

The restriction as to the size of the cell was for security reasons, because a small group could meet with a greater degree of security than a larger group. The establishment of illegal printing plants in the various cities and key industrial areas where the printed material of the
7089 Party could be gotten out with the maximum amount of security and safety. The establishment of other means of getting out printed material such as through the establishment of places equipped with the mimeograph machines. It also dealt with the question of shaking off those individuals of the law enforcement agencies who were keeping known Communists under surveillance. It dealt at length telling how to shake off these elements who were shadowing Communists. There were suggestions based upon the experiences of the old Bolsheviks under the Czar.

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THE WITNESS: No. The document also dealt with the subject of using mail drops for the receipt of highly secret confidential messages that passed between the upper echelons and the lower echelons of the Party. The question of using the mails in order to circumvent postal inspection. It dealt with the use of secret codes in connection with the transmission of secret information as a means of lining up the higher echelons with the lower echelons of the Party.

The work of Communist Party cells in the basic and key industries of the nation, the work of Communist Party fractions within trade unions, civic, fraternal and other organizations. Also it outlined some of the techniques and methods developed by the old Bolsheviks in distri-
7090 bution of literature under conditions of suppression and repression and illegality.

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7092 THE WITNESS: J. Peters was instructor at the school on this subject matter, and the lectures that he delivered were based upon the material contained in the document written by Lazar M. Kaganovich.

Q. Were these instructions given to you by Peters at that school that you attended, that secret school? A. Yes, that is correct.

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7093 Q. You testified, did you not, that it was a secret school? A. Yes, sir.

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Q. Were any steps taken in your district, District 4—

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Q. —to implement this underground apparatus? Were active steps taken?

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THE WITNESS: In the Buffalo District I was instructed to purchase mimeograph machines to be put in a secret
7094 place for the purpose of getting out literature in cases of emergency, that is, in case there was a legal move to outlaw or suppress the Party and the Party activities. I was also instructed to get the various sections of the Communist Party in the district to do likewise and to indoctrinate the leadership of the Party for just such an emergency.

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7097 Q. Did the Communist Party, while you were active in it, have any policy with reference to disclosing or resisting efforts to obtain information as to its records, other than membership lists? A. The Communist Party policy during the time that I was a member, in connection with the minutes of the meetings, was as follows: The only authorization that we had to give out copies of the minutes of meetings of committees in our district was the transmission of five copies of all minutes to the Central

7098 Office of the Communist Party. The purpose of the five copies, as was explained to me at the time—

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THE WITNESS: I was told in connection with the five copies of all minutes, to be sent to the Central Committee of the Communist Party, that it was for the purpose of supplying the Communist International and certain of its departments with the activities of the Party leaders and members in a given district, and that it was used for the evaluation of the work of the Communist Party of the United States of America.

MR. LAFOLLETTE: Who told you this and when?

THE WITNESS: William Weiner, Earl Browder, Jack Stachel, J. Peters and others when I became district organizer of the Communist Party in Buffalo.

MR. LAFOLLETTE: Where did these conversations take place, in New York or Buffalo?

THE WITNESS: In New York City, at the national office of the Party.

Apart from the supplying of the center and the Communist International with minutes, no one else out-
7099 side of myself or my successor as district organizer had any access to the minutes of any meeting of any committee of the Communist Party in District No. 4.

As far as any outsider of the Party, definitely out. No minutes would be given to any members of the Party upon request by such member, unless a question arose involving the said member in some political controversy in which it was necessary to produce the minutes in order to affirm or contradict some particular statement that was made in a committee. In other words, apart from what I have stated, the minutes of all meetings of all committees were absolutely and strictly secret and confidential.

By MR. PAISLEY:

Q. Were the meetings of the Party open to the Public?

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7100 A. The Communist Party meetings of the National Committee, the various commissions of the Party such as the trade union commission, the agrarian commission, the women's commission, the organization commission, the agitation and propaganda commission, the state committees, the state bureaus, the district committees, the section committees, the Communist Party fractions, the Communist Party shop nuclei, the Communist Party street nuclei, were all closed meetings, restricted only to
7101 members of the Communist Party. There was only one exception to that rule, and that exception was granted by a higher committee of the Party. Only on occasions would they permit a street unit to have an open unit meeting, and at that open unit meeting they would invite a few non-party people who were prospective recruits for the Party. They would permit them to do that occasionally, and they would have to get a decision of a higher committee in order to do so. That is the only instance that I know where the Party permits a non-party person to attend any of the meetings of the Party.

Q. Will you tell the Board what the purpose of the secret methods which you have described here was, if you know?

THE WITNESS: The purpose of this secrecy was to prevent the law enforcement agencies and, as the Communists spoke of them, agents of the capitalist class, the capitalists or the fascists, the enemies of Communism from knowing what was decided on at meetings of the Communist Party, number one, and number two, to keep them from knowing who are the members of the Communist Party and where they live, work and operate.

By MR. PAISLEY:

Q. Why did the Party not want these so-called
7102 enemies of the Communist Party to know these things?

Q. In other words, what was back of their desire that these individuals not know about their operations? A. Because it destroys the conspiratorial nature of the Party movement itself.

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MR. LAFOLLETTE: The objection is overruled.

On this last statement, who said anything to you about the purpose?

THE WITNESS: I was taught in the National Training School in connection with my studies of the speeches of Stalin on the American Communist Party, and you will find in Stalin's speech where he speaks of the danger of exposing the conspiratorial nature of the Communist Party activities.

MR. LAFOLLETTE: You studied that in the school?

THE WITNESS: That is right in Stalin's speeches
7103 on the American Communist Party you will find where Stalin himself states it.

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7118 Q. I will ask you this question, then, Mr. Johnson: Do you know of any instance during your membership in the Communist Party of the United States in which the Communist Party of the United States opposed any decision of the Communist International?

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THE WITNESS: During the time that I was in the Communist Party I do not know of one single instance where the Communist Party of the United States has opposed a decision of the Communist International.

. . . . . .

7122 Q. Subsequent to that time did the Party in the Daily Worker advise the members that you had been expelled? A. I was told that such an article was written in the Daily Worker.

Q. Did you ever see it? A. I only saw it a short
7123 time ago.

Q. I show you a copy of the Daily Worker of August 16, 1940, a copy of which has been marked Petitioner's Exhibit 294—

(The document referred to was marked for identification Petitioner's Exhibit No. 294.)

By Mr. Paisley:

Q. —and I call your attention to the item in the left-hand column headed "Workers' Enemies Exposed." Is that the article that you said you read? A. Yes, this is the article that I saw only recently.

. . . . . .

7127 Cross Examination

. . . . . .

7130 Q. Haven't you admitted under oath that you have
7131 testified falsely in some prior proceedings? A. I stated at the time that I testified in the Steve Nelson case in Pittsburgh that when I was asked if I had stated in prior testimony that I worked as an undercover agent for the FBI, I stated in reply to that question that I did not answer that question to the affirmative when asked if I had worked for the FBI because of the fact that during the time I was sworn to secrecy by the Government with regard to that particular phase of the work, and it was only about two weeks or so before I testified in Pittsburgh that the FBI told me that it was not necessary any longer to keep the fact that I was a former undercover agent of the FBI a secret, that I was free to state publicly my past connections and services to the FBI. That was the only instance that I recall in all of my testimony when that sort of question was raised, and I stated there at the time that I was sworn by secrecy at that time not to reveal that or the methods and operations of undercover agents for the FBI. The FBI released me as far as stating my past connections with the FBI, but it did not release me from the secrecy with regard to the methods and operations of undercover agents of the FBI. I so stated that in Pittsburgh and I stated it under oath.

Q. Weren't you asked these questions in that connection in the Pittsburgh case, in the Nelson case, page 4545:

"Do you remember testifying here yesterday that
7132 you didn't tell the whole truth in the International Workers Order trial in New York before the Supreme Court? "Answer: Yes, that is true."

Were you asked that question and did you make that answer?

. . . . . .

7133 THE WITNESS: I don't know whether—I think that that question has been taken out of the text of the testimony. I think the question that you are reading refers to a question that was asked me by the counsel for the IWO at the IWO trial, if I had been in contact with or worked for some agency of the Federal Government, and I stated at that particular time, "No," because I was under oath not to reveal the fact that I was connected as an undercover agent with the FBI. That is what he is referring to there.

By MR. MARCANTONIO:

Q. I am not asking you about the questions asked you at the IWO trial. Do you recall Mr. McTernan? A. Yes. He asked me that question in connection with my testimony on that subject matter at the IWO trial.

Q. You remember being asked this question and making the answer that I have just read to you at the Pittsburgh Trial? A. If it was in connection with that, yes, subject matter.

Q. Then were you asked this question:

7134 "Question: You didn't tell the whole truth in that proceeding because of your instructions from the FBI?"

And did you make this answer: "Yes, I did state that."

"Question: And you were under oath to tell the truth, the whole truth, and nothing but the truth in that case, too, weren't you?"

And you said "Yes."

Is that correct? A. If the record shows that, that was my answer.

Q. Is there any doubt that that was your answer? A. I presume you are reading from the record.

Q. I am reading from the record, but I am asking you do you recall being asked that question and making that answer. A. Yes, I recall that question and that answer.

* * * * * * * * * * *

Q. Do you recall being asked these questions and making these answers, page 4529, by Mr. McTernan:

"Question: You testified as a Government witness before the United States Department of Justice, Immigration and Naturalization Service, in the case of one Nat Yanish at San Francisco, California, on February 26 and March
7135 1, 1948, did you not?

"Answer: The Nat Yanish case was in 1947.

"Question: Didn't you testify in 1948?

"Answer: Yes."

Do you recall being asked those questions and making those answers? A. Yes.

* * * * * * * * * * *

7144 Q. Mr. Witness, I am going to show you the following questions and answers, and in order to save time, Mr. Paisley, we will have these questions and answers read into the record and the witness can say whether or not he was asked those questions. You look them over and then you can say whether or not you were asked those questions and whether you made those answers.

7145 "Question: You are not answering my question. That answer you gave in the Yanish case was not the truth.

"Answer: It was the truth so far as I feel that I had made a prior commitment which involved the security of my Government, and in view of the fact that I feel that I was perfectly justified in maintaining the confidence that the FBI had placed in me.

"Question: Do you regard your obligation to tell the truth when you take an oath—

"Answer: I—

"Question: Just a minute. I want to finish this question and I would like you to wait until I finish it so you will know what it is you are answering. Do you regard your oath to tell the truth in any proceeding in which you appear as a witness to be qualified and limited by your commitments to the FBI?

"Answer: I feel this way, counsel—

"Question: Would you answer my question?"

Then there was colloquy between the attorneys and the court and then the question was read as follows:

"Question: Do you regard your oath to tell the truth in any proceeding in which you appear as a witness to be qualified and limited by your commitments to the FBI? Answer that yes or no.

"Answer: Yes, with a reservation.

7146 "Question: And you took that oath—

"Answer: Just a minute."

Then there is more colloquy between the court and counsel. Then:

"Answer: My reservation precisely is this, that the security of our nation—"

Do you follow me? A. Yes.

Q. (continuing)

"—that the security of our nation requires that the utmost secrecy be maintained with regard to techniques and methods of operation of the Federal Bureau of Investigation, the organizations that are under investigation, the individuals that are under investigation, and for that reason I feel that my promise to the FBI to maintain that secrecy and that confidence is not in the least a violation of any oath that I have taken here; and if counsel wants to consider the fact that I did not reveal the fact that I had been working for

the FBI, which would have been a betrayal of my trust to the FBI at that time, as lying under oath, then let counsel make the most of it.

"Question: Mr. Johnson, in short—"

Then Mr. McTernan and the Court have a colloquy.

"Question: Now, in short, Mr. Johnson, if the FBI tells you not to disclose a fact in the course of your testi-
7147 mony which you are called upon in your testimony to disclose, you will not disclose it; is that right?

"Answer: I would not under any conceivable conditions.

"Question: And if the FBI wants you to lie about something in your testimony when you are asked a question, you will do that also; is that right?

"Answer: The FBI has never on any occasion asked me to lie about anything. The only thing the FBI instructed me to do, not to reveal to enemies of this Government the techniques and methods of operation.

"Question: When you were testifying in the Yanish case you were testifying before a tribunal of the United States Government, weren't you?

"Answer: Beg pardon.

"Question: When you were testifying in the Yanish case you were testifying before a tribunal of the United States Government, weren't you?

"Answer: That is correct.

"Question: And when you said that you had not filed any statement, you were telling a lie, weren't you?

"Answer: If you want to call it that, counsel, you may.

"Question: And you were telling that lie because of your instructions from the FBI, weren't you?

"Answer: I was carrying out the oath and obligations—

"Question: Will you answer my question?

7148 "Answer: I will if you will permit me, counsel. Don't try to put words in my mouth.

"Question: I would rather have an answer than a speech for a change, Mr. Johnson."

There was an objection, then:

"Answer: I was carrying out, counsel, a prior sworn oath that I would not reveal certain information without authorization, and I have maintained that oath.

"Question: Even to the point of lying?"

There was colloquy.

"By Mr. McTernan:

"Question: Is that right?

"Answer: I have maintained that oath and that promise, and under no conceivable conditions will I retreat from it unless I am given the full authorization and clearance by the FBI.

"Question: In other words, you will tell a lie under oath in a court of law rather than run counter to your instructions from the FBI; is that right?

"Answer: If the interests of my Government are at stake. In the face of enemies at home and abroad, if maintaining
7149 secrecy of the techniques and methods of operation of the FBI, who have the responsibility of the protection of our people, I say I will do it, and I will do it a thousand times.

"Question: Under oath?

"Answer: Under oath.

"Question: In a court of law?

"Answer: Yes.

"Question: Before a jury of your peers you will lie?

"Answer: I will do it for the security of this Government when I know that you, counsel, are interested in knowing the techniques of the FBI so that the criminal Communist aliens can use them in order to prevent the effective work of the FBI."

Do you recall being asked these questions and making those answers? A. That is correct.

* * * * * * * * * * *

MR. MARCANTONIO: At this point the Government
7173 stipulates that the witness testified in the case of the People v. Nelson and testified as appears in the

transcript of that case on pages 4654 to 4685 inclusive, commencing at the bottom of page 4654 with the question by Mr. McTernan, "Now this National Training School course," and so forth, down to the answer "yes" in the middle of page 4685.

MR. PAISLEY: Yes, and beginning on page—

MR. MARCANTONIO: I am going to ask preliminary questions on the other one.

Now, Mr. Chairman, pursuant to that stipulation at this point in the record it is stipulated that these questions and answers as they appear in this transcript will be reproduced.

MR. LAFOLLETTE: And does the stipulation include that the witness was asked the questions there appearing and gave the answers as they so appear?

MR. MARCANTONIO: Yes.

MR. LAFOLLETTE: All right.

(The portion of the Witness' testimony referred to, pages 4654 to 4685 of the Nelson case follows:)

* * * * * * * * * * *

7186 Q. Now, referring back to my earlier question concerning the ultimate objective of the Communist Party being to assist in bringing about an economic system known as Socialism, I will ask you whether you were taught that it was in connection with bringing about Socialism that the word 'overthrow' was used in your reading and discussion? A. It was used. The word 'overthrow' was used in connection with the word 'Socialism', yes, it was. It can be found in a number of books and documents used in that sense.

Q. I am not sure your answer completely covers the question. Isn't it true that in your instructions the word 'overthrow' was used in relation to the process of bringing about Socialism or a Socialistic form of society? A. Well, the word 'overthrow' was used in the sense that the bourgeois capitalist system of government would be overthrown and a system of Socialism established. That is the sense in which it was used in my study and according to my best recollection.

7187 Q. I refer again to page 188 of your testimony in the Yanish case. I ask you if these questions were put to you and if you gave these answers:

'Q—I asked you if it was not the ultimate objective of the Communist Party to assist in bringing about a system of economic society which is known as Socialism? 'A—Yes.

'Q—Correct? 'A—Yes.

'Q—And that is what you were taught, isn't it? 'A—I was taught that it was to bring about a system of Socialism, yes, that is correct.

'Q—And it is in that connection that the use of the word "overthrow" appears or appeared in your teachings and in your discussions. Isn't that right? That is, an overthrow of the capitalist system of economic society? 'A—That is correct.'

Did you make those answers to those questions? A. If those questions were asked me and you are reading from the record, I would say yes.

Q. And those answers were correct at the time you gave them, weren't they? A. They were correct at that time and they are correct now.

7188 Q. Fine. Now, in your instructions in the Communist Party the word 'overthrow' was used to mean a basic and fundamental change in the economic system. Isn't that right? A. The word 'overthrow' according to the way that I was taught, meant the complete destruction of the present system of society by a revolutionary change, by the revolutionary destruction of all the governmental forms, a drastic and fundamental change in the economic, social and political structure of the entire nation and its reorganization along the line of a dictatorship of the proletariat.

Q. Now, Mr. Johnson, referring to page 187 of your testimony in the Yanish case, March 1, 1948, I will ask you if these questions were put to you and you gave these answers:

'Q—Isn't it true that the word "overthrow" in the studies that you made from the literature that was made available

to you in your Training School—isn't it true that the use of the word "overthrow" was confined to the idea of a radical change in the economical system? 'A—basic and fundamental change.

7189 'Q—Isn't that correct? 'A—A basic and fundamental change, I would say.'

Did you make those answers? A. Yes.

Q. Were they correct at the time you gave them? A. That is correct.

Q. And they are correct now, aren't they? A. Yes.

* * * * * * * * * *

7192 Q. And you were taught, were you not, that the political understanding of the people, as we have used this phrase in the last few questions, meant, in short, their awareness that the ills of capitalism could be finally and completely solved only by a transition to

7193 Socialism? A. No. We were taught that the only way that the problems of the mass of the people could be finally solved was by the overthrow, revolutionary overthrow, of the capitalist system and the establishment of a Soviet form of Government.

* * * * * * * * * *

7197 Q. And you were taught, were you, Mr. Johnson, that a small group like the Communist Party, not having the support of the majority of the people, would attempt to obtain political power? Let me rephrase that somewhat, because obviously all efforts are efforts to obtain political power after trying to convince people of a program. You were not taught that a small group, such as the Communist Party was, when you were a member of it, not having the support of a majority of the people, would attempt to bring about a revolution, were you? A. We were taught that the Communist Party would not attempt a revolution in the United States unless it was in a position to win it, that is, to carry it through successfully.

Q. Including having the support of the majority

7198 of the people? A. Yes.

* * * * * * * * * *

7201 Q. We will just go back a moment. Then it was, was it not, a process of education through political experience? A. Through a process of education, through the involvement of people in daily struggles, rising higher and higher through political understanding and through political consciousness to the degree that they will accept the leadership of the Communist Party; and in attaining such a high point by the Communist Party they could carry through successfully a change in the existing form of government through the medium of revolution.

• • • • • • • • • • •

7202 Q. All right. Weren't you taught that a revolution involving an effort to bring about this basic and fundamental change we have been talking about would occur only at a time of deep economic crisis? A. Yes.

Q. You were not, while you were a member of the Communist Party, taught anything concrete or practical about seizing power in the United States; your discussion was on a purely theoretical basis, wasn't it? A. In the school it was on a theoretical level, that's true, and it was based on the practical revolutionary experiences of the Bolshevik Party of Russia, the lessons of the French revolution. In short, it was based primarily upon the accumulative revolutionary experiences of the ages, and this revolutionary experience served as a sort of guide in our work to carry through revolution in this country.

• • • • • • • • • • •

7204 Q. You were taught that the Communist Party intended that the revolution could be accomplished by peaceful methods of persuasion and explanation weren't you? A. No. We were never taught that.

• • • • • • • • • • • •

7206 Q. Let me ask you, Mr. Johnson, referring again to your testimony in the Yanish case, page 235,—that is your testimony on March 1, 1948,—whether you gave this answer:

'A—I was taught that Trotzky disagreed with Lenin inso-

far as the continuation of the revolution in Europe was concerned. Lenin had this point of view that the seizure of power in Russia should, for the time being, end there, and there should be a consolidation of the workers' power. Trotzky wanted to use the Workers Army to march into other countries of Europe at that particular time and assist the Communist forces in those countries to establish a Communist government and a dictatorship of the proletariat in those countries. In other words, he (referring to Trotzky) wanted to use that historic period to forcibly establish a similar type of government that they had in Russia at that time.

'Q—And it was because of that basic disagreement that Trotzky was expelled from the Soviet Union; isn't that right? 'A—It was because of that difference he was expelled.'

7207 You gave that testimony, didn't you? A. Yes.

Q. And that testimony was true at that time? A. Yes.

* * * * * * * * * * *

7343 **Frank Strauss Meyer** called as a witness on behalf of the Petitioner, having been first duly sworn, has examined and testified as follows:

DIRECT EXAMINATION

* * * * * * * * * * *

BY MR. STORY:

7344 Q. Mr. Meyer, were you at any time ever a member of the Communist Party? A. I was.

Q. Where and when did you first join the Communist Party? A. In 1932 in England, the Communist Party of Great Britain.

Q. Prior to the time you joined the Communist Party in Great Britain had you been associated with any Communist Party groups? A. I had been the founder and the first president of the Oxford University October Club, which was a club which technically was organized for the study of Communism. Actually it was rather a propaganda group.

Q. Mr. Meyer, were you associated with any Communist Party groups while you were attending the London School of Economics?

. . . . . .

7346 Q. Mr. Meyer, you have testified that you left the London School of Economics in the spring of 1934—A. There is an error in that, as a matter of fact. I suddenly remembered something. As student work I was not associated with the YCL, but in the summer I did some very active work in the YCL during two of those years and was
7347 associated with the secretariat of the Central Committee of the British Young Communist League during that time.

MR. LAFOLLETTE: Will you ask your last question again, please?

By MR. STORY:

Q. You have testified that you left the London School of Economics in the spring of 1934. Did you leave the London School of Economics voluntarily? A. No, sir. I was expelled.

Q. Why were you expelled? A. I had been elected President of the Student Governing Body which at the London School of Economics is called the student union, and in the course of political campaign against the authorities of the school—Sir William Beveridge was director at that time—we ended our campaign with an act of open defiance of the authorities and I was expelled.

Q. Did you remain in England after you were expelled from the London School? A. A month or two.

Q. Where did you go after leaving England? A. Immediately to Paris.

Q. Was your trip to Paris connected in any way with Communist Party activities? A. Yes. I went there to work for a couple of months. I wasn't certain what I was going to do next, but immediately started work on the
7348 preparations for a world student and youth congress against war and fascism under the aegis of the World

Committee Against War and Fascism, the Amsterdam-Playel Committee.

7350 Q. When did you arrive in the United States? A. July, I believe, 1934. It was summer, anyway.

Q. Were you connected in any way with the Communist Party of the United States after you returned to the United States? A. I was.

Q. When did you get in touch with the Communist Party? A. I had a transfer in the form of a letter of introduction from Harry Pollitt, the secretary of the Communist Party of Great Britain, addressed to the head of the Communist Party of the United States, which discussed the work I had been doing and my position and introduced me to them for transfer to the American Party.

Q. Who was Harry Pollitt? A. He was general secretary of the Communist Party of Great Britain.

Q. Did you retain a copy of this letter? A. No, sir.

Q. You have stated that this letter was in the form of a letter of transfer. What do you mean by that, Mr. Meyer? A. I mean that just as if I had moved from one section of England to another or from one section of the United States to another as a member of the Communist Party and

7351 Communist International through the Communist Party, I was transferred. That is to say, I had to be introduced to the authorities of the new section to which I came both technically in terms of the transfer of membership and practically in terms of my ability, my position in the movement, where I had been, what I was capable of, and so on.

Q. Did you fill out an application to join the Communist Party after you arrived in the United States? A. Of the United States? No, sir. I didn't have to. It was a transfer from one section of the movement to another.

Q. What movement? A. The Communist movement, the Communist International in this case.

7357 By MR. STORY:

Q. Mr. Meyer, did you go to Canada to attend the Canadian Congress against War and Fascism? A. Yes. As I say, after this period I then went up to Canada.

Q. Approximately when did you go to Canada? A. It is hard to remember. It must have been either late August or early September. I was around New York for a month or a month and a half. I don't remember.

Q. Did you attend any other conventions or conferences while you were in Canada? A. The convention of the Canadian Student League, and the convention of the Young Communist League of Canada.

Q. Did any of the leaders of the Communist Party of the United States attend any of these conferences?

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MR. STORY: This is testimony showing the World Communist Movement.

* * * * * * * * * * *

7358 Q. Will you answer the question? A. Gil Green and Max Weiss formed a delegation from the Young Communist League of the United States.

Q. What position did Green and Weiss hold at that time? A. Green was the national secretary of the YCL and a member of the Central Committee of the Communist Party as well, and also I think at that point fourth secretary of the Young Communist International. Weiss I am pretty sure was national educational director of the YCL. Whether he was a member of the Central Committee of the Party or not I do not know. There were several leading YCL'ers who were.

Q. Mr. Meyer, after you had returned from Canada were you given any assignment by the Communist Party of the United States? A. Yes. There were some discussions with this delegation in Canada. As a matter of fact, the Canadians wanted me to stay there for awhile and work there, but it was finally decided that I should go to Chicago for a

month or so and participate in the preparations of the Youth part of the Second United States Congress against War and Fascism and the final decision as to what I should do would be made in Chicago upon the conclusion of that conference or in conversations during the work.

7359 Q. Did you go to Chicago? A. Yes, sir.

Q. When did you arrive in Chicago? A. I have just been thinking that my date on the other must be out a bit because this Congress was certainly as early as September. That is to say, I am trying to cover the summer and I am not quite sure how the summer was divided but it must have been in September.

MR. LAFOLLETTE: What must have been in September?

THE WITNESS: The Congress in Chicago. Because I entered the University when it opened and the Congress was over.

MR. LAFOLLETTE: What time did you say you were in Canada?

THE WITNESS: I think I said August or early September. It is still possible that was the case but since I don't know whether I returned in late July or early July it is difficult.

By MR. STORY:

Q. Were you given any other assignments by the Communist Party of the United States after you arrived in Chicago? A. After the second United States Congress against War and Fascism was over and the final decision was made, it was agreed that I should stay in Chicago and continue graduate work at the University.

7360 MR. LAFOLLETTE: Who were the leaders?

THE WITNESS: Gil Green and a man named Max, who was the representative of the Young Communist International, and Max Weiss.

. . . . . .

Where did these conversations take place?

THE WITNESS: In Chicago, after the Canadian business where the question of what I was going to do had been

discussed. I was assigned to become the Secretary of the Youth Section of the American League against War and Fascism in the Illinois-Indiana area, and also drawn into the work of the District Bureau of the Young Communist League for that same district and also made responsible for the Party work on the campus of the University of Chicago, where I was a graduate student.

MR. LAFOLLETTE: Let me ask you something. You say you were assigned to become secretary. Were you assigned to become a candidate for secretaryship or how was that assignment to be made?

THE WITNESS: Since the Party really controlled the Congress and the local Congress, the state congress, com-
7361 pletely, the Party said "You will have this job."

When the Nominations Committee of the Congress came in my name was on the Nominations Committee slate because the Party controlled the Nominations Committee.

MR. LAFOLLETTE: All right.

THE WITNESS: And nobody objected.

MR. LAFOLLETTE: Was there any contest or vote?

THE WITNESS: The Nominations Committee report was accepted.

. . . . . .

7375 Q. Mr. Meyer, you have testified you were the educational director for the Indiana-Illinois District for a certain period of time. Were any full time Communist Party schools organized during this period? A. Did you say full time schools?

7376 Q. Yes. A. Yes, sir. There were a good number.

The regular district schools of the Party were run once, sometimes twice a year, which are the longest and most important of the full time schools, and they ran 3, 4, 5, or 6 weeks.

MR. LAFOLLETTE: Excuse me. By full time school you don't mean a school beginning in September and ending in June?

THE WITNESS: No, sir.

MR. LAFOLLETTE: You mean a school at which people give their full attendance over a limited period of time.

THE WITNESS: That is right. Drop their job or whatever they are doing and work from morning to night at the school.

MR. LAFOLLETTE: Thank you.

THE WITNESS: These are Party schools, only for Party members. Then there were others of various types. We would run maybe perhaps a school for two or three weeks for trade unionists, party trained unionists or maybe one for a couple of weeks for professionals or we would organize a series of sectional schools where for four or five days in half a dozen of the more important sections we would run very brief intensive ones. Or perhaps we would get together a group of people who had time available because of off season occupation in a given industry and would run
7377 a week's school. There was a network of full time party schools, the most important of which was the district school itself.

By MR. STORY:

Q. Did you have anything to do with organizing the schools? A. I was responsible solely for that. That was one of the aspects of my work.

Q. Did you participate as instructor in any of these schools? A. Occasionally, yes. I should say in most of them or many of them for one or two or three days in one of the sections of the curriculum. I was in and out. We had other people doing the teaching.

Q. Were these schools limited to Communist Party leaders? A. Oh, Lord, yes. I am sorry, yes.

Q. Were any steps taken to conceal the existence of these schools or were they openly held?

. . . . . .

Q. Were these schools publicly announced in any way? A. Never.

Q. Were any steps taken to conceal the existence
7378 of these schools?

. . . . . .

THE WITNESS: Schools of this type were limited so far as knowledge of them was concerned to leading committees of the Party responsible for their operation, to the students in them, and sometimes to the person responsible for the work in the Party. In other words, the only people who were supposed to know about them were those who organized them and the district bureau, the district leadership on the one hand, the students who were selected and in many cases if one of the students selected was a section educational director, the section organizer who was responsible for his work or the person responsible for his work in some other activity, because steps had to be taken in that case about his work and so on and so forth. Otherwise, they were completely limited as far as knowledge of them was concerned. They were conducted altogether to maintain that concealment.

By MR. STORY:

Q. Please tell the Panel what precautions were taken by the organizers of these schools to conceal the exist-
7379 ence of the schools. A. This would vary from time to time. At times simply almost formal ones. Simply not speaking about them, and holding them in a place where no one would be around. At other times extremely severe precautions were taken.

Q. What were those precautions? A. During such periods, say, as the 1939 to 1941 period, the whole organization was on a conspiratorial basis; that is to say—

* * * * * * * * * *

7380 THE WITNESS: I used the word conspiracy rather technically. The schools were conducted in those ways which in the Party were called in accordance with the rules of conspiracy. That is to say, a series of precautions were taken which one tended to learn in upper Party activities as being the rules of conspiracy. I will tell you exactly what I mean. Those who were going to the school were

notified, made arrangements if they happened to be workers to take a leave of absence from their job or whatever it might be, without saying the reason why or rather making an excuse for it. None but perhaps their organizer
7381 in the area they were in or the work they were in knew what they were doing. To their other Party members they were simply taking a leave of absence or were doing some other work. They would arrive, let us say in Chicago, if the school were being held there, and they usually were held in or around Chicago; and go to a house of a party member who was not publicly or widely known, would there be contacted, gotten in touch with, and notified where to report, which would be either— in the summer we have held them at the Camp which was run by the Party which was a sort of recreation camp but had sections which could be used for this purpose, or in winter and when we were more conspiratorial in workers halls belonging to one of what is called in the Party language organizations such as to say the Hungarian Federation or this or that. I don't know really in all cases to whom these halls belonged. We referred to them as the Russian Hall or the Hungarian Hall or whatever it might be. There are these language organizations of an insurance kind that go back to the old days of the Soviet Party. For such a hall arrangements would have been made in advance. The students would meet in groups of one or two and go to the hall, timing their arrival so that not more than one or two people would arrive at once and so that there would be no influx of people. In these periods the schools were very small, eight, nine, ten or eleven students. The instructors would arrive in the
7382 same way. All papers during the day would be burned at the end of the day. The books would be removed from the room used at night in suitcases so that the Hall was then in its perfectly normal appearance. Of course the students were told never to use the telephone in the building. Their letters from their wives would come to either the address they were staying at or some other address they were given in Chicago. They would be completely isolated

from the Party in Chicago while they were at the school. Their social activities or what social or cultural or progaganda activities they had would be conducted as a group at night. I could probably think of other things, but essentially when I say rules of conspiracy I mean they were isolated effectually, any idea of what they were doing, from anybody but a few people in the Party, and all measures were taken to maintain that, which are in terms of what the Party calls rules of conspiracy, of not talking to anybody that doesn't have to be talked to about a thing, of maintaining complete protection of written material, of not discussing on the telephone any such questions, and so on.

MR. LAFOLLETTE: May I ask you this: You were the head of the educational section which you testified was in effect the subsequent organization of the old agit-prop organization. Would you yourself hire the halls?

THE WITNESS: The type of hall I am thinking of
7383 belonged to groups that had once been language federations before 1919. We simply would go and see the head of the language organization or the Party leader in the language organization who very often was the head and say we wanted a hall. We wouldn't even tell them what for. We wanted it at such and such a time for so many days and usually it was all right. They might have something on and we would have to try another one.

MR. LAFOLLETTE: Would you do that personally on any occasions?

THE WITNESS: Always personally, or someone working directly under me would do it.

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7384 Q. Mr. Meyer, what textbooks were used, if any, at these schools that you organized?

MR. ABT: May we have the date, Mr. Chairman?

MR. LAFOLLETTE: I think we have the date. I don't remember it, but it is in the record. It doesn't hurt to give it again.

THE WITNESS: The dates on which I was responsible for this work directly was 1938 to 1941.

MR. LAFOLLETTE: I thought that was it. Go ahead.

7385 THE WITNESS: The fundamental textbooks used before the History of the Communist Party of the Soviet Union appeared—that must have appeared late in 1939, but I can't date it exactly. I can date it by epoch. It appeared during that general 1939 to 1940 epoch, but I think it appeared in late 1939 or it might have been early 1940. At any rate before that appeared the major text books used, at the core of the whole problem—there were others used but the essential ones always were the Communist Manifesto of Marx and Foundations of Leninism by Stalin. The whole course of Marxism-Leninism was organized around these two. Then, so to speak, radiating from them were special problems: Lenin's State and Revolution, Lenin's Imperialism, Stalin's Problems of Leninism. I should say these were the central ones, except at one point also, I think in the earlier part of this period primarily, there were three rather widely used textbooks of excerpts from the writings of Marx, Engels, Lenin and Stalin. One was called Strategy and Tactics, another the Theory of the Proletarian Revolution, and another one the Dictatorship of the Proletariat. After the History of the Communist Party of the Soviet Union appeared it became the Central Textbook.

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7408 Q. Mr. Meyer, you have testified concerning the campaign prior to the time the History of the Communist Party of the Soviet Union was published in this country. Was the History of the Communist Party of the Soviet Union used by the Communist Party in its training or instructions after it was printed? A. Yes.

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Q. How was the history of the Communist Party of the Soviet Union used after it was available for distribution? A. It became, as I think I stated before, the central Marxist-Leninist textbook, the central textbooks for the teaching of Marxism-Leninism, and I think to explain how it was

used it is necessary to say a word or two about the way the book itself is written and organized.

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7409 THE WITNESS: When I say how it is organized I mean there is a definite scheme in the organization
7410 of it. I don't want to speak so much of the substantive content but of the way in which the chapters are organized, particularly the first half dozen or so. The same general principle applies to the rest of them, but it is clear as to the first half dozen. It is a history of the Communist Party of the Soviet Union, Bolshevik. Each chapter begins with a description of the political and social situation at the time in Russia. Then it discusses the development of political struggle at that time. Then it puts forward the kind of task faced the party. Then it shows the ideological struggle that took place within the Bolshevik Party at the time, and before the Bolshevik Party within the Russian Socialist Democratic Labor Party, about this problem, and then summarizes, first, the actual steps that were taken concretely at that time by the Party and secondly theoretical principles deduced from those concrete steps. As a matter of fact, it summarizes thereby a number of the leading documents of Leninism. That is to say, in that last section of which I just spoke, one chapter would summarize one book which Lenin wrote polemically at that time; in another chapter, another book.

As to how it was used, in teaching it wherever I had any experience with it, and this was both the general directive which reached me as to how it was to be done and those which I passed on and the training of teachers which I gave and caused to be given, the approach was this: The
7411 historical part proper, that is to say the description of the Russian situation, was very quickly summarized, or if it was a type of school where there was time for the student to read, he was told to read it. It was very briefly discussed in class simply to get the salient points, to get, so to speak, the problem. Then essentially the question

was asked as to how did the Russian Bolsheviks solve this problem? What problems were facing them, what were the issues, how was it solved? Then from that, what general principles of guidance to a revolutionary party can be deduced that are permanently correct in the modern period of time?

In other words, the major material of the book, not necessarily the major in content in terms of number of pages devoted to it, but the essential core of each chapter was the general theoretical principles derived from the Russian put to the students as general principles of revolutionary action which they were then to discuss in terms of the whole total current situation in which they were working, in terms of other historical examples and so on, in order to learn from it, I think the statement of it was, not a dogmatic but a living guide to revolutionary action from the experiences of the Bolsheviks and the writings of Lenin and Stalin.

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7413 MR. STORY: I thought my question, Mr. Chairman, asked the witness if the same textbooks were used during the period of the Communist Political Association as were used during the prior years by the Communist Party of the United States.

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7414 THE WITNESS: To the best of my knowledge, which was derived both from teaching at the Jefferson School and from conversations engaged in at other Party educational activities, there was a profound de-emphasis during this period of the basic textbooks of Marxism-Leninism. I can't say that they were never used, but they were certainly de-emphasized, to a considerable degree passed over, and central teaching was around the current documents of the Party, particularly Earl Browder's Teheran pamphlet; "Tehran Road to Peace," I believe, and the other national committee documents, speeches of Browder and so on, which put forward and amplified the

so-called Tehran line, which was the line of peaceful co-existence of the United States and the Soviet Union and peaceful transition to socialism.

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7422 Q. Mr. Meyer, during your membership in the Communist Party did you meet any representative from the Communist International in the United States? A. On one occasion there in Chicago I met a man who carried the name of Edwards, who was at that time the representative of the Communist International in the United States.

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BY MR. LAFOLLETTE:

7424 Let me ask you, from whom did you first hear the name Edwards?

THE WITNESS: I think, as a matter of fact—in fact
7425 I am sure—that before I left England in talking over with Pollitt the American Party and giving me one or two personal messages to friends of his here, I asked him who was the rep in the United States at the time and he told me Edwards was the rep and had been for a year or two.

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BY MR. STORY:

7436 Q. Did you know Edwards by any other name in the United States, Mr. Meyer? A. Some years later I met him under the name of Berger for a few moments, considerably later, in 1944 I guess it was. I didn't
7437 know him under any other name, except in so far as newspapers are concerned.

Q. Did he have a first name or was Berger all you knew? A. Hans Berger.

Q. Did you know Edwards by any other name in the United States at any time? A. Personally? No, I didn't. I only know what I read in the paper.

Q. Did you see Edwards' picture in the paper at any time? A. Yes.

Q. Did you recognize him as the Edwards that you had met in Chicago and also in New York? A. Yes, sir.

Q. What name was in the newspaper? A. Gerhard Eisler.

Q. Mr. Meyer; was the Communist Party of the United States a member of the Communist International during your membership in the party? A. Up to the passage of the Voorhis Act, yes, sir.

Q. What was the date of that? A. That I am not entirely sure of. It must have been in 1939 or 1940. It was during that period, but I can't remember the exact date of it. 1940 I am pretty sure, but it may have been late 1939.

7438 Q. What did the Communist Party do at that time? A. Disaffiliated from the Communist International.

Q. Were you present at any meeting at any time when the reasons for this disaffiliation was discussed? A. I was present at the State Committee meeting at which the small delegation to the emergency convention which did the disaffiliating reported back to the Illinois-Indiania District.

Q. What was the substance of that report? A. The substance of that report was that what had been done was a simple act of expediency, that it changed nothing fundamentally or significantly, and that it had to be done in order to preserve the legality of the Party.

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7439 Q. Mr. Meyer, during your membership in the Communist Party of the United States, were any of the members of the Party sent to Russia to school?

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THE WITNESS: Yes.

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Q. Do you recall the names of any of the persons who were sent to Russia to school? A. Morris Childs had been to school in Russia.

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7442 Q. Do you recall the names of any other members of the Communist Party in Chicago that attended a Communist Party school in the Soviet Union? A. Ray Hansborough.

Q. How did you gain that information? A. From conversations with him about the school.

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Q. Mr. Meyer, during your membership in the Communist Party were members of the Party open members of the Party or concealed members of the Party? A. They were both.

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7443 Q. Were any particular groups of the Communist Party retained as concealed members of the Party? A. Apart from the individuals who might be for special reasons in the individual case, the groupings that were usually so concealed were trade unionists, mass organization leaders, professionals, people whose value to the Party or personal careers might be seriously interfered with by being know as open members.

MR. LAFOLLETTE: How did they conceal it? How did you know they were concealing it? They were concealed from whom? Were they concealed from you?

THE WITNESS: No, sir. There were some who were concealed from me unquestionably who were members at large. Even though I was one of the top people in the district, there were members that I only knew of as existing without knowing who they were. These were a very few. Others, let us say, a group of professionals, would be known to each other and to the section organizer of that section and to leading people from the district who had activities to do with them, but their membership otherwise would not be known either to other Party members or to the
7444 public. Others might simply take precautions in some mass organization they were working with or in some place of employment and be fairly open elsewhere. There was a whole graduation of degrees of secrecy, including some members at large whose names I knew of. For example, when I was membership director, in answer to that last question, I received dues for about 35 members at large or 15 members at large, something of that sort, 15 or 20 of

those I never knew who they were. I never knew what their identity was. They were solely in touch with the district organizer or perhaps some other leading member. This was the extreme concealment that I spoke of.

By MR. STORY:

Q. What do you mean by an open member of the Party? A. An open member of the Party would be a member who in no way or nowhere concealed his identity as a Party member, and acted as a Communist at all times, and admitted the fact or was proud of the fact. I was an open member, for example. I never concealed it.

Q. Mr. Meyer, during your association with the Communist Party were members given any instruction concerning the disclosure of their membership to police or other governmental officials.

MR. ABT: I object.

MR. LAFOLLETTE: From your own personal knowl-
7445 edge tell us what you know about it. The objection is overruled.

THE WITNESS: Yes. Certainly members were all indoctrinated not to cooperate in any way with law enforcement authorities on that question. That is, if they were going to a demonstration they were instructed, if arrested, not to admit they were members of the Communist Party. Others who were in special situations where they were not supposed to be members of the Communist Party by law or by custom, were certainly instructed not to admit the fact, and so on.

By MR. STORY:

Q. During what period of time in the Communist Party was this true? A. To a greater or less degree throughout my experience in the Communist Party, varying from time to time in quantity and number.

Q. You were a member of the Communist Party of the United States during what period? A. From 1934 until I went into the Army, and again upon being out of the Army until the dissolution of the Party and the establishment of

the CPA, and then technically a member of the Party as late as January 1945.

Q. In 1945— A. In 1945 I was technically a member. For practical purposes I was considered a member until the explosion. It just so happens that I was so torn by doubts that I didn't re-register and nobody noticed it in
7446 January 1945. But I was associated with the Party up through practically January 1946.

Q. Did the Communist Party of the United States keep any records during your association with the Party? A. What sort of records?

Q. Any kind of records. A. The financial records which were kept by the District Organization and by certain organizations like the Workers' School, the framework of records, let us say. They contained no important transactions. They were simply legal records for tax authorities and public view.

Q. Were any other records kept by the Communist Party during your membership? A. In the normal sense of the word I would say no membership records, for example. There were ways of knowing how many members there were in sections, units, and so on. I wouldn't call them records. That is to say, a district or section membership director would have a chart—I was district membership director, so I would have a chart—which divided each district into sections and I would know the number in each section. In turn the sections would be divided into branches and I would know the number in each branch. The section membership director would have a pretty good idea of the names of those in the most important branches. Particularly in the period 1939 to 1941 they were strictly forbidden to
7447 keep them in written form. They might be identified in some form of nemonic (sic) initial or nickname or something like that, and so on, down to the bottom, where the branch membership director was strictly instructed to keep them in his head and in his head only. So in the strict sense of the word they were not records.

Q. Were you given any instructions while you were membership director to keep your records by this method? A. Yes, sir; because I was membership director during this period of extreme precaution, and both these and other precautions were general. The actual methods I used I may have worked out for myself, but the instructions were to the effect of no identifiable lists of names, records of that sort, and so on.

MR. LAFOLLETTE: From whom did you receive these instructions?

THE WITNESS: The district organizer.

MR. LAFOLLETTE: Verbally?

THE WITNESS: Verbally.

By MR. STORY:

Q. How were finance transactions recorded during this period? A. Those that could be—

MR. ABT: May we have the period? I am not clear what period we are talking about.

7448 MR. LAFOLLETTE: You are talking about the period during which he was a membership director.

MR. STORY: That is right.

MR. ABT: The entire period of membership?

MR. LAFOLLETTE: The period during which he was a membership director in Chicago, as I understand.

THE WITNESS: The expenses such as rent, salaries of known Party leaders, and so forth, some of them at any rate, were passed through the books in ordinary check form. That is to say, transactions about which there was no desire to maintain any secrecy. All other transactions were in cash.

MR. LAFOLLETTE: How did you pay the rent?

THE WITNESS: I think we probably paid it in check. I am certain that that general type of thing was paid by check. The rent would be paid by check because it was an office building.

By Mr. Story:

Q. How often were membership books issued by the Communist Party? A. Every year, so far as I can remember.

Q. Were membership books issued for all the years that you were a member of the Communist Party? A. I think for every year with the exception of 1940 or 1941, one of those years when the Party felt it was facing illegality and books were not issued at all. It was either 1940 or '41.

7449 Q. Were you present at any meetings when the reasons for not issuing books were discussed? A. Certainly at meeting of the organizational and educational commission, which was the operative organ of the Chicago District when a number of problems were taken up with regard to the Party's fear of approaching illegality, that was one of the questions discussed.

Q. Were any reasons given for not issuing membership books?

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The Witness: To protect the members.

By Mr. Story:

Q. To protect them from what? A. From any consequences that might ensure from what the Communist called an attack on the Party. To keep the apparatus of the Party in such shape that it could function even if the Party were illegal.

7450 Q. Mr. Meyer, were any members of the Communist Party identified by aliases or party names during your membership in the Party? A. Certainly a number of leading party members' names were not those they were born with, and—we were talking of records before—real names were never used in records and very rarely used in Party books. In Party books some alias was put in for a great many, if not most Party members.

Mr. LaFollette: How about Childs?

The Witness: I don't really know whether Morris Childs' name was on it or not. I do not believe it is, but I don't know.

MR. LAFOLLETTE: So far as you know, he has never used any alias other than Morris Childs?

THE WITNESS: No, sir. So far as I know.

MR. LAFOLLETTE: As long as you knew him he used the name of Childs?

THE WITNESS: Yes.

MR. LAFOLLETTE: All right.

By MR. STORY:

Q. Were all members of the Communist Party allowed possession of their membership book? A. In the professional units that I had to do with, the professional section in Chicago, the books were usually kept en masse for all members of the unit by the unit financial secretary.

7451 Q. Was this during the period that you were membership director? A. Yes, sir; and also during the period I was educational director this was the custom in most of the professional units, if not all.

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Q. Why did you use this system in the Communist Party during the time you were a membership director? A. This question of keeping the books together?

Q. Yes. A. Essentially because they were members who did not admit their Party membership, who were concealed members, who didn't want to have anything around the house, whatever to prove that they were members. Hence, by not having their books there was one more possibility of exposure removed.

MR. LAFOLLETTE: But the person who did keep the books had them all?

THE WITNESS: He kept them in some safe place,
7452 presumably.

MR. MARCANTONIO: I didn't get the last question by the Chairman and the last answer.

MR. LAFOLLETTE: I said the member who did keep the books had them all, the books of the people who were concealed. The witness' testimony, Mr. Marcantonio, has been

that a section leader or professional or concealed member would keep all the books.

THE WITNESS: Usually the unit financial secretary.

MR. MARCANTONIO: What books did he keep, the membership books?

MR. LAFOLLETTE: The membership books.

By MR. STORY:

Q. Mr. Meyer, when new membership books were issued what happened to the old books, if you know? A. During the time that I was a member they were collected. The old book was taken back, and the member was re-registered and the new book given out.

MR. LAFOLLETTE: Were there any numbers on the book?

THE WITNESS: I think the books were numbered. Yes, they were specifically, and checked one against the other, at least in the year in which I was doing the job.

By MR. STORY:

Q. Mr. Meyer, during your association with the Communist Party in Chicago did you at any time have an
7453 office in the District Headquarters? A. During the entire time I was a full time functionary, I had an office there.

Q. What were the dates? A. From early 1938 to summer of 1942.

Q. Were any steps taken to conceal the activities of the Communist Party in and around the district office?

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THE WITNESS: A number of steps were routinely and more or less thoroughly carried out. It was against all policy to use the Party telephone. The formulation was not to use the Party telephone for any conversation that you would not like for a member of the FBI to overhear. As a matter of fact, that telephone instruction was carried a bit further. It was not regarded as wise to use any of the phone booths in the immediate neighborhood of the Party office or to make

more than two or three or four phone calls from the same booth.

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7454 THE WITNESS: Further, nothing but mimeographed documents, no letters or detailed information or names were to be left in Party desk drawers overnight, nothing but books or materials that existed in sufficient quantity to be widely circulated anyway. It was also the habit not to mention anyone's name who was not an open Communist aloud in the Party office. All leading meetings or most of them at any rate of the small committees were held outside of the Party offices in private homes, especially arranged for in advance.

By MR. STORY:

Q. Mr. Meyer, how was important Communist Party mail handled during your membership in the Party? A. It wasn't sent out. I know only from my own experience. I never organized such an apparatus. It was handed to the person in charge of the office who disposed of it through special addresses, cover addresses to wherever it had to go. That is to say, the addresses of private individuals who were not suspect, to which it was sent, and mail to the Party district office in turn came the same way.

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7455 Q. Have you taught anything as to what other members of the Communist Party should do in the event they were called upon to testify? A. The total understanding—

MR. ABT: Just a moment. I object. The witness was
7456 asked whether he ever taught anything. He can answer that yes or no.

THE WITNESS: I misunderstood the question, I am sorry. Yes, I did teach.

MR. LAFOLLETTE: All right, what did you teach?

THE WITNESS: I taught essentially this—

MR. ABT: When and where, Mr. Chairman.

THE WITNESS: I taught over a long period of time in Party schools, in Party unit meetings where such questions had arisen, this doctrine: That there is no moral law for a Communist Party member except the success of that to which he has dedicated himself, that is to say, the classless society, which in turn means—this is what I taught—

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THE WITNESS: That the basis of all moral acts by a Communist is the question, do they or do they not help to achieve the victory of the classless society, which in turn
7457 comes down to and means, do they or do they not help the Communist Party? Therefore, no oath, no statement in court, no consideration of any kind can come before the question of whether it helps or hurts the Party. Therefore, of course they were to testify or to make affidavit or whatever it may be in accordance with the needs of the Party at that time and irrespective of the actual truth.

By MR. STORY:

Q. Mr. Meyer, was the membership of important committees of the Communist Party reduced at any time during your association with the Communist Party? A. Yes, sir.

Q. When were these committees reduced? A. In the period between 1939 and 1941 when other steps for security were being taken.

Q. What committees were reduced in size? A. The National Committee, the State Committee, and some of the section committees.

Q. Were you present at any meetings of the Communist Party when the reasons for this reduction in size was discussed? A. The same meetings I referred to previously, in which the whole question of preparations to safeguard the Party were taken up, and the reasons given were to
7458 safeguard the Party.

Q. Did the number of members allowed in small units of the Party change at any time during your membership in the Party? A. On a number of occasions during my

membership. When I first came to the United States the average basic unit ran from 12 to 20, never very much larger. In the period around 1936 a number of these were combined in the neighborhood or large industrial branches, which ran anywhere from 50 to 100. Then again in 1939 to 1941 that I was speaking of these were broken up into groups of five or six. Then again after the Hitler attack on Russia and the general change of political climate they were enlarged again to their older form.

Q. Were you the membership director at the time the basic unit of the Party was reduced in size? A. I don't believe so. I think that occurred just before I became membership director.

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7459 Q. Mr. Meyer, did you attend any meetings at any time of the Communist Party where plans were devised to take the Communist Party underground? A. I attended meetings of the group, the meetings I spoke of a little earlier, where among other security measures we discussed preparing for actual illegality as well as in preparatory stages, yes, sir.

Q. What plans were made at the meetings that you attended?

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7460 THE WITNESS: Apart from the steps I have already spoken of which have some relevance to this question, the ones I was concerned with were preparations of stocks of mimeograph paper, ink, mimeograph machines at different places, packets of books and study outlines to be prepared and put away and scattered about the district. This type of thing in connection with the agitation and propaganda apparatus. In every section we got a large good mimeograph machine and for every branch we were supposed to get some form of duplicator of one kind or another. There was a scattering of study outlines and a collection of basic books where they could be called upon and available. Steps were taken whereby leaders down in the

subsection or branch levels were prepared for these alternate places of living and alternate leaders with whom contact could be made. The actual immediate step was taken, even at that time, of transforming the connections of the district organization with the sections and sub-sections immediately by giving up the process of having regular meetings of the section organizers, the sectional directors and the section membership directors which used to be held weekly on a district basis, and assigning to each member of the Central District core a small area, a third or a quarter of what had been the section, with a new section organizer, through whom he was to receive and transmit all directives. So instead of a network coming out of five or six lines of communication, all communication between district
7461 divisions and the subsections and branches were to go through one source which then spread it out through the smaller branches being set up.

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7464 Q. During this period what was taught in Communist Party schools concerning the allegiance that members of the Communist Party of the United States owed to the Government of the United States?

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THE WITNESS: The doctrine that seems to me touched most clearly and directly on this was the doctrine that the Soviet Union represented the first workers breach through the walls of capitalism, had become therefore a fortress for the international revolutionary movement, one whose loss would be irreparable, so that the defense and protec-
7465 tion and expansion of that fortress was the first task of the revolutionary movement and the Communist movement under any and all circumstances.

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7466 Q. Mr. Meyer, do you recall an article written by Jacques Duclos, a French Communist, concerning the Communist Party of the United States? A. Very well, sir.

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7467 Q. Did you read the Duclos article in Political Affairs? A. Not for the first time, but I read it in there, studied it in there. I have seen it elsewhere.

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7468 Q. Did you hold any position in the Communist Party of the United States at the time that article was first published? A. I was teacher at the Jefferson School, writing for the New Masses.

Q. Did you attend any Communist Party meetings or conferences at which this article was discussed? A. On a couple of occasions, yes.

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7469 Q. Did the National Board, Executive Board of the Communist Party take any action concerning the Duclos article? A. Its first resolution on the question appeared a day or so after this meeting, I believe on Sunday, or Monday, in either the Sunday Worker or the
7470 Worker, and it was a resolution which passed the Board with Browder opposed and I think Hudson not voting, which supported the Duclos position.

Q. After these resolutions had been passed by the National Board did you attend any other meetings where the Duclos article was discussed? A. Another meeting called together at the Jefferson School, of the faculty members, probably about a week or ten days after the first one.

Q. Who was the principal speaker at the second meeting? A. Jack Stachel.

Q. Approximately how many faculty members were present at this meeting? A. Maybe a few more than the previous time, the same rough amount.

Q. What did Jack Stachel say concerning the Duclos article at this second meeting? A. Jack Stachel said that he was sure that those present had had time to consider the question since the rather hastily convened meeting at which it was first discussed there and could realize now, after the

first flush of upsetness, what the real situation was and that therefore the real question to be discussed was how did the American Communist Party ever get into such a slough of revisionism and liquidationism. He proceeded to analyze
the reasons for it back to the days of Mr. Lovestone
7471 and to say that the whole thinking of the American
Party had been vitiated, that this arose particularly during the Roosevelt period, that one of the most important things that the Party had to do in pulling itself out of its liquidationism was to kill the Roosevelt myth, that the problem was one of thoroughly revising the Party's thinking and activities and profiting by them in the light of Marxism-Leninism to carry out a ruthless campaign, et cetera, against revisionism and liquidationism, and to pull itself together as fast as possible because the disease had gone so far that already, he said, in the South not only the Party but many other Communist organizations had been liquidated and it would be carried further in that direction and so on. But the peroration essentially had to do with the need of liquidating liquidationism, liquidating revisionism, and returning to the fountains of Marxism-Leninism.

Q. Did any one present at the second faculty meeting defend Earl Browder and his position? A. I did. I don't think anyone else did.

Q. Did Stachel answer your position on the Duclos article? A. Yes. I had made the center of my rather short statement that there was every possibility of progressive development in friendship between the United States and
the Soviet Union and through peaceful development.
7472 At the same time I retained a socialist position. I
spoke in terms of the possibility of the development of Socialism, and so on, without any need of sharp struggle. I said that in view of the fact that this was possible and that there remained only two great powers in the world, that the policy of the Duclos letter was a policy of war between the United States and the Soviet Union and was an extremely dangerous one for the American Communist Party

and for the American people. He answered it by saying that I was provocative, and revisionist and liquidationist. He answered me with words, with attacks, but I don't remember the substance of his answer or whether there was any.

* * * * * * * * * * *

7483 **Dr. Philip E. Mosely** recalled as a witness on behalf of Petitioner, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION—resumed

* * * * * * * * * * *

By MR. LENVIN:

7486 Q. I would like to show Dr. Mosely what has been marked as Petitioner's Exhibit for identification No. 298—

(The document referred to was marked for identification Petitioner's Exhibit No. 298.)

Q.—which is an issue of The Current Digest of the Soviet Press, Volume II, No. 46, for December 30, 1950, and specifically direct his attention to an article appearing on page 8 which is a translation of an article entitled "Peking Honors Heroes," by Pravda Staff correspondent I. Vysokov, which appeared in Pravda for December 8, and ask Dr. Mosely whether in arriving at his opinion regarding the attitude of the Soviet Union toward the entrance of the Chinese Communists into the Korean conflict he took this article into consideration. A. I read this article at the time, shortly after it was published in Pravda, and I have also read it in the condensed version presented in The Current Digest of the Soviet Press. In my opinion this article
7487 expresses strong Soviet approval for the participation of what it describes as the Chinese people in the military struggles in Korea.

This is only one of many news items and editorial opinions of the time in the Soviet Press similarly supporting the role of Chinese forces in Korea from November 1950 on.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 299—

(The document referred to was marked for identification Petitioner's Exhibit No. 299.)

By Mr. Lenvin:

Q. —which is an issue of The Current Digest of the Soviet Press for December 2, 1950, Volume II, No. 42, and direct your attention to an article appearing on Page 16 entitled "Chinese volunteers on their way to Korea," also by I. Vysokov, which is a summary translation of an article appearing in Pravda for November 13, and ask you whether you took this article into consideration in arriving at your opinion toward the attitude of the Soviet Union toward the entrance of the Chinese forces into the Korean conflict.

A. Yes, I read this article in full at the time and also in this summary translation published in the Current Digest of the Soviet Press. Published approximately two weeks before the formal entrance of Chinese Communist forces into the military struggle in Korea, it announced that tens of thousands of Chinese volunteers were entering the
7488 Korean People's Army, the Army of Northern Korea, to take part in the struggle against what it described as American imperialism. The correspondent expressed enthusiastic approval of these steps, and Pravda published this news story, which is similar to many others at that time in the Soviet Press.

* * * * * * * * * * *

Q. Dr. Mosely, it is a matter of historical fact, is it not, that a clergyman by the name of Cardinal Mindszenty was charged with and put on trial for treasonable activities by the Hungarian Government early in 1939?

* * * * * * * * * * *

7489 The Witness: The trial of Cardinal Mindszenty and his co-defendants took place in February 1949 in Budapest.

By Mr. Lenvin:

Q. From your examination of publications and other materials emanating from the Soviet Union have you been able to form any opinion as to what the views and attitude of the Soviet Government or the Communist Party of the Soviet Union were toward the charges leveled against Cardinal Mindszenty? A. Through its newspapers and other official statements by its spokesmen the Soviet Government expressed its complete approval of both the charges which were brought against Cardinal Mindszenty and his co-defendants, defended fully the procedures which were applied in conducting the trial and the sentences which were imposed and which were reported to have been executed.

7490 Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 300—

(The document referred to was marked for identification Petitioner's Exhibit No. 300.)

By Mr. Lenvin:

Q. —which is a statement made by Mr. Gromyko at the 201st plenary meeting of the General Assembly held at New York on Friday the 29th of April 1949, and ask you whether you have ever read that statement before. A. Yes, I have read this statement at the time—

7491 The Witness: I also re-read this account of Mr. Gromyko's remarks since then.

By Mr. Lenvin:

Q. In your opinion does this statement reflect the views and attitude of the Soviet Union toward the Cardinal Mindszenty case. A. Yes, in my opinion it does. Mr. Gromyko was speaking officially on behalf of his government in the General Assembly of the United Nations. His remarks are given in the third person, but according to the practice of the United Nations secretariat the Soviet delegation had

an adequate opportunity to present any corrections that it wished to before the official record was issued. In his remarks Mr. Gromyko expressed complete approval
7492 of the charges which had been brought against Cardinal Mindszenty and his co-defendants. He gave his complete approval to the substance of the charges. He approved the methods by which the trial had been conducted, and he rejected outright all criticisms, both concerning the substance and the procedure of the trial.

* * * * * * * * * * *

By Mr. Lenvin:

7493 Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 301—

(The document referred to was marked for identification Petitioner's Exhibit No. 301.)

Q. —an issue of Soviet Press Translations, Volume IV, No. 5, dated March 1, 1949, and direct your attention to the translation of an article entitled "The Vatican Suffers a Defeat," by A. Berezov, which appeared in the Literaturnaya Gazeta for January 15, 1949, and ask you, Dr. Mosely, whether you have ever read that article before. A. Yes, I have read this article in the original Russian newspaper, the Literary Gazette, and also in the full translation published in the Soviet Press Translations.

Q. In your opinion, does that article reflect the
7494 views and attitude of the Soviet Union toward the Cardinal Mindszenty case? A. Yes, in my opinion it does. It is only one of many expressions at that time and since of the complete support of the Soviet Press and spokesmen for the charges brought against Cardinal Mindszenty and his co-defendants and even adds many further charges against the Holy See. It is a typical expression of Soviet view of this trial.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 302—

(The document referred to was marked for identification Petitioner's Exhibit No. 302.)

By Mr. Lenvin:

Q. —which is New Times for February 16, 1949, and direct your attention to an article commencing on page 22 entitled "Cardinal Mindszenty's Trial," by F. Potyomkin, and ask you if you have ever read that article before. A. Yes, I read this article in the Russian version of New Times shortly after it was issued and I have also read it in the English version of New Times.

Q. In your opinion is that article typical and does it reflect the attitude of the Soviet Union toward the Cardinal Mindszenty case? A. Yes, in my opinion it is one additional example of the attitude continuously taken by the
7495 Soviet press and spokesmen on the question of both the content and procedure of the trial as well as its attacks upon the Catholic Church as a whole and upon the Holy See.

Q. Dr. Mosely, in your examination of the publications and other material issued by the Communist Party of the United States have you been able to form any opinion as to the views and attitude of that party toward the charges leveled against Cardinal Mindszenty and the subsequent trial? A. Yes, I have. The press of the Communist Party of the United States commented frequently before, during, and after the trial.

Q. Now I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 303—

* * * * * * * * * * *

Q. Which is an excerpt from a book by William Z. Foster entitled "The Twilight of World Capitalism," copyright 1949, by International Publishers Company, Inc., and direct your attention to an excerpt commencing with the
7496 first paragraph on page 95 and ending with the last full paragraph on page 98, and ask you whether you have ever read that before. A. Yes, I read the entire volume

by Mr. Foster, including the section presented here. This would be regarded as an authoritative statement of the point of view of the leadership of the Communist Party of the United States, and as such it was frequently recommended in the Party Press for study and thought.

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7497 Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 304—

(The document referred to was marked for identification Petitioner's Exhibit No. 304.)

By Mr. Lenvin:

Q. —which is the Daily Worker for February 10, 1949, and direct your attention to an editorial appearing on page 1 entitled "Mindszenty—Jew Hater" and ask you if you have ever read that editorial before. A. Yes, I have read this editorial.

Q. In your opinion does that editorial reflect the view and attitude of the Communist Party toward the Cardinal Mindszenty case as of that date? A. Yes, in my opinion it does, and it is a typical expression by the Press of the Communist Party of the United States concerning the nature of the trial of Cardinal Mindszenty. It ignores completely the fact that the postwar Hungarian Government, in which the Hungarian Communist Party played a leading part, publicly thanked Cardinal Mindszenty for his great efforts to save from destruction many hundreds of thousands of Jewish people both in Hungary and those who had taken refuge in Hungarian's Nazi barbarism.

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7499 Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit No. 305—

(The document referred to was marked for identification Petitioner's Exhibit No. 305.)

By MR. LENVIN:

Q. —which is the Sunday Worker for February 13, 1949, and direct your attention to page 3, an article by Robert Friedman entitled "The Truth about the Mindszenty Case." I ask you whether you have ever read that article before. A. Yes, I read this article at the time and since. In my opinion it is directly parallel to the point of view on this problem which was taken by the Hungarian Communist Government and by the Soviet Government through their official statements and their controlled press.

. . . . . .

Q. I also show you, Dr. Mosely, what has been 7500 marked as Petitioner's Exhibit for identification No. 306—

(The document referred to was marked for identification Petitioner's Exhibit No. 306.)

By MR. LENVIN:

Q. —which is the Daily Worker for February 15, 1949, and direct your attention to the editorial entitled "The Vatican Talks Politics," and ask you whether you have ever read that before.

MR. LAFOLLETTE: Is this on the same subparagraph?

MR. LENVIN: Yes.

MR. LAFOLLETTE: All right.

THE WITNESS: Yes, I have read this editorial in the Daily Worker for February 15, 1949.

By MR. LENVIN:

Q. In your opinion does that editorial reflect the view and attitude of the Communist Party toward the Mindszenty case as of that date? A. Yes, in my opinion it does. It expresses the complete approval of the Communist Party of the United States of the conduct of the trial in Hungary, its full support of the conclusions of the Hungarian Court, and of the sentence imposed, and also broadens this matter

to a general attack upon the whole position and doctrine of the Catholic Church. It is directly parallel to similar expressions of views and advocacy of the policy as found
7501 in the Soviet Press at that time and since.

Q. Now, Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 307—

(The document referred to was marked for identification Petitioner's Exhibit No. 307.)

By Mr. Lenvin:

Q. —which is the Daily Worker for February 7, 1949, and direct your attention to an article commencing on page 1 entitled "Spellman Defends Mindszenty's Treasonous Acts," and ask you whether you have ever read that before. A. Yes, I have read this front page article in the Daily Worker for February 7, 1949.

Q. In your opinion does that Article reflect the views and attitude of the Communist Party of the United States toward the Mindszenty case? A. Yes, in my opinion it does. It is printed in a prominent position in the official organ of the Party. Its accusations and allegations are directly parallel to those presented at about the same time in the Soviet Press.

Q. Dr. Mosely, it is a matter of historical fact, is it not, that the Government of Bulgaria in early 1947 put on trial a man by the name of Nicola Petkov? A. Yes, it is a fact. The trial occurred in August 1947.

* * * * * * * * * *

7503 The Witness: Yes, sir. I recall the principal charges clearly. I read the full indictment and also the full text of the record of the trial as issued by the Bulgarian Government. I have also read the summary reports issued in the Soviet Press.

Mr. LaFollette: Proceed.

By Mr. Lenvin:

Q. Will you answer the question, then, Dr. Mosely, as to what the charges were, what he was charged with? A. Yes. The principal—

* * * * * * * * * * *

7504 The Witness: The principal charge was that of treason against the Communist Government of Bulgaria. That embraced other charges such as sabotage, espionage, conspiracy to overthrow the regime in Bulgaria and conspiracy with representatives of foreign powers. It also included charges of hostility against the Soviet Union and attempts to weaken the so-called friendly relations between Bulgaria under its communist leadership and the Soviet Union. Petkov had been a member of the coalition government which welcomed Soviet forces to Bulgaria as liberators from Nazi control, and he had for many months remained an active participant in that coalition government.

* * * * * * * * * * *

The Witness: He was prior to his arrest the leader of the Bulgarian Peasant Party, which had been in opposition for many years to authoritarian rule in Bulgaria and had striven for a democratic development of the country.

By Mr. Lenvin:

Q. Dr. Mosely, I show you what has been marked
7505 as Petitioner's Exhibit for identification No. 308—

(The document referred to was marked for identification Petitioner's Exhibit No. 308.)

By Mr. Lenvin:

Q. —which is an issue of For a Lasting Peace, for a People's Democracy, for December 15, 1947, and direct your attention to an article commencing on page 2, by V. Chervenkov, entitled "The Activities of the Bulgarian Worker's Party (Communists)". I ask you if you have ever read that article before. A. Yes, I have read this article

published in For a Lasting Peace of December 15, 1947, at the time and since. In it the secretary-general of the Communist Party of Bulgaria describes the complete defeat of Petkov and the elimination of his party. He defends fully the substance of the charges and the procedures under which Petkov was convicted and executed by the Bulgarian Communist Government.

• • • • • • • • • • •

7506 Q. In your opinion, Dr. Mosely, does that article reflect the views and attitude of the Cominform and of the Soviet Union toward the charges brought against Petkov? A. Yes, in my opinion it does. It is a report delivered by Mr. Chervenkov at a conference of the Communist Information Bureau at which he was the representative of his party. This represents a summary of the main points of the position taken by the Bulgarian Communist Government and Party in the Petkov case, and it is directly parallel to the position taken by the Soviet Press and by the World Communists in the same matter and at that general time.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 309—

(The document referred to was marked for identification Petitioner's Exhibit No. 309.)

By Mr. Lenvin:

Q. —which is a certified translation of an article appearing in Red Star, central organ of the Ministry of Armed Forces of the Union of the SSR, and direct your
7507 attention to an article which appears on page 4 entitled "Criminals Unmasked and Justly Punished," signed "The Observer," and ask you whether you have ever read that article before. A. Yes, I have read this article.

Q. In your opinion does that article reflect the views and attitude of the Soviet Government toward the charges brought against Petkov? A. Yes, in my opinion it does. It appeared in an official organ of a Ministry of the Government of the USSR, and it expressed complete approval of

the substance of the charges brought against Petkov and his co-defendants and expressed approval of the procedures under which the trial was conducted and the sentence executed, and it expressed very strong criticism of efforts by other governments to try to influence this procedure. It is typical of many expressions at the time which appeared in the various organs of the Soviet Press.

. . . . . .

Q. Dr. Mosely, I show you what has been marked for identification as Petitioner's Exhibit No. 310, which is the Daily Worker for Saturday August 9, 1947, and direct your attention to the article appearing on page 2
7508 headed "Bulgar Oppositionist Was Offered U.S. Aid"; and also direct your attention to what has been marked as Petitioner's No. 311 and the article on page 2 entitled "Bulgaria Asks Death for Fascist Conspirator."

. . . . . .

Q. Is the Daily Worker for August 13, 1947; and what has been marked as Petitioner's Exhibit for identification No. 312, which is the Daily Worker for September 24, 1947, and the article appearing on page 2 entitled "Petkov Hung as Traitor."

(The documents referred to were marked for identification Petitioner's Exhibits No. 310, 311 and 312.)

By Mr. Lenvin:

Q. I ask you whether you have ever read those three articles before.

. . . . . .

Q. Have you read those three items before, Dr. Mosely? A. Yes, I have.

Q. In your opinion do those items reflect the views and attitude of the Communist Party toward the Petkov
7509 case? A. Yes, in my opinion they do. In summary form they support the charges brought by the Bulgarian Communist Government against the defendant and

his co-defendants and parallel the line taken by the Soviet press on that same issue.

. . . . . .

7522 Q. I think we had a question pending to the effect of whether or not it was a historical fact that during the past year the United States had made efforts to draft and reach an agreement with other countries on a peace treaty with Japan, and in fact that such a peace treaty was signed at San Francisco very recently. A. Yes, this is a fact. The peace treaty was signed by representatives of 48 governments—

. . . . . .

7523 Q. Dr. Mosely, in your examination of the publications and other material emanating from the Soviet Union have you been able to form any opinion regarding the views and attitude of the Soviet Union regarding this proposed peace treaty with Japan? A. Yes, I have. Through official statements of representatives of the Soviet Union and through comment to the Soviet Press, the Soviet Government repeatedly expressed its opinion both of the procedures by which the treaty was negotiated and the substance of the provisions of the treaty.

Q. I show you, Dr. Mosely, what has been identified as Petitioner's Exhibit No. 314, which is our M-148—

(The document referred to was marked for identification Petitioner's Exhibit No. 314.)

By Mr. Lenvin:

Q. —which is The Current Digest of the Soviet Press for June 16, 1951, and direct your attention to an article entitled "Soviet Remarks on Peace Treaty with Japan," complete text of an article appearing both in Pravda and Izvestia for May 23, Page 2, and which is the text of a document handed to Mr. A. Kirk, United States Ambassador to the USSR by A. E. Bogomolov, USSR Deputy Minister of Foreign Affairs, and ask you whether you have

7524 ever read those remarks before. A. Yes. On the day

following I read the substantial excerpt which appeared in the New York Times. When the text of Pravda arrived I read it in full in Russian, and I have also read the English translation presented as a complete text in The Current Digest of the Soviet Press for June 16, 1951. This is an official document of the Soviet Government.

Q. In your opinion do these remarks reflect the views and attitude of the Soviet Government toward the proposed Japanese treaty? A. Yes, in my opinion they do. They comment on most of the points of the treaty concerning which the Soviet Government has at any time expressed an interest or concern, and it comments on the procedure which had been followed up until that time and proposed for future adoption in completing the treaty, and presented alternative proposals both for procedure and for the substance of the treaty.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 315—

(The document referred to was marked for identification Petitioner's Exhibit No. 315.)

By Mr. Lenvin:

Q. —which is an issue of The Current Digest of the Soviet Press for September 1, 1951, and direct your attention to an article appearing on page 6 which is a translation of an article appearing in Pravda for July 16, 7525 1951, entitled "Separate Treaty with Japan is Instrument of American Aggression," and ask you whether you have ever read that before.

* * * * * * * * * * *

The Witness: Yes, I have read this condensed translation of the article by Mr. Markov in Pravda, July 16, 1951, as presented in The Current Digest of the Soviet Press for September 1, 1951. It is in my opinion an authoritative statement of the point of view of the Soviet Government on both the procedure and the substance of the proposed treaty with Japan. It accuses the United States of numerous vio-

lations of agreements, of preparing an aggressive war against the Soviet Union, of enslaving Japan and numerous other allegations.

By Mr. Lenvin:

Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States, have you been able to form any opinion as to the views and attitudes of that Party toward the proposed Japanese Peace Treaty? A. Yes, I have. The official press of the Communist Party of
7526 the United States commented frequently on the course of negotiations for the treaty of peace with Japan. It has directly paralleled the accusations made in the Soviet Press, and it has called upon the United States to adopt the position taken by the Soviet Government in this matter.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 316—

(The document referred to was marked for identification Petitioner's Exhibit No. 316.)

By Mr. Lenvin:

Q. —which is the Daily Worker for August 23, 1951, and direct your attention to an editorial entitled "Japan and Peace in Asia," which appears on page 5, and ask you whether you have ever read that editorial before. A. Yes, I have read this editorial of the Daily Worker of August 23, 1951.

Q. In your opinion does that editorial reflect the views and attitude of the Communist Party toward the proposed peace treaty with Japan? A. Yes, in my opinion it does. It repeats in summary form several of the principal accusations made against the policy followed by the United States in this matter, and its treatment of the problem and its recommendations are directly parallel to those presented by the Soviet Press.

(Off the record)

7527 By MR. LENVIN:

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 317—

(The document referred to was marked for identification Petitioner's Exhibit No. 317.)

By MR. LENVIN:

Q. —which is the Sunday Worker for May 13, 1951, and direct your attention to an article entitled "Government Seeks to Hold Japan as Colony," and ask you whether you have ever read that article before. A. Yes, I have read this article.

Q. In your opinion does that article reflect the views and attitude of the Communist Party of the United States toward the proposed Japanese Treaty as of that date? A. Yes, in my opinion it does. It repeats in summary form the accusations made in the Soviet Press concerning the procedure and substance of the treaty and recommends full support of the position proposed by the Soviet Government in this matter. Its position is in its main points directly parallel to that taken by the Soviet Government and the Soviet Press in this matter.

Q. Dr. Mosely, it is a matter of historical fact, is it not, that a man by the name of William Oatis was imprisoned in Czechoslovakia—

. . . . . .

7528 THE WITNESS: This matter has been widely reported in the Press of different countries and has been the subject of official exchanges of documents which also have been published as between the Government of the United States and the Government of Czechoslovakia.

By MR. LENVIN:

Q. In your examination of publications and other materials emanating from the Soviet Union have you been able to form any opinion as to the views and attitude of the

Soviet Union toward the imprisonment of Oatis? A. Yes, I have. The Soviet Press gave its full support to the position taken by the authorities in Czechoslovakia in arresting, imprisoning and trying and sentencing William Oatis. The Soviet Press expressed full approval and support both of the substance of the charges and the procedures by which this American correspondent was arrested, held in prison and then tried and sentenced.

Q. I show you, Dr. Mosely, what has been marked
7529 as Petitioner's Exhibit No. 318—

(The document referred to was marked for identification Petitioner's Exhibit No. 318.)

By Mr. Lenvin:

Q. —which is The Current Digest of the Soviet Press for August 18, 1951, and direct your attention to a translation of an article which appeared in Pravda for July 5, by A. Bobrovsky, entitled "American Spy in Role of Journalist," and ask you whether you have ever read that before. A. Yes, I have read this in the original as published in Pravda a few days after it appeared in Moscow, and I also read a somewhat condensed text which appeared in the Current Digest of the Soviet Press under date of August 18, 1951. It is in my opinion a forthright support of the action taken by the Czechoslovak government and an outright rejection of the protests which had been made in the free world press as well.

Q. In your opinion does that article reflect the view and attitude of the Soviet Union toward the imprisonment of Oatis? A. Yes, in my opinion it does. It appeared in the official party newspaper, Pravda.

Q. Dr. Mosely, in your examination of the publications issued by the Communist Party of the United States have you been able to form any opinion as to what the views
7530 and attitude of that Party was toward the imprisonment of Oatis? A. Yes, I have. The Press of the Communist Party of the United States supported fully the

charges brought by the Czechoslovak Communist Government and approved fully the procedures applied in the arrest, imprisonment, trial, and sentencing and punishment of William Oatis, and rejected completely all protests made by the United States Government in the defense of a citizen and in defense of freedom of transmission of news in this case.

Q. I show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 319—

(The document referred to was marked for identification Petitioner's Exhibit No. 319.)

By Mr. Lenvin:

Q. —which is the Daily Worker for July 4, 1951, and direct your attention to an editorial appearing on page 5 headed "A Reporter Should be a Reporter," and ask you whether you took that editorial into consideration in arriving at your opinion as to the view and attitude of the Communist Party of the United States toward the Oatis case.

A. Yes, I did. In this official publication of the Communist Party of the United States there is a brief but sweeping approval of both the substance of the charges and the procedure employed in convicting William Oatis. There is a rejection of efforts of governments, individuals and
7531 groups outside the Communist-controlled areas of the world to protest against or modify the results of these actions of the Czechoslovak Communist government.

Q. Dr. Mosely, it is a historical fact, is it not, that the Soviet Union, or more specifically one of the spokesmen of the Soviet Union, made a speech in which there was contained proposals for possible peace settlement or armistice in Korea some time around the end of June 1951?

. . . . . .

The Witness: Yes. According to my recollection this occurred on June 23, 1951. Mr. Malik, the Deputy Foreign Minister of the Soviet Union, in a radio address sponsored by the United Nations Organiaztion, suggested that it was

time to undertake negotiations to bring about a cessation of hostilities in Korea and to open the way for a longer range settlement of the problems in Korea. Mr. Malik, as a Deputy Foreign Minister and at that time permanent delegate of his government to the United Nations, was in my opinion speaking in his official capacity as the repre-
7532 sentative of his government.

(Off the record)

By Mr. Lenvin:

Q. I show you, Dr. Mosely, what has been identified as Petitioner's Exhibit No. 320—

(The document referred to was marked for identification Petitioner's Exhibit No. 320.)

By Mr. Lenvin:

Q. —which is The Current Digest of the Soviet Press for July 7, 1951, and specifically direct your attention to page 12 which contains a translation of an article appearing in Pravda for June 26 by M. Kharlamov, entitled "For a Peaceful Solution of the Korean Conflict," and ask you whether you have ever read that before. A. Yes, I have read this article by Mr. Kharlamov in Pravda, June 26, in Russian, and I have also read what purports to be the complete translation appearing in the Current Digest of the Soviet Press for July 17, 1951.

* * * * * * * * * *

Q. Dr. Mosely, in your examination of the publications and other materials which have been issued by the Communist Party of the United States have you been able
7533 to form any opinion as to what the views and attitude of that Party were toward the Soviet Peace proposals in Korea? A. Yes, I have. The official press of the Communist Party of the United States has commented frequently on the initial proposal of June 23, 1951, and on the subsequent course of negotiations and non-negotiations.

Q. Now, I show you, Dr. Mosely, what has been identified as Petitioner's Exhibit for identification No. 321—

(The document referred to was marked for identification Petitioner's Exhibit No. 321.)

By Mr. Lenvin:

Q. —which is the Sunday Worker for July 1, 1951, and direct your attention to an article appearing on page 3 entitled "World Hails Bid for Cease-Fire in Korea," and ask you whether you have ever read that article before. A. Yes, I read this article in the Sunday Worker for July 1, 1951.

Q. In your opinion does that article fairly reflect the views and attitude of the Communist Party toward the Soviet Peace proposals? A. Yes, in my opinion it is a typical expression of the views of the Communist Party of the United States. It places the entire blame for the struggle in Korea upon the alleged aggression of the United States and defends the participation of the so-called People's Re-
7534 public of China in that struggle, and it supports the position taken by the Soviet Government and the Soviet Press in this issue. It also urges that the United States Government adopt the position advanced by the Soviet Government. In my opinion it supports and is directly parallel to the position adopted by the Soviet Government and expressed by that government directly through official statements and through the Soviet Press.

Q. I also show you, Dr. Mosely, what has been marked as Petitioner's Exhibit for identification No. 322—

(The document referred to was marked for identification Petitioner's Exhibit No. 322.)

By Mr. Lenvin:

Q. —which is the Daily Worker for July 2, 1951, and direct your attention to the editorial appearing on page 5 entitled "Korea's Lessons" and ask you whether in arriving at your opinion as to the views and attitude of the Communist Party of the United States toward the Soviet peace

proposals you took that editorial into consideration. A. Yes, I did. This official statement of views of the authorized organ of the Communist Party of the United States places again all blame for the military struggle on the alleged aggression of the United States, its desire allegedly to destroy China and to conquer the world. It finds good only in the so-called peace policy of the Soviet Union and urges that the Soviet policy be adopted by the United
7535 States. In my opinion it is directly parallel to the Soviet policy on this question.

Q. Finally, Dr. Mosely, I show you what has been marked as Petitioner's Exhibit No. 323—

(The document referred to was marked for identification Petitioner's Exhibit No. 323.)

By Mr. Lenvin:

Q. —which is the Daily Worker for July 17, 1951, and direct your attention to an article appearing on page 1 entitled "Communist Party asks People Unite for Korea Armistice and World Peace," and ask you whether you have ever read that before. A. Yes, I have read this statement of the Communist Party of the United States and the article in which it is embodied.

Q. In your opinion does this article reflect the views and attitude of the Communist Party toward the Korean peace proposal as of that date. A. Yes, in my opinion it does. It blames the Government of the United States and various circles in the United States for alleged delays in carrying on negotiations for an armistice and accuses them of desiring the continuation and expansion of the war and of threatening China. Its position on this question is directly in support of and parallel to the position and proposals ad-
7536 vanced by the Soviet Government.

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7538 Q. I show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit for identification No. 324—

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Q. —which is the issue of Moscow News for March 22, 1939, and direct your attention to page 24, which contains a reprint of note of M. M. Litvinov, People's Commissar of Foreign Affairs, of March 18, to the German Am-
7539 bassador, and ask you whether you have ever read that before. A. Yes, I have read this note of former Commissar Litvinov of March 18, 1939. I read it in the New York Times on the day following its issuance in Moscow, and I have studied it several times in Russian as well as reading this authorized English translation published in the English language newspaper issued in Moscow at that time.

Q. In your opinion, Dr. Mosely, does that note fairly reflect the attitude of the Soviet Union toward Nazi Germany as of that date? A. Yes, in my opinion it does: It is an official statement of the authorized spokesman of the Soviet Government on foreign policy, and it denounces the recent actions of the German Government as arbitrary, violent and aggressive and states that Germany has created the danger to peace through its aggressions.

Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 325—

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Q. —which is the Moscow News for March 27, 1939, and direct your attention to an article on page 14 entitled "Britain and France Face Two Alternatives," by Politicus, and ask you whether you have ever read that before. A.
7540 Yes, I read this shortly after it was issued in Moscow, and I have read it since.

Q. In your opinion does that article reflect the views and attitude of the Soviet Union toward Nazi Germany as of that date? A. Yes, in my opinion it does. It states that there could no longer be any doubt but that Germany aims to dominate Europe and perhaps the entire world, and this view was expressed repeatedly by the Soviet spokesmen of that time and by the official press.

Q. Dr. Mosely, I show you what has been marked as Petitioner's Exhibit for identification No. 326—

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Q. —which is the Daily Worker for August 18, 1939, and direct your attention to an editorial appearing on page 6 entitled "Again 'Danzig' Is Only a Fascist War Pretext," and ask you whether you have read that editorial before. A. Yes, I read it at the time and since.

Q. In your opinion does that editorial fairly reflect the views and attitude of the Communist Party toward Nazi Germany as of that date? A. Yes, in my opinion it does. It is an editorial of the official organ of the Communist Party of the United States. It argues that Nazi expansion
7541 has no limits, that all nations which wish to remain at peace are endangered by Nazi expansion. It urges International cooperation to check this expansion. Its point of view, of which this is only one of many examples, in those months and years was directly parallel to the view expressed in the official organs of the Soviet Government at about that same time.

Q. I also show you, Dr. Mosely, what has been marked for identification as Petitioner's Exhibit No. 327—

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Q. —which is the Communist for May 1939, and direct your attention to an article entitled "May Day in the Struggle for Democracy and Peace," by I. Amter, and I ask you whether you have ever read that article before. A. Yes, I have.

Q. In your opinion does that article reflect the views and attitude of the Communist Party of the United States toward Nazi Germany prior to the Hitler-Soviet Pact? A. Yes, it does in my opinion. Mr. Amter was then a leading member of the Communist Party in the United States, writing in the official magazine of the Party. In his review of the World Situation for May Day 1939 he declared that the Fascist Axis powers were aiming at world domina-
7542 tion. His analysis and views as expressed in this ar-

ticle and on this topic in my opinion are directly parallel to those of the Soviet Government expressed through official Soviet spokesmen and the official Soviet Press.

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7552 **Frank Straus Meyer** recalled as a witness for Petitioner, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION—resumed

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7560 MR. LAFOLLETTE: Mr. Meyer, at the time that you were in charge of schools of the Respondent for the District in which you were the head, did you or did you not have any occasion to teach the students at the school what the principles of scientific socialism, Marxism and Leninism was?

THE WITNESS: Yes, sir; definitely.

MR. LAFOLLETTE: During that time when you were in charge what did you teach?

MR. ABT: I object.

MR. LAFOLLETTE: The objection is overruled. Proceed.

THE WITNESS: I taught that Marxism-Leninism, that is, the principles of scientific socialism—the phrase is in apposition—was the teaching of Marx, Engels, Lenin and Stalin, and of the Communist International and the leaders of the Communist Parties, which is a body of—I think "doctrine" is probably not the word I used, but doctrine will do—a body of doctrine which is first a philosophy of

7561 history, secondly a guide on the basis of that philosophy of history to the leading party of the working class, that is to say, the Communist Party, in carrying out its historical role or mission, which is to overthrow the capitalist system and political states founded on the capitalist system, to destroy the economic organization on which that society is founded and its political system, to replace it with the dictatorship of the proletariat, to establish socialism, which is to lead to the stage of Communism.

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By Mr. Story:

7572 Q. Mr. Meyer, I hand you a book which purports to be the history of the Communist Party of the Soviet Union, which has been marked for identification Petitioner's Exhibit No. 330, and ask you if you can identify the book. A. This is the trade edition of the History of the Communist Party of the Soviet Union (Bolshevik).

Q. Is that the book which you have testified to on September 24, 1951, as being the central textbook of the Communist Party after it had been released in this country? A. That is the book.

Q. Has this book to your knowledge appeared in more than one edition? A. When it first appeared it appeared in an edition that was bound, as I remember it, in red cloth, which was the edition circulated through the Party and through Party outlets, the one of which a large number were sold, and this as I remember it was the trade edition, that is, the one sold in bookstores, released through ordinary
7573 book outlets and so on. It cost about 2½ times as much. There may have been later editions later but those are the two I know of.

Q. Did you use that trade edition in your educational work? A. Irrespective, one or the other. There is no difference in text as I know. They could be used interchangeably, the trade edition and the cheaper edition.

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7601 Mr. LaFollette: Mr. Meyer, while you were educational director in the district of which Chicago was
7602 the head, did you teach or cause to be taught in the classes which you conducted or caused to be conducted anything with reference to the preamble to the constitution which has been marked for identification Petitioner's Exhibit 328?

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The Witness: The 1938 constitution?

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THE WITNESS: The 1938 constitution, yes, sir.

MR. LAFOLLETTE: What, if anything, did you teach?

MR. ABT: May the record show a continuing objection?

MR. LAFOLLETTE: Yes, it may, Mr. Abt.

THE WITNESS: That the guiding clause of the preamble, the decisive clause of the preamble, was the one which begins on the next to the last line on page 5, that is, "by the establishment of Socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin and Stalin, embodied in the Communist International"; that that clause is the equivalent of the statement "in accordance with the principles of Marxism-Leninism," which earlier today I defined.

MR. LAFOLLETTE: Had you finished?

THE WITNESS: No, sir. And that therefore all other sections of the preamble are to be understood in the
7603 light of Marxism-Leninism, that is to say, that the Marxist-Leninist interpretation of history and of the meaning of history and of its traditions is to be decisive. For example, that "carrying forward today the traditions of Jefferson, Paine, Jackson and Lincoln, and of the Declaration of Independence," is understood as meaning the central historically valid principles enunciated by these men and by the declaration, not the accidental class dress in which they were embodied at the time. Therefore, statements of Jefferson or of the Declaration which are in accord with the historical analysis of Marxism-Leninism are considered as being traditions which the Communist Party stands for; limited—speaking in terms of Marxism-Leninism—limited interpretations such as the defense of private property which are contained in much of the thinking of at least Jefferson and Lincoln in this respect, and of the Declaration of Independence, are to be considered as temporary class forms in which the basic fundamental principles are dressed.

Or, again, and in fact in this case a certain aspect of what I am about to say was pointed out directly, "defend the United States constitution against its reactionary enemies

who would destroy democracy and all popular liberties."

This was interpreted in the light of Lenin's teachings in the book "The Tactics of the Social Democracy," which is summarized in the History of the C.P.S.U., one of
7604 the earlier chapters, where it is made clear that the Communist Party, the Party of the working class, will support bourgeois democratic institutions against a more reactionary attack, which would make it less possible for the revolutionary movement to go forward, but will just as quickly destroy them when at a later time or at a different time these bourgeois democratic institutions stand in the way of the triumph of the proletarian revolution.

So it was advisedly—and this I know from the discussion at the convention at which I was present—it was advisedly that that sentence read "defend the United States Constitution against its reactionary enemies." It does not say anything about defending the United States Constitution against the working class, against the proletarian revolutionary movement or anything of the sort. There is no comma there. It is a straight statement that it defend itself under these circumstances.

I won't go into further examples, but in general I will simply summarize by saying that any statement in this preamble which seems or appears to be in contradiction to the principles of Marxism-Leninism is by the guiding clause null and void, so to speak, and all sentences or phrases are to be understood in the light of the teaching of Marxism-Leninism, that is, to be understood as in accord with the proletarian revolutionary theory of Marx, Engels, Lenin,
7605 Stalin and the Communist International.

Mr. LaFollette: Is what you have just testified to something that you are relating to us or did you at any time teach it?

The Witness: In substance I taught it.

Mr. LaFollette: Was your teaching of it known to any of your superiors in that district at the time you taught it?

The Witness: In general it was known because the question of the use of the preamble of the constitution as the

center of the course on the Party, which was part of all full time training schools, was discussed with them in some detail.

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7606 CROSS EXAMINATION

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By MR. MARCANTONIO:

7661 Q. I am asking you, didn't you teach this line? Wasn't that the line at that time of the Communist Party that you taught?

MR. LAFOLLETTE: Mr. Meyer, I will permit you to elaborate, but you were asked whether or not you were directed to teach and did teach in the manner in which Mr. Marcantonio asked you. It is whether you were directed so to teach.

THE WITNESS: Essentially I was directed to teach in accordance with Marxism-Leninism and as a higher educational authority on a given crux point that one came to, one utilized material as everyone else did along similar lines and in general agreement to, shall we say, reconcile statements with fundamental statements of Marxism-Leninism. In the school of which I am speaking, which is a closed party school on the district level, where I taught the purpose of the Party it was necessary to point out, to answer your question, in terms of Lenin's and Stalin's writings, that is to say, that the revolutionary transformation can not occur—this is the theory I taught—against the will of the majority, but the majority is only passive, and the defensive action of the leading vanguard of the proletariat is essential to achieve it. You can find this documented all through Lenin's works. Therefore I can't answer your question "yes" or "no," not against the majority certainly, but certainly not quite as you put it.

7662 By MR. MARCANTONIO:

Q. How about with the majority? A. An impossibility from the Marxist-Leninist point of view. The majority doesn't act.

Q. You said certainly not against the majority. A. Certainly not against the majority. That is the theory. I don't think any of that is fact. It is theory. I said the theory was.

Q. I am talking about the teaching, Mr. Witness. A. I am speaking of the teaching.

Q. You certainly did teach that they could not go against the majority? A. Yes, that the majority must be either neutralized or in general support.

Q. Or in support. A. In general support. Neutralized or in general support.

All this of course refers to the working class, the majority of the working class, and so on, whose definition in turn sometimes is wide and sometimes is narrow.

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7668 **Mary Stalcup Markward** was called as a witness for Petitioner, and being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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By MR. TAYLOR:

7675 Q. While you were supplying the Federal Bureau of Investigation with information, Mrs. Markward, were you paid any salary by them? What sort of financial arrangements did you have with them? A. I was not paid a salary by the Federal Bureau of Investigation. Nothing I did for my government was contingent upon receipt of any money from the Federal Bureau of Investigation or from any other government agency.

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7676 Q. Did you receive any money from them at all? A. I did receive contributions to the expense of the work I was doing from time to time.

Q. What sort of things would they be? Make exactly clear just what sort of arrangements you had. A. In this type of activity I was doing, it was very necessary to pay dues, to

make contributions, to buy literature, that type of thing, and other incidental things.

Q. Transportation to Washington. A. Yes, that was part of it.

. . . . . .

7698 Q. Were members of this government group either transferred into the District organization or transferred out of the District organization?

. . . . . .

7699 THE WITNESS: In my position as membership secretary of the Communist Party of Washington, I had occasion to transfer Communist Party members into this government group. I had occasion to receive transfers from a person who had been in this group and who had left government employ and desired to become a member of the more open Party group.

I also at times acted as courier for whoever was handling the business of transfers within that group, and would give them to another person who had been responsible for membership in the District of Columbia, who gave them to me to transmit them to the District leadership. It was transfers of these people into and out of town, and to various parts of the country, to find their reliability and so forth as Communist Party members.

. . . . . .

7706 Q. I believe you stated that after the city convention in 1945, the Communist Party in the city was broken down into trade union clubs. I don't recall whether you mentioned that any other clubs were in existence or not. Would you state whether or not there were any other clubs? A. There were other clubs. The trade union was the basic orientation of the Party. But the white collar clubs continued in existence, and two community clubs continued. They were smaller because the trade unions had been taken out. At a later date, a youth club was also formed at that time.

Q. Were these clubs referred to by any proper name? A. During the period of organization of these clubs, we discussed organized laborers club, and a buildings trades club, and an A.F.L. club, but immediately subsequent to the time these organizations were established, the clubs were asked to assume names so that when we were discussing—for instance, the A.F.L. club would assume the name of William Z. Foster Club, and when we said that the William Z. Foster Club had 20 members, we were not saying there were
7707 20 members in the A.F.L. club. The laborers club took the name of William Douglas Club, for the same reason. In other words, we would not say that there were five members who were laborers in the City of Washington. Almost all of the clubs did adopt names which would not immediately identify their membership.

Q. Do you know the names of any others? A. The Charles Krumbein Club. After the death of Charles Krumbein, who had been the national treasurer of the Communist Party, they took that name for their club.

MR. LAFOLLETTE: What year was that, that they took the name?

THE WITNESS: I am not positive. Probably in 1947. I don't know.

MR. LAFOLLETTE: You say probably in 1947?

THE WITNESS: I say probably in 1947. I am not completely sure.

By MR. TAYLOR:

Q. Were any security measures taken? I am speaking of the time when the Party was reconstituted to the Communist Party of the United States.

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7708 THE WITNESS: Immediately after the establishment of the many smaller Communist Party clubs in the city of Washington, when each club had its own membership list and it was firmly established what member belonged to what club, the master membership list for the city

was removed from my custody and put under lock and key. In 1946, I was told by Elizabeth Searle that this master membership list had been destroyed. The clubs were—

. . . . . .

THE WITNESS: The clubs were at that time encouraged to not keep a complete list of names and addresses, but to put it in such form they would be able to find their members but it would not be evident if someone else should happen to get hold of a list.

Do you wish me to continue with the security?

MR. LAFOLLETTE: Were there any other actions taken of a similar character?

. . . . . .

7709 THE WITNESS: The clubs were instructed to cease to mail notices of meetings, and the Party members were instructed to cease using the telephone for inter-party conversations, particularly with reference to notifying members of meetings. All this was supposed to be taken care of by personal contact. I will note that all of the clubs did not completely follow this discipline at this time.

MR. LAFOLLETTE: "This time" is when?

THE WITNESS: In 1946. There was additional crackdowns at later dates which made them really begin to follow these security measures.

MR. LAFOLLETTE: What were the later dates?

THE WITNESS: In 1948, there was a new order put out. I will say that the industry clubs, the white collar clubs, where there were smaller memberships, did follow this in the earlier days. But in the community clubs where most of the members were known Communists anyway, they were a little more careless about their notification of meetings and that type of activity. But by early 1949, there was an ironclad rule that all the clubs follow that rule.

7710 By Mr. Taylor:

Q. Can you recall any other measures which the leadership in the District of Columbia considered security measures? A. The group system was established. It was something that was a part of the Communist Party during the time I was there, that the leading members would have a group of two or three members who were not so active whom they would contact to take literature to, collect dues, notify of meetings, and that type of thing. Something that not too much emphasis had been placed on in the past. But this became a part of the security apparatus. The clubs were instructed to be sure that the whole membership was assigned on a group system, that some of the Party work was carried on the group system and in 1948 the clubs were instructed to have group meetings so that the groups could begin to take over the whole work of the Party clubs instead of a general Party club meeting.

In 1949, it was a practice to have the groups meet. This would be a group of three to five members, rather than a group of the whole club, which would meet instead, and it was a rare thing to have a whole club meeting in 1949 when I was last active.

Q. Were any instructions transmitted concerning action Party members were to take in the event of an emergency?

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7711 The Witness: In 1947, this was some time prior to the time that the group system was firmly established and something that was ready to go to work at that time, I was instructed by William Taylor or the Party Chairman at that time, that should any of the Party leaders be placed under arrest, the Party leadership in the District of Columbia, that I should go to work in one of the mass organizations in which the Communists had some influence in the city, and I would be contacted then by the Party leadership and given a Communist Party Assignment compatable with whatever I would be able to carry out with whatever conditions should exist.

By Mr. Taylor:

Q. Were you provided with any funds to use in case of emergency? A. I was given a sum of $25 at this time as were all of the functionaries of the Communist Party.

7712 We were instructed to never have less money than this on our person at any time. We could use this to make telephone calls and anything which was necessary to notify the Party leadership should anyone be arrested to see that we could get legal counsel and any incidental expenses which should come up in case of any of the Party leaders being apprehended.

Q. Who gave you instructions as to what use you would make of this $25? A. This was discussed in the city staff by William Taylor, Elizabeth Searle and myself. The proposal was made to the City Committee, and it was approved by the City Committee and after this approval it was carried out.

Q. As treasurer of the City Committee, were you given any instructions concerning the dissemination of information about money from dues or contributions? A. Prior to the time when it became a Party policy to refuse to answer any question on the ground of self incrimination under the First and Fifth Amendments, I was instructed by William C. Taylor that should I be asked for information as to where the Party funds of which I was custodian came from, I was to state that he gave me all the Party funds which I received, rather than the fact that I was getting these funds from various individual Party members and various Party clubs.

. . . . . .

7713 Q. When was the policy of refusing to answer any questions about Party affairs adopted, and I am referring to the policy which was adopted locally.

Mr. Marcantonio: Referring to what policy?

Mr. LaFollette: The policy that was adopted locally.

The Witness: This policy first came to my attention when one of our Party members was in court in Virginia in connection with a trade union case, and he was asked was he

a Party member, and he denied he was a Party member. This was a Party person who had been a known Communist for many, many years in Washington. At a City Com-
7714 mittee meeting following that occasion, the resignation was post dated for this member to state that he was not a member on the date he said he was not a member, and he was re-recruited, and this member was told he should have taken the policy of the Hollywood Ten who had refused to answer questions before the Un-American Activities Committee, and realized that was the sensible thing to do. It was subsequent to this that a number of local party members were subpoenaed to appear before the Un-American Activities Committee and each of these were called before a special meeting with the top Party leadership and instructed on the things that they were to do before the House Committee on Un-American Activities. In each case they refused to answer questions about their Party membership.

MR. LAFOLLETTE: Can you recall the date of this event in Virginia about which you testified?

THE WITNESS: My best recollection would be that it would be very early 1948.

By MR. TAYLOR:

Q. What was the name of the Party member who had denied membership in the Party in Virginia? A. Clarence Gurwitz. He was known as Casey in Party circles.

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7715 Q. Was there a registration conducted by the Communist Party in the District of Columbia in 1948? A. You mean for the year 1948?

Q. Yes. A. Yes, there was a registration conducted in the late months of 1947 and very early 1948. In this registration, Party books were issued, Party registration cards were returned.

Q. Were the members instructed whether or not they were to place their names on the registration cards? A. They did not place their names on the registration cards, and it

was left to the discretion of the individual member whether or not he would place his name in his Party book. He kept that in his own custody.

Q. Was there a registration conducted for 1949? A. There was. On this occasion, no Party book was issued. Instead of registering any individual Party member, it would be done in a group of three people so you could not by
7716 just looking at a description of the person's age, employment, sex, race, where he was born, and so forth, deduct who any individual Party member was.

Q. Was any policy adopted in 1948 concerning membership lists? A. Clubs were given a very firm demand that they take a census of the Party club members to see whether anybody had a list and to be sure that any list in existence was destroyed at this time.

Q. Will you trace for us the method of transfer of members into and out of a local Party which was employed by the Communist Party subsequent to its reconstitution in 1945 and from that time until you ceased being active in 1949?

. . . . . .

THE WITNESS: At the time the Party was reconstituted, there was in use by the Communist Political Association of the Communist Party a transfer card which had a serial number on it. It came in two sections, one to be given to the member transferring, one to be sent to the place to which he was transferring. It would contain his name, address, party book number, and the club from which he was coming, and the club to which he was to be assigned.

After the reconstitution of the Party, these trans-
7717 fers which had formerly been sent to a letter drop were taken entirely by courier instead of being sent through the mails on any occasion. Then it became the policy to not use the transfer card at all. The form—

MR. LAFOLLETTE: Before you go any further, can you give us some idea of the times at which these changes took place?

THE WITNESS: I believe perhaps the transfer form was not used after 1947 at the latest. These were sort of transition things, sometimes the policy would be to stop and someone would still use it. Also I would say the number of transfers, particularly in and out of Washington, slowed up with the end of the war, and that period. By 1949, instead of giving a member a transfer card, they would take a dollar bill and tear it in two, and the member would retain one half and the other half would be sent to the point of his destination so they could match the serial number when he arrived. But they were very, very careful about transferring a member. If anyone was in any way suspected in the least, they just didn't receive a transfer.

By MR. TAYLOR:

Q. Were there any occasions at which you were present when Party members posed as non-members for the purpose of carrying out an assigned task?

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7718 THE WITNESS: There was one specific instance during the period of the Communist Political Association when a Party member, a woman member of one of the white collar clubs, by the name of Sally Balik, had been assisting me with membership work prior to this time, and she came and informed me that she was not going to be a member of her white collar club any more, that Elizabeth Searle had asked her to be a go-between. I know Sally Balik stayed in the city of Washington. I saw her in the street, and had a friendly conversation with her at a later date, but she was never returned to our Party rolls as a Party member.

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Q. Do you recall any other instances? A. There was another occasion toward the very end of 1949, one of the last meetings I attended of the City Committee, when we were looking for a replacement for a member of the City

7719 Committee, and Gertrude Evans, who is a long time Communist Party member in Washington, D. C., very respected by all the other members of the City Committee, she was suggested to be this replacement, and we were informed by the leadership that she was not available to take the post. The members of the City Committee protested this, saying that at this particular period in the late fall of 1949 certainly we needed the very best persons on the City Committee. They were told in fact to shut up and not talk about any member who has been made unavailable for any Party post. If the City leadership decides they are unavailable, then the rest of the City membership should just take it for granted that they are not to be discussed in any Party committee for any such post as this.

. . . . . .

Q. Did you attend any meetings which were held under security conditions? A. I did.

. . . . . .

7721 Q. Describe the meeting. A. In March 1949, the District Committee of the Communist Party held a very special meeting. It was considered a dry run, so to speak, to see how they could operate if they were under extreme attack.

. . . . . .

7722 THE WITNESS: We were instructed as a matter of fact that this was such a meeting because we were supposed to use extreme security measures, and being certain we were not followed to our point of assembly. On my occasion, a group of five Party members in the District of Columbia met on a certain street corner at a certain minute. We did not wait for one of the Party members who was supposed to go with us who did not arrive on time. When we approached the City of Baltimore where this meeting was to be held, one of the Party members opened sealed orders which he had in his pocket which told him an address to which we were supposed to proceed and the specific minute at which we were supposed to arrive.

Various other groups of the District Committee—in other words, active members who were not necessarily members of the District Committee, were present at this meeting—and I started to state other groups were proceeding in very much the same manner as we were, each at a different time at which to arrive, but always within a very short period of time. The method of leaving the meeting was very similar so they did not turn the meeting into the streets of Baltimore at the same time.

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By Mr. Taylor:

Q. Who presided at the meeting? A. Phil Frankfeld.

Q. Who is he? A. District chairman.

Q. Will you tell us what transpired at that meeting? A. The chief topic of discussion at that meeting was the question of the statement which had been made by Thorez, one of the French Party leaders, that the Communist Party members of France would not bear arms against the Soviet Union. This was the essence of what the statement was. The Communist Party leaders around the world had made similar statements. Eugene Dennis, I believe, in the name of the Communist Party of the United States had issued a similar statement. I believe William Foster joined with him in this statement, if I am not mistaken. Phil Frankfeld had made a statement to the Baltimore Sun along the same line, stating that the members of the Communist Party would not bear arms in any conflict beween the United States and the Soviet Union.

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The point for discussion was approval of this statement which had been made by Phil Frankfeld. The sense of the persons there was unanimous approval with the exception of one Party member who thought that the timing of the statement was poor, since the leaders of the Communist Party were then undergoing the trial. He was censured at that time and referred to the District leadership for further discussion to see that he should change his mind and agree that no Party member should bear arms against the Soviet Union.

By the time the discussion around this was through, when the time came to vote on this appro[illegible] of Phil Frankfeld's statement, it amounted to every person there taking an oath there that they would not bear arms against the Soviet Union.

. . . . . .

7751 Q. Did the Communist Party of the District of Columbia have any provision for the distribution of the Cominform bulletin, "For a Lasting Peace, for a People's Democracy!" to its members? A. Yes, they did. There
7752 was a decision made by the City Committee—I am certain this was carried out subsequent to the 1948 convention, which was held about August of 1948, whether it was carried out prior to that, I am not certain at this point—that free copies of the Cominform bulletin and of the Political Affairs would be made available with each issue to each member of the City Committee.

Q. Did the Communist Party for the District of Columbia conduct fund drives for the Daily Worker? A. They did. There was an annual fund drive.

Q. Did they conduct any while you were treasurer of the Communist Party for the District? A. There was one each year.

Q. Do you recall what those years were? A. I believe I took office in 1944, subsequent to the fund drive, so it would be '45, '46, '47, '48 and '49.

Q. What disposition was made of the money collected in the Daily Worker fund drives? A. A percentage of the money was kept for the overhead of the Communist Party in the District of Columbia. An additional percentage was forwarded through the District headquarters, some of which was retained in the District for the overhead of the District organization, and the remainder of which was forwarded to the national office to go to the National Communist
7753 Party and to the Daily Worker. In 1949, because the Washington, D. C. Daily Worker was in debt, 10 per cent of the money as it was collected was assigned and given to the Washington Daily Worker office.

Q. Did you as treasurer participate in the distribution of these funds? A. I signed the checks by which this money was distributed.

Q. Did any of the Communist Party members with whom you came in contact in the District tell you that they had attended the Lenin Institute in Moscow?

. . . . . .

THE WITNESS: William Taylor told me on more than one occasion in informal person to person conversation that he, I believe in the year 1935, had gone to Moscow.

. . . . . .

7761 Q. Did the local leadership of the Communist Party, that is the District of Columbia, sponsor a study of the so-called Classics of Marxism and Leninism? A. Yes, they did.

Q. Can you remember any instances at which study was sponsored and any books or pamphlets which were mentioned in connection with the study? A. On May 10, 1948, at a city board meeting, William Taylor, the Party Chairman, suggested that every board member read "Foundations of Leninism," "Mastering Bolshevism," "History of the Communist Party of the Soviet Union," and "The Constitution of the Communist Party of the United States."

In addition to the board members, he wanted the club educational directors and leading members of the clubs to read, study and become thoroughly familiar with these basic works.

(The document referred to was marked for identification as Petitioner's exhibit No. 335.)

By MR. TAYLOR:

Q. I show you Petitioner's Exhibit 335 for identification, and which is a pamphlet entitled, "Mastering Bolshevism" by Joseph Stalin, and I ask you if you read or studied
7762 a similar pamphlet with the identical text as that pamphlet in front of you. A. Yes, I did.

7763 Q. Did the Communist Party of the District of Columbia ever initiate a series of courses on any of the classics? A. They did. There was a series initiated in the early months of 1949, called the ABC's of Marxism. One class was held on the 25th of February 1949. The reading material for that class was "Imperialism" and "State and Revolution."

MR. LAFOLLETTE: "Imperialism" is one book, and "State and Revolution" is another book?

THE WITNESS: That is right. The instructor at that
7764 class was Isador Pascoff, who had the title of educational director for the city.

THE WITNESS: His remarks on imperialism dealt mainly with the Marshall Plan. He stated that it was a pump priming thing which was certain to lead the United States to bankruptcy.

The second class was on the "State and Revolution" pamphlet, but one of the key centers of discussion was again the Foster-Dennis statement on the Thorez statement. Isador Pascoff stated that this had more than normal significance for members of the Communist Party in the United States. He compared the socialist government in the Soviet Union to the American form of government with the favorable comparison going toward the Soviet government.

MR. LAFOLLETTE: When was this second one held?

THE WITNESS: That was on March 4. On February 25, we had a class conducted by Charles Payne. The subject matter for that class was on "Socialism, Utopian and Scientific." There he stated that with the growth of imperialist nations, specifically speaking of the United States, that the world would be divided into two camps, that it would
7765 be the imperialist camp and that of the democracies moving towards socialism and these democracies moving towards socialism would be bound to be triumphant in the future.

By MR. TAYLOR:

Q. What did you say the date of the class conducted by Mr. Charles Payne was? A. March 25.

MR. LAFOLLETTE: You said February. Do you mean March?

THE WITNESS: I meant March. The first class was on February 25.

MR. LAFOLLETTE: Was the class held by Pascoff—

THE WITNESS: February 25.

MR. LAFOLLETTE: And a class by Pascoff.

THE WITNESS: On March 4, and one by Payne on March 25.

MR. LAFOLLETTE: All right.

THE WITNESS: That is the extent of the classes.

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By MR. TAYLOR:

7766 Q. Do you recall hearing Alexander Trachtenberg speak? A. Alexander Trachtenberg attended a City Committee meeting in May of 1949. He did not make a major speech but took part in the discussion by the members of the committee. The essence of what he contributed to the discussion was that there was a need to raise the level of understanding of the Marxist classics by the leadership and by the general membership, that the only Communist who could be expected to stand up under attack would be one who was thoroughly based in the Marxist classics. He mentioned that the Jefferson School in New York was being used to train and teach Communist leaders. He stated that every club of the Communist Party should have a set of the Lenin Library, and if it was not possible for them to obtain a set of the Lenin Library, they should have as a minimum a set of the Little Lenin Library.

In addition to that, he stated that it was the duty of all Communist Party leaders to be so thoroughly familiar with the Communist Party classics that they could readily refer to them to help them analyze any current situation, to be able to apply the basic Marxist principles to any current situation at any time.

* * * * * * * * * * *

Q. Mrs. Markward, on the basis of your active par-
7767 ticipation in the Communist Party for a six year period, can you recall any instances in which criticism was leveled by the local party leadership or by the national Party leadership against the policies or activities of the Soviet Union?

* * * * * * * * * *

THE WITNESS: I do not.

* * * * * * * * * *

7768 Q. In those instances in which policies of the United States Government and the foreign policy of the Soviet Union appeared to be in conflict, did the leaders of the Communist Party either nationally or
7769 locally to the best of your knowledge ever express sympathy with the policies of the United States Government? A. They did not.

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7788 CROSS EXAMINATION

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7791 Q. And an agent from the FBI called to see you? A. That is correct.

Q. It was then that he suggested that you act as an informer for the FBI, is that right? A. It was there that we had a discussion about the role we felt the Communist Party in the United States was playing, and I volunteered that if it would be any help for me to join the Communist Party and furnish this information, I would like to do it.

Q. Was it you who volunteered the idea of joining the Communist Party or was it he who suggested it to
7792 you? A. I believe the question was how could I as a patriotic American citizen help my government through the FBI in this connection. He said that the way would be to join the Communist Party and furnish information.

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7793 Q. Was it then at the second appointment within one or two weeks after the first that you agreed to work for the FBI? A. That I agreed to join the Communist Party and furnish information to the FBI, yes.

. . . . . .

Q. Then what financial arrangements were made? A. I volunteered to do this service without remuneration of any kind. We didn't make any formal financial arrangements.

Q. Did you make arrangements for payment of expenses? A. I at no time ever submitted a statement for expenses that I wanted them to pay me or that they should pay me.

Q. At no time you submitted such statement of expenditures? A. No.

Q. But you did receive money for expenditures that
7794 you did incur? A. That is right.

Q. What moneys did you receive? A. They were irregular amounts at irregular times.

Q. Such as how much? Irregular amounts at irregular times, you say? A. That is correct.

Q. Can you give us an idea what you received? A. I really can't.

Q. You worked for them for how many years? A. I was engaged in this activity from May of 1943 until October of 1949.

Q. From May of 1943 to 1949? A. That is right.

Q. During these six years from time to time you did receive money which you say was in the form of reimbursement? A. That is about what it amounted to, yes.

Q. When you say that is about what it amounted to, can you tell us what you received, for instance, in 1944? A. I can not.

Q. Or in 1945? A. I can not.

Q. Or in 1946? A. I can not.

Q. 1947? A. I can not.

7795 Q. 1948? A. I can not.

Q. 1949. No, sir. Neither can I tell you what I spent during those years.

Q. You can't tell us what you spent in 1949? A. No, sir.

Q. When you say you didn't submit bills, how did you obtain the reimbursement? You conferred with someone in the FBI and told them what your expenses were? Is that the way you worked it? A. I had periodic meetings with the agents of the Federal Bureau of Investigation, who from these reports had an idea of what I was doing.

Q. You gave them an idea of what expenses you needed? A. I didn't suggest that I needed any expenses.

Q. Did you receive money during this period? A. I did, at their initiative.

Q. I beg your pardon? A. It was at their initiative, not mine.

Q. But you did receive it? A. That is right.

Q. Did you give receipts for these moneys? A. I did.

7796 Q. Itemized receipts? A. No, sir.

Q. Can you tell us in all what you received from the FBI in this period, the full amount? A. I have no idea.

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7799 Q. They advised you to do certain work within the Communist Party? A. No, sir.

Q. Did they advise you to go out and get subscriptions for the Daily Worker? A. No, sir. The Communist Party advised me to do that.

Q. Did the FBI ask you to give them the names of the people who subscribed, whose subscriptions you obtained? A. They did not ask me to do that, but that was among the things I did.

Q. You did? A. Yes.

Q. For instance, you obtained subscriptions in certain sections of the city of Washington? A. That is correct.

Q. You went from door to door? A. That is correct.

7800 Q. Asking people to subscribe to the Daily Worker? A. That is correct.

Q. At that time what did you tell them? You went into Negro communities, did you not? A. Negro and white communities.

Q. In the Negro communities you told them that the Daily Worker was a newspaper that was fighting for full citizenship for the Negro people? A. That is right.

Q. On that basis you obtained subscribers? A. A few, yes, sir.

Q. I beg your pardon? A. A few subscriptions, yes, sir.

Q. And those are the names of people that you turned in to the FBI? A. They were among the names.

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7845 **Herbert A. Philbrick** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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7846 Q. Have you ever been a member of the Communist Party of the United States? A. Yes, I have been a member of the Communist Party.

Q. Between what years were you a member of the Communist Party? A. I was a member of the Communist
7847 Party from 1944 to 1949.

Q. Were you a member of the organization known as the Communist Political Association? A. Yes, I was also a member of the Communist Political Association.

Q. From 1944 through 1949 you had continuous membership in one or the other organization? A. Yes.

Q. Had you come into contact with any Communists before 1944?

* * * * * * * * * * *

THE WITNESS: Yes, I was a member of the Young Communist League before that time, having joined the Young Communist League in March of 1942.

By MR. TAYLOR:

Q. How long had you been a member of the Young Communist League? A. From March, during March, 1942, I guess you could say I remained a Young Communist right

up until the time I joined the Party, although the Young Communist League itself was dissolved in 1943.

. . . . . .

7859 Q. What source of activities did you engage in between March of 1942 and March of 1944 while you were a member of the Young Communist League? A. Those two years were two very busy years. I found myself engaged in a great many activities. For example, an organization known as the Cambridge Committee for Equal Opportunities was organized by the Young Communists in Cambridge, Massachusetts, and I became one of the sponsors of that group. I sold Daily Workers door to door. I
7860 made collections for Russian War relief in Cambridge. In addition, I attended Young Communist League conventions. My biggest assignment by the Party during that time was to attend a convention in New York City. I believe that was in the fall of 1943, when the Young Communist League was dissolved and an organization known as American Youth for Democracy was formed. I subsequently became the state treasurer of American Youth for Democracy, one of the five top youth leaders of that organization.

. . . . . .

Q. Just what was the organization known as American Youth for Democracy?

. . . . . .

THE WITNESS: American Youth for Democracy was what is known by Communists as a coalition group, composed not only of members of the Communist Party but also a great many non-members of the Communist Party. There-
7861 fore, it was technically at least a non-Communist organization. It was a win-the-war organization designed to bring in as many young people in this country as possible, whose efforts would be designed to winning the war in Europe. Therefore, we participated in a great many activities such as selling war bonds and getting blood donor campaigns started, conducting inter-racial dances in Boston at the Soldiers' Canteen, and so forth.

Q. While you were a member of the Young Communist League did you attend any periodic meetings of any sort?

A. Yes, I did. I attended young Communist League meetings about every other week.

Q. What would take place at those meetings? A. The meetings were divided into three parts. The first section usually would be devoted to the business of the organization, such as collecting dues and selling literature, and so forth. The second part of the meeting would be devoted to discussion of current activities on the part of the Young Communists in the cell. A third part of the meeting would devote itself to an educational session during which we would study some part of Marxism-Leninism or maybe a study of some current Communist pamphlet or booklet.

. . . . . .

7862 Q. Do you recall any specific meetings of the Young Communist League? A. Yes, I can recall the first meeting that was held in my apartment in Cambridge.

Q. Will you tell us what transpired at that first
7863 meeting?

. . . . . .

THE WITNESS: Until this time I had been what you call a pacifist against wars in general, and therefore the first meeting of the Young Communist League at my apartment was devoted to a discussion of just and unjust wars. Later on in my party experiences I discovered that the text for which that material was gathered came from the History of the C.P.S.U. I was taught at that time that according to—

. . . . . .

7864 Q. When did you join the Communist Party of the United States? A. I joined the Communist Party of the United States in March of 1944.

Q. What were the circumstances surrounding your
7865 joining the Communist Party? A. I was recruited into the Communist Party by Alice Gordon, who was formerly the head of the Young Communist League, and at

the time she recruited me was head of the youth work of the Communist Party, working as a paid functionary from the state office of the Communist Party.

Q. When did you leave the Communist Party? A. I left the Communist Party on April 6, 1949.

Q. What were the circumstances surrounding your leaving the Party? A. I appeared as a witness for the Government in the trial of the 11 in the Federal District Court of New York, the Southern District Court.

. . . . . .

Q. What activities did you engage in upon first joining the Communist party in March of 1944? A. Chiefly I continued on with my work for the Party as the state treasurer of the Massachusetts American Youth for Democracy. Also at this time I began attending regular every other week meetings of the Communist Party cell.

. . . . . .

7866 Q. You have stated that when you first joined the Communist Party you continued on as state secretary of the American Youth for Democracy. While you were active in the American Youth for Democracy and at the same time were a member of the Communist Party, was your Communist Party membership disclosed?

. . . . . .

7867 THE WITNESS: No, it was not. I received specific instructions by Fanny Hartman, the head of the Communist Party at that time, that my membership in the Communist Party was not to be known and not to be revealed. Furthermore, that if any one asked me if I was a member of the Communist Party or declared me to be a member of the Communist Party, I was to swear on a stack of Bibles that I had not been, that I was not and had never been a member of the Communist Party. Fanny Hartman was district organizer of the Communist Party at that time and she is the former wife of Phil Frankfeld.

MR. LAFOLLETTE: What was this district?

THE WITNESS: This was District 1, which included Maine, New Hampshire, Vermont, Massachusetts and Rhode Island. It did not include Connecticut.

By MR. TAYLOR:

Q. Over what period of time were you active in youth activities of the Communist Party? A. I remained active in the youth activities of the Communist Party right up until the summer of 1945, continuing somewhat into the fall of 1945.

Q. What assignment did you receive in the fall of 1945? A. In the fall of 1945, following the state convention and the national convention of the Communist Party that year, I became a member of the State Educational Commis-
7868 sion of the Communist Party and became chairman of the leaflet production for the Communist Party.

Q. Were you a member of any branch of the Communist Party in Massachusetts at that time? A. Yes. I was a member of the Malden, Massachusetts, branch, which is a suburb of Boston.

. . . . . .

7869 Q. Was there a convention in District No. 1 of the Communist Political Association in 1945? A. Yes,
7870 there was. There was a state convention of the District No. 1 CPA, that was held in July of 1945.

Q. Did you attend? A. Yes, I attended that convention, first, as an alternate delegate from the Malden, Massachusetts, branch, and I also attended upon personal invitation by David Bennett, the state secretary of the CPA at that time.

. . . . . .

7871 Q. Where was this convention held? A. This con-
7872 vention was held in the New England Mutual Insurance Building in Boston, Massachusetts.

. . . . . .

Q. Was the convention open to any one who was not a member of the Communist Political Association?

THE WITNESS: Not to my knowledge. Every precaution was taken to see that no one would be at the convention who was not authorized to be there.

7873 MR. LAFOLLETTE: The objection is overruled. I would like to have you set out what you mean by precaution. Will you explain what you meant by that, what was done that you considered to be a precaution?

THE WITNESS: Yes. There were a great many things done. I don't know that I can recall all of them. I know that, for example, the identification of the delegates elected from our branch in Malden, for example, had to be sent in to the state office of the Communist Political Association to be okayed by I think they call it a credentials committee. The card had to be okayed and then the credentials sent back to the branch by the state office. Those credentials would admit you to the hall.

MR. LAFOLLETTE: Did the card bear on o.k. stamp or something when it came back?

THE WITNESS: It bore a stamp and a number, something like that, and a signature. I believe Mark Alper was the head of the credentials committee. Then when we got to the doorway of the convention you had to show your card at the door and the credentials committee sat at a table at the door with a long list of the names of those who were sup-
7874 posed to be there. You handed your card over to them and they would cross out the name so that no one else could come in on that same card. I know that people were turned away from the doorway because they did not have the proper credentials.

7908 Q. Of what did your ditties as educational director
7909 of the Eighth Congressional District consist? A. They consisted of organizing Marxist-Leninist classes throughout the entire area, in every cell. Generally speaking we followed the outline presented to us in the school

on Hancock Street. In addition to that we provided speakers from the state office, who would go out especially to speak at the cells, and we would provide to them literature from the Progressive Bookshop on current events of interest to the Communist Party.

Q. What publications would you use in providing information on current events? A. We would use both the theoretical text, in addition to current materials such as The Worker, the Daily Worker, Political Affairs, Masses and Mainstream, Science and Society, and other pamphlets that the Party published from time to time.

Q. Did you make use of "For a Lasting Peace"? A. Let's see. Lasting Peace did not come out until about 1947, and I don't believe I was still the educational director of the Eighth Congressional District when that paper first came out. But we did use it in our educational work in the Party after that time.

I was not specifically attached to the Eighth Congressional District after 1947.

Q. I believe you stated that you used the theoretical
7910 text in addition to these newspapers and magazine-type publications in connection with current events. Can you give us an example of how this was done, an illustration of your use. A. That was a common technique used because we were taught at our training schools that always we were to apply the lessons of Marxism-Leninism to present-day affairs, that these were guides for action and not simply books to be read and put away. I know in the history of the CPSU, I can't recall the exact section that it is in—

Q. Would it help if I got the book for you? A. Yes, it would. There is a section of the history of the CPSU which was used.

(Off the record)

MR. TAYLOR: I think it is Petitioner's Exhibit 330 that we refer to.

By MR. TAYLOR:

Q. I hand you Petitioner's Exhibit 330, which is the History of the Communist Party of the Soviet Union (Bolshe-

viks). Let's see if I can find an example. Here is an example. I have to find a spot where we actually applied it that I can recollect a specific application. In 1946 the Communist Party decided to back the Third Party movement, which I believe by 1947 had moved into the Progressive Party, and was known as the Wallace Party movement, and a discussion, sort of a class, you might call
7911 it, was begun throughout the entire district, in every cell, to point out the reasons why the Communist Party should back a non-communist organization, because the Progressive Party of course was not Communist. There were many non-communists in it. As an example, to establish a theoretical basis, to give a foundation as to the reasons why the Communist Party would so conduct itself, the Communist Party referred to history of the CPSU, from pages 46 through 52. I will just read some of the material here to show you how it was done.

"Certain elements of the Communist Party in Russia"—

MR. LAFOLLETTE: What page are you reading from?

THE WITNESS: Back on page 44.

MR. LAFOLLETTE: All right.

THE WITNESS: "Certain elements called the Mensheviks had opposed the Communist Party in certain respects, and Lenin pointed out the proper techniques of the Communist Party so far as working with other organizations and non-communists. There were several points to the program.

No. 1: "The Marxist party is a part, a detachment of the working class. But the working class has many detachments, and hence not every detachment of the working class can be called a party of the working class. The party differs from other detachments of the working class primarily by the fact that it is not an ordinary detachment," such as an ordinary labor union or even the Progressive Party.
7912 "* * * it is not an ordinary detachment, but the vanguard detachment, a Marxist detachment of the working class, armed with a knowledge of the life of society, the

laws of its development * * *, the laws of class struggle, and for this reason able to lead the working class and to direct its struggle. The Party must therefore not be confused with the working class, as the part must not be confused with the whole."

The party leader at the time in discussing that said that that means that the Communist Party, in working with other non-communists, do not confuse the issues and claim that the Progressive Party is the same as the Communist Party. It is not. The Communist Party's job in that respect is to be the leaders of the Progressive Party movement, the leader of any progressive movement, as those who are best educated to do that job.

Part No. 2: "The Party is not only the vanguard, the class-conscious detachment * * *, but it is also an organized detachment of the working class, with its own discipline, which is binding on its members. Hence Party members must necessarily be members of some organization of the Party. If the Party were not an organized detachment of the class, not a system of organization, but a mere agglomeration of persons who declare themselves to be Party members * * * and therefore are not organized, * * * the Party would never have a united will, it could never achieve
7913 the United action of its members, and, consequently, it would be unable to direct the struggle of the working class * * *.

The objection raised by the Mensheviks was that there were many intellectuals such as professors and university and high school students, who "Would remain outside the ranks of the Party, since they would not want to join any of the organizations of the Party, either because they shrink from party discipline, or as Plekhanov said at the Second Congress, because they consider it 'beneath their dignity to join some local organization'—this Mensheviks objection recoiled on the heads of the Mensheviks themselves; for the party does not need members who shrink from party discipline and fear to join the party organization."

That is No. 2.

Step No. 3: "The party is not merely an organized detachment, but 'the highest of all forms of organization of the working class', and its mission is to build all the other organizations of the working class. As the highest form of organization, consisting of the finest members of the class, armed with an advanced theory, with knowledge of the laws of the class struggle and with the experience of revolutionary movement, the party has every opportunity of guiding—and it is obliged to guide—all of the other organizations of the working class."

7914 This of course was pointed out as one of the reasons why it was an obligation of the Communist Party to get behind the Third Party movement and to help in directing them and guiding them.

No. 4: "The Party is an embodiment of the connection of the vanguard of the working class with the working class millions. However fine the vanguard of the Party may be and however well it may be organized, it can not exist and develop without connections with non-Party masses"—and of course the Progressive Party was a non-party mass—"and without multiplying and strengthening these connections. A party which shuts itself up in its own shell and isolates itself from the masses and loses, or even relaxes, its connections with its class is bound to lose the confidence and support of the masses, and consequently, is surely bound to perish."

No. 5: "In order to function properly and to guide the masses systematically, the Party must be organized on the principles of centralism, having one set of rules and uniform party discipline, one leading organ—".

No. 6: "In its practical work, if it wants to preserve the unity of its ranks, the Party must impose a common proletarian discipline, equally binding on all Party members—".

* * * * * * * * * * * *

7916 Mr. LaFollette: I believe it has some relevancy.

What did the teacher or the leader say with reference to these latter things?

THE WITNESS: The leader, of course, in reading the material said that these lessons especially applied to the questions that had come up in Party circles as to why we were bothering to spend so much time with a non-Communist organization such as the Progressive Party, why we should back a non-Communist organization. The teacher said that we must always strengthen our contact with the masses. We must never separate ourselves from mass organization work, because it is our duty to maintain ties with them and be the leaders, the intelligent leaders of the working class movement. And the instructors used this text as proof of the statements that they were making, as a basis.

. . . . . .

By MR. TAYLOR:

Q. Mr. Philbrick, from the time you joined the Communist Party in early 1944 through the period of your membership in the Communist Political Association, and through the period of your membership in the Reconstituted Communist Party, up to the present stage of our testimony in 1946, were you an open member of the Communist Party? A. No, I was never an open member of the Communist Party,
7917 and on at least three occasions I was instructed not to reveal my Communist Party membership.

Q. Did you have Communist Party membership cards during this period? A. Yes, up until 1947 I did have a Communist Party card, or I was issued a Communist Party card.

Q. To what use did you put this card? Did you put it to any use? A. Yes, the Communist card was good for an identification, especially when going into the Eighth Congressional District and visiting, first getting into meetings as a new, unknown person of course, and using that as a method of identification.

Q. Did these cards have on them your full name? A. Almost always no. The regulation was supposed to be that

only my first name would appear on the Party cards, and of course only my first name would be used in Party work. However, I believe it was on the 1946 card that was given to me by Frank Collier he made the mistake of writing out my whole name on the card.

Q. You say he made the mistake. How do you know that was a mistake on the part of Mr. Collier? A. I know that he was reprimanded later for it by one of the Communist Party leaders.

MR. LAFOLLETTE: Who was Collier at that time?

7918 THE WITNESS: Frank Collier at the time was the—

I don't recall his exact title, but he was one of the leaders in the Eighth Congressional District, one of the top leaders, and it was he who came around to my home and brought me my new 1946 card and collected my dues, the dues of myself and of my wife, too, who carried a Communist Party Card.

By MR. TAYLOR: Did you keep this card throughout 1946? A. No, I didn't.

Q. What did you do with it? A. Early in 1946 I was ordered to participate in a congressional campaign, in the campaign of a congressional candidate, and as such I was to attach myself to the office of the congressional candidate as a non-Communist. So for security reasons I was ordered to destroy the card.

* * * * * * * * * *

7920 Q. You testified that you were assigned to participate in the congressional campaign in 1946. As a consequence, you were supposed to destroy your 1946 card. Who gave you that assignment? A. The first orders came from the head office, Fanny Hartman, who in turn instructed me to contact Nat Mills, in the Eighth Congressional District, who was the Communist Party chairman in charge of the 1946 Congressional campaign program.

Q. What candidate? A. Mills, I might add, was the husband of Alice Mills, who had first introduced me to the Cambridge Youth Council.

Q. To what extent were you supposed to participate in the congressional campaign? Just what was your participation supposed to consist of? A. Of course my field was advertising and sales promotion and public relations, and
7921 therefore that was to be my particular job in the congressional campaign in Malden. I was ordered to participate, to take part in the campaign of Anthony Roche, Anthony Roche, Congressional Candidate for the Eighth Congressional District in 1946. Since Tony Roche was not only a non-Communist but anti-Communist it was impossible for the Communist Party to work in his campaign as Communists. Therefore, I was used as an underground communist—

. . . . . .

7922 Q. Were you told why the Communist Party was interested in the political campaign of Anthony Roche, a non-Communist or anti-Communist? A. Yes, I was.

MR. LAFOLLETTE: Who told you and when?

THE WITNESS: We were told early in 1946 at one of our Communist Party cell meetings following a text which appeared in the magazine Political Affairs concerning the importance of the coming 1946 first postwar congressional elections. I recall very little about the article itself, or who wrote it.

MR. LAFOLLETTE: What is it you were told?

THE WITNESS: Based upon that article, we were told that the 1946 elections were going to be very, very important to the Communist Party and to the country and that Communists should participate in the campaign to the fullest extent.

7923 MR. LAFOLLETTE: Do you remember who told you that?

THE WITNESS: Let's see. It would be in a cell. The cell would have included Nat Mills and Alice Mills, and the various other members of the cell at that time. I don't recall all of them now. We were further told that that meant that we would participate not simply in backing the cam-

paigns of non-Communists but of Communists too, here and there.

. . . . . .

MR. LAFOLLETTE:

What position did either of the Mills hold in the cell or in the Party?

THE WITNESS: Alice Mills was the head of the
7924 branch while her husband was in the service, and then after Nat Mills came out of the service I don't recall whether she continued as head of it or whether he was head of it.

MR. LAFOLLETTE: Did they have a position in any higher echelon of the Party other than the branch?

THE WITNESS: No, they were simply the branch organizers.

MR. LAFOLLETTE: Branch leaders.

THE WITNESS: Yes.

By MR. TAYLOR:

Q. Can you tell us anything else about Nat Mills? A. Of course he was the head of the Massachusetts Youth Council back in 1940 and '41. Later when he moved to Malden he became one of the heads of the branch in Malden, Massachusetts, and then at a still later date he was assigned the position of colonizer in the G. E. plant at Lynn, Massachusetts, and at or about that time moved his home and his family to Lynn, Massachusetts.

Q. Was the term colonizer defined by any of the Party leaders in Massachusetts in your presence? A. Yes, it was. The term colonizer was defined at a Party builders' conference the early part of 1947, February of 1947.

Q. By whom was it defined? A. Let me see now. It was
defined by Manny Blum, district organizer, and it
7925 was defined by Otis Hood, the district president or the Massachusetts president.

. . . . . .

Q. Do you know what occasioned the scheduling of a Party builders' conference at this time? A. My memory is

vague on it, except that the Party builders' conference followed a—I don't recall whether it was a directive that came into the district office or just what it was, but it tied in with some sort of instructions or orders that came to us from the National Headquarters, which reached us some time in the latter part of 1946, I would say.

Q. What purpose was the Party builders' conference concerned with? A. The purpose of the Party builders' conference, number one, of course was to build the
7926 Party, to gain a great many new members and to gain new readers for The Worker and the Daily Worker, to build and strengthen the Party in every way. Also at the convention held in Massachusetts, which was in the Ritz-Plaza Hall on Huntington Avenue, Boston, we were told specifically that the convention would apply to key industries or to decisive industries in the United States. Fanny Hartman was the lead-off speaker that day, and she described the key industries or the basic industries of the United States as those large industries which are owned and controlled directly by American capitalists and American imperialists. She said that the intent of the American imperialists and American capitalists was to embroil the world in a world war, with of course Russia being the prime target and of course the people's democracies being the prime target. She said that the major tools, the major weapons in the hands of these imperialists were the war plants, the big war industries and basic industries. She said that these plants of the imperialists must be attacked and destroyed, that we must break up the possibility of a World War III and especially a world war against the Soviet Union.

Q. Were there any other addresses given at that conference? A. Yes. Joe Figuerito, who was branch organizer in the Southern part of the District L, spoke, but I don't recall what he had to say now. Manny Blum was the
7927 first speaker to call for organizers and he defined the term colonizer, which I had never heard up to that time. He said that a colonizer was a party member who

would take up a position in a key industry and to establish himself in that industry as a leader, as a center, and around him to build a core of other Communists in the industry, a hard core of disciplined Communists, plus as many workers as could be convinced to follow them. He said it was necessary for the Colonizer to give up his job, if he had one, at a smaller plant or in a smaller business, and take up a job in a key industry or a big business. Furthermore, they defined what they meant by key industries. Nationally that means the steel industry, the automobile industry, the coal industry, and so forth. In New England we were told that the specific plants, the specific war plants, the specific tools of American imperialism in our area were plants such as the communications centers, the steel industry, too, although it is not too large in that area but we did have one member assigned to be a colonizer in the steel business, and especially that of the General Electric plant in Lynn, Massachusetts, where we were told, jet engines were being developed and being produced. I did not at that time have any personal knowledge outside of the Party that jet engines were being made at that plant, but we were told that at this meeting.

Otis Hood spoke and said that the position of a
7928 colonizer was one of the very highest honors in the Communist Party.

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7930 Q. While you were in the Communist Party did you yourself make it a practice to read the Party publications such as the Daily Worker, the Worker, and Political Affairs, regularly? A. Yes, I did.

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7931 Q. On page 818 appears the statement "The Daily Worker is our Central Organ." Does that coincide with your understanding of the position of the Daily Worker in the Communist Party?

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7932 THE WITNESS: The answer to the first question is yes, and the reason for it was that as an active educational leader for the Party there I was told many times that the Daily Worker was one of the most important facets of Party life, that every Communist Party member was supposed to read it. On the membership card itself, such as the one I have in front of me, it says on the membership card "Read the Daily Worker and the Worker." That is on the Communist Party card. All of us understood—

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7933 MR. LAFOLLETTE: I can't help but think that this is not going too far afield. You were told that the Daily Worker was important to a communist?

THE WITNESS: We were told that it was the most important printed document in the Party to every Communist.

MR. LAFOLLETTE: Did you talk to any other Communist about the Daily Worker? A. Yes.

MR. LAFOLLETTE: Did they have any opinion other than yours, as to its importance, any with whom you discussed it?

THE WITNESS: Oh, yes.

MR. LAFOLLETTE: Did they have any opinion different from yours?

THE WITNESS: No. I have never heard any criticism inside of the Party or any complaints about the Daily Worker. All of us were told that we should subscribe to it and read it and that we should follow it as the Communist Party newspaper. There was no other newspaper ever defined to us as a Communist Party newspaper as was the Daily Worker.

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7935 Q. Mr. Philbrick, in 1947 were you attached to any club or branch of the Communist Party in Massachusetts? A. For the first part of the year 1947 I was attached to the Eighth Congressional District or the Malden

branch, and I remained in that branch until Sep-
7936 tember of 1947 when my membership was transferred into the pro group of the Communist Party in District 1.

MR. LAFOLLETTE: What is the pro group?

THE WITNESS: The pro group was composed of the most deeply underground Party members in the Party—

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THE WITNESS: —composed of white collar workers and professional workers, that is, people who were doctors or lawyers or teachers, college professors, and businessmen, government workers, and so forth. Our cell was limited, generally speaking, to members above the executive secretary class, perhaps, from that class up.

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7937 Q. What was the designation? How was that group referred to in the Party in Massachusetts? Did it bear a title? Was "pro group" the title or did it have some other title? A. The pro group was never mentioned to the other members of the Communist Party in Massachusetts.

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THE WITNESS: It was not known at all. It was not known to exist by the rank and file Party members in Boston.

By MR. TAYLOR:

Q. What was its title among you people who were in the pro group? A. Will you repeat the question?

Q. What was its title or designation among those of you who were members of the so-called pro group? A. We understood ourselves to be members of the pro group. The various pro groups had various designations, such as Pro 4. My own cell at the very beginning was Pro 4. Later on I became a member of Pro 5. There was another pro group known as MO. In other words, the pro cells had no definite name. We had a symbol or designation.

7938 Q. How many members were there in the pro group as a whole in the Party in Massachusetts? A. In

Massachusetts the pro group had somewhere between 70 and 80 members.

Q. How many would you have in an individual cell? A. At the time I joined, the individual cells ran up to 10, 12, or even 15 in a cell.

Q. Who instructed you to drop your membership in the Malden branch and become a member of a pro group? A. I received those instructions from Fanny Hartman.

Q. Did these various cells of the pro group maintain contact with each other? A. At the first of 1947 until the first year of 1948 we were able to keep in touch with each other somewhat. However, the main lines of communications were through the leaders of the pro groups who in turn were in contact with the pro council of the professional group organization, the pro council being the highest governing body of the pro group.

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7939 Q. You stated that the pro group was an underground group, and that they met in small units or cells and had only certain contacts with other cells of the pro group. Were there any other security measures in force? A. At the time the Mundt-Nixon bill was under discussion here in Washington, a courier by the name of Pete, who was our liaison, our contact from the state office, came around to give us still further instructions. Incidentally, I might say that before that time our instructions were, number one, no member of the pro cell was ever to go near the state office of the Communist Party. We were forbidden to go even near to the state office. Up until that time I had worked at the state office quite frequently, working on literature and for the educational division. Number two, we were not to telephone the state office. If we had any messages for the state office we were to refer them to our leader in the cell, who in turn would pass the message on up. If absolutely necessary to call someone at the state office, we were to use a pay station, and not our own telephone. We were not to use our whole names in the pro cell.

We used only our first names or nicknames. Therefore, for purposes for which I was in the organization it was quite difficult sometimes to find out who the people were.

7940 That to me meant they were underground. Number four, we were never to carry a Party card. In fact, pro cell people were never issued a card. At times previously I have testified how I was issued a card and later ordered to destroy it, but the pro cell people were never issued a Party card. Those rules were enforced before the Mundt-Nixon Bill.

And after the Mundt-Nixon Bill, or at the time the Mundt-Nixon Bill was being discussed, and I believe it had already passed Congress and was going to the Senate, then we received even more stringent instructions. First of all, we were broken down, our previous cells and units were broken down into groups of not more than five people, although up until this time we had had 10 or more. That was number one. Secondly, we were not to have anything to do with people, with comrades, that we knew, not have anything to do with them either officially or socially if they belonged to another pro cell. We were to stick strictly to the five or less people in our own cell. If we happened to know the name of a comrade in another pro cell, we were not to mention his name as a Communist inside of our cell. We were to keep quiet. There was a whole raft of instructions. We were very cautious, even more cautious than we had been, about having our meetings. For example, we were not to have our meetings at the same house all of the time, but would change our places of meeting around, shift them, so that no one would become suspicious because we

7941 always had a group of people meeting at one place.

Furthermore, we were ordered to change the nights of meeting, so that we would not always meet on a Tuesday night. Written messages of meetings, that is, written notices of meetings were forbidden. Then we had to agree at a previous meeting when the next meeting would be. If it so happened for some reason or other we were not there and

still a leader had to get in touch with you, the message would come through in a disguised form so that it would not mean anything to anybody outside of the recipient.

Those were some of the instructions. Pete was there quite a while giving us those instructions.

We were told finally that these regulations were to go into effect with the pro group immediately, that we were to put them into effect then, and we were to begin breaking our group down into these groups of not more than five. We were told that the same instructions were being given to the rest of the comrades in the Communist Party, the rank and filers, but, however, that the regulations would not go into effect with them, but were being held in abeyance, and if the Mundt-Nixon Bill should pass, then they would be put into action.

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7942 Q. Do you recall the approximate date when these last instructions that you were mentioning were communicated to you through Pete? A. The last time our cell met as a large group was some time in the late winter of 1948 or the early spring of 1948, around June 1.

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Q. Was there any device or organizational structure through which separate units of the pro group might maintain some sort of liaison with each other and with the state headquarters? A. Yes, there was. Quite an elaborate organizational network was set up so that the group could function as a whole. We had representatives from our own cells. One representative from each cell would represent our small cell on a group called—what do they call it now—they call it a sub-council. The sub-council, which was the next highest rank above us, would have not more than five people in its membership. They in turn would elect one member from that group, who in turn would repre-

7943 sent them on the pro-council which was the highest governing body of the council. Then of course liaison was established between the pro council and the Communist

Party headquarters in Boston and a similar liaison was established between the pro council and the Communist Party office in New York.

Q. Who was the representative of your cell to the sub-council? A. Martha Fletcher was the representative of our cell.

Q. Did this structure of small cells and sub-council and pro-council and so forth, operate from the time it was set up as long as you continued your membership in the pro group?

. . . . . .

THE WITNESS: Yes, it did.

By MR. TAYLOR:

Q. When did you terminate your connection with the pro group? A. I terminated that also on April 6, 1949.

Q. Before this second breakdown went into effect, into cells of five, and so forth, when you first joined the pro group, how frequently was your unit meeting? A. Meetings were every other week.

Q. What took place at these meetings? A. The
7944 conduct of the meetings was precisely the same as it had been in the above grounds Communist cells, with the three individual sessions that we have mentioned before, that is, the dues collecting and the literature sales, and the activities of the group, and that of the educational session.

Q. Do you recall what you were studying at the educational session when you joined the pro group in 1947?

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THE WITNESS: Yes, I do. The pro cell when I joined the group had just begun to study a book called "State and Revolution," and they had already begun the course and had started the first chapter, and were part way through the first chapter. From the time I joined up until close to the end of the year they continued to study "State and

Revolution," taking it up chapter by chapter at each meeting.

. . . . . .

7945 Q. Who handled the teaching assignments at these various educational sessions of the pro group of which you were a member? A. The teaching assignments were handled by the individual members of the cell under the direction of the educational director. When I first joined the cell, for about the first two meetings I was the educational director, although they had already started on this course. Thereafter I became the literature director, and Martha Fletcher was the educational director from that period on. Each class session was conducted by the members in the cell itself, who would be assigned to a particular chapter, and they would come in to the class prepared to conduct the instructions from that chapter, plus supplementary material that they would bring in.

MR. LAFOLLETTE: Did you know Martha Fletcher before you became a member? A. Yes. That is how I happened to know her complete name. Martha Fletcher I knew from my activities in the American Youth for Democracy, when she was active on the national level with that group. She was on the editorial board of Spotlight, the national
7946 magazine of American Youth for Democracy. She participated in many of our activities as a unitarian youth worker, working in the office of Stephen Fritchman in Boston. I had come into contact with her many times over the years.

MR. LAFOLLETTE: Did she hold any official position during the time that you knew her?

THE WITNESS: She was a member of the pro council, which was the highest governing body of the pro group.

MR. LAFOLLETTE: All right.

By MR. TAYLOR:

Q. You people studied the entire book, State and Revolution? A. Yes, we did.

Q. Did you discuss the entire book in class? A. Yes, we did.

Q. Did you subscribe to the Daily Worker and to The Worker while you were a member of the pro group? A. The pro group for the most part did not subscribe to the Worker and Daily Worker, in order not to have their names on the mailing list of that newspaper. Instead, we got our Daily Workers and Workers and Cominform bulletins and other material from the Progressive Bookshop in Boston, and as the literature director that was one of my jobs, to get that material and bring it to the pro group meetings.

Q. Were there any publications which you fur-
7947 nished regularly, that is, every issue as it came out, which you as literature director furnished to your particular pro group, pro cell, regularly? A. Yes, there were three that I provided—there were four that I provided regularly. No. 1 was what was generally known, incorrectly too, I believe, as the Cominform Bulletin, "For a Lasting Peace, for a People's Democracy," every issue of that was provided to the pro group. Political Affairs was provided to the pro group, every issue. Masses and Mainstream was provided to the pro group. Now and then others would be obtained, such as Science and Society, which was a Marxist quarterly. The Worker and the Daily Worker—usually I would bring up only those issues that had something of great interest, such as a plenum issue or an issue carrying a draft resolution by the national board, or whenever some other matter of great importance was contained in them.

The reason for that was it was simply too bulky to carry two weeks' supply of Workers and Daily Workers to the meeting. It was a physical impossibility.

Q. Were there any other publications which were furnished to your cell in the pro group that you haven't mentioned? A. I can't recall any other issues that were provided, although I did bring of course to each meeting a large supply of the current issues of a lot of material. The

Party of course published a great many small pamph-
7948 lets and booklets, running from one cent to 25 cents per piece, and I provided all of those, plus of course, again, the Marxist-Leninist basic books and material.

Q. Was "Soviet Russia Today" furnished to the members of the pro group? A. Yes, Soviet Russia Today was one of those that I obtained, not all of the time, but most of the time.

Q. I believe you testified that it was your job to furnish them particularly important issues of the Daily Worker and to find out what articles were of importance and should be studied. Was there a decision of your own or were you furnished that information? A. I was furnished that information by Frank Collier at the Progressive Bookshop.

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7949 Q. How do you know that he was informed what publications to furnish you and what articles to tell you to study by the headquarters of the Communist Party in Massachusetts?

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THE WITNESS: I know that because I was told by the state headquarters that that was the way I would operate. I could no longer go to state headquarters to get the information directly. I could not telephone them. So in that sense Frank Collier was to be the courier who would provide me with that information.

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7951 Q. You just stated that at the same time you were in this deeply underground pro group you maintained some sort of connection with the state headquarters. Will you explain to us just how that was done?

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THE WITNESS: It meant that messages from the state headquarters or actual physical passage of leaflets and raw material had to be done by means of courier, and there were

two persons that I was told to be in contact with
7952 for that purpose. One was Frank Collier at the Progressive Bookshop.

. . . . . .

THE WITNESS: Frank Collier was one of the persons, and then a Comrade Max was another one of these individuals. I don't know if I can remember his last name now or not, but it was Comrade Max. It was through these people that I received information from the state office as to what work I was to do in an educational capacity.

MR. LAFOLLETTE: Where did you meet Max?

THE WITNESS: I met him at drugstores, I met him quite frequently at the Liggett's Drugstore at the corner
7953 of Tremont and Boylston Street in Boston.

MR. LAFOLLETTE: How would you arrange the time to meet? Would he call you?

THE WITNESS: He would call me. Occasionally I met with Daniel Boone Schirmer of the state office and he would also call me in advance from a pay station and then we would meet in a restaurant, usually the Waldorf Restaurant in Scollay Square. It was quite complicated and ran over a period of two years.

By MR. TAYLOR:

Q. Did you receive a copy of "For a Lasting Peace," which was furnished to your pro cell from Frank Collier? A. Yes, I did.

Q. Your pro unit held their meetings during the period of time from December of 1947 through April of 1948? A. Yes, it did, every other week.

Q. Do you recall what were the topics of discussion at the meetings held during that period of time? A. The major topic of discussion that occurred in that period of time was that concerned with A. Zhdanov's report which appeared in the Cominform Bulletin. It had actually appeared some time before the end of the year 1947, but we were involved

in this study of "State and Revolution" and so we
7954 took up the discussion of the Zhdanov report after the first of the year, some time in 1948.

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7955 MR. LAFOLLETTE: The objection is sustained. Why did you study it?

THE WITNESS: We were told to study it.

MR. LAFOLLETTE: By whom?

THE WITNESS: By Frank Collier.

MR. LAFOLLETTE: All right. Did Collier tell you why you were to study it?

THE WITNESS: Yes, he certainly did.

MR. LAFOLLETTE: He was your contact?

THE WITNESS: Yes.

MR. LAFOLLETTE: This was in the process of your contact with him?

THE WITNESS: Yes, it was.

MR. LAFOLLETTE: And he was a representative of the state headquarters?

THE WITNESS: That is right.

MR. LAFOLLETTE: What did he tell you?

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THE WITNESS: He told me that it was the key to the whole movement. I don't recall what else he said, but that was the chief thing he said, that this was the key to the whole movement, and this is what it means, and study it
7956 in all of the cells. We were to study it in our cell.

MR. LAFOLLETTE: You took the literature there, and then the discussion leader discussed it?

THE WITNESS: That is right.

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7999 Q. Mr. Philbrick, did you discuss Tito and the Communist Party of Yugoslavia at any other meetings of your pro cell? A. Yes. We discussed Tito and Yugoslavia at two of the meetings after the June meeting. It so happened that the change in Tito's position took place

between meetings, so it made rather a fast change in our particular cell.

. . . . . .

THE WITNESS: Then a full and organized discussion took place in August of that year at which time we used one of the magazines, Political Affairs, as a discussion guide.

By MR. TAYLOR:

Q. When was this first meeting that you mentioned, the first of these two, what month? A. In July, 1948.

8000 Q. I show you Petitioner's Exhibit for identification No. 344—

. . . . . .

Q. And call your attention to an article beginning on page 690, running through page 698, headed "Resolution of the Information Bureau concerning the Situation in the Communist Party of Yugoslavia," and ask you if you have seen that resolution. A. Yes, sir; I have seen this resolution.

Q. When did you first see this resolution? A. I first saw the resolution printed in the Daily Worker, and shortly thereafter I saw it again printed in the Cominform Bulletin when it was delivered to our pro cell, in addition to the fact that I had also seen it in the copy of the book which I now have before me.

Q. I call your attention to Petitioner's Exhibit 260,

8001 which appears in this same August 1948 issue of Political Affairs, pages 699 and 700, and is headed "Statement on the Information Bureau Resolution concerning the Situation in the Communist Party of Yugoslavia," and I ask you if you have seen that. A. Yes, sir, I have seen this, in this volume, and I believe this also appeared in The Worker or the Daily Worker. I think also that this was in substance—it is very close, I can't recall specifically, but it looks very close to a statement by Foster and Dennis which appeared in the Cominform Bulletin some time in that same period of time.

Q. Did your pro cell discuss the Cominform resolution which is Petitioner's Exhibit 344 for identification? A. Yes, it did.

Q. And the Foster-Dennis statement which is Petitioner's Exhibit 260 at any of their meetings? A. Yes, we did. We discussed these two—Let's see now. We had a rather disorganized discussion of it at a July meeting, and then in the August meeting we had an organized discussion carried on by Comrade Harry Winner of my pro cell.

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8003 Q. Will you give us, if you can recall, any of the comments or any of the action that was taken by members of the pro cell in the July 1948 meeting? A. The only specific comments I can recall clearly were those that were made by Harry Winner, who was leading the discussion. He said that the Central Committee of the CPSU, Soviet Union, had rendered a great service in revealing the Marxist-Leninist errors of Tito. He further said that
8004 the Cominform itself had rendered a great service to the cause of peace in the world by further revealing and elaborating upon the errors of Tito. He said that Tito had made great Marxist errors both in his foreign policy and his internal policy and that he appeared to be more of a petty bourgeoise nationalist than Marxist-Leninist.

The other members of our pro cell agreed, after some discussion, with the conclusions and statements made by the leader of the discussion, Harry Winner.

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THE WITNESS: As I say, the July meeting was one of some confusion, but there again no one disagreed with the statements made at that time in the Daily Worker or in the Cominform Bulletin.

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8023 Q. Mr. Philbrick, on the basis of your membership and active participation in the Communist Party and

Communist Party activities for a number of years, will you give us your understanding whether or not it was possible for yourself or any other members of your
8024 group to refuse to accept the decision of the Cominform regarding the Communist Party of Yugoslavia and still continue membership in the Communist Party of the United States of America?

. . . . . .

THE WITNESS: It is my understanding that a member of the Communist Party could not disagree with a directive or a position taken by the Cominform and still remain to be a member of the Communist Party.

. . . . . .

Q. I show you a copy of Petitioner's Exhibit No.
8036 331, which purports to be a copy of the Daily Worker, March 3, 1949, and call your attention to an article on page 3 headed "U. S. Communists Oppose Wall Street War, says Foster, Dennis," and I ask you if you have ever seen that article in that edition of the Daily Worker. A. Yes, sir; I have seen this article in this Daily Worker.

Q. Was that article discussed in any Communist Party activity? A. Yes, it was. This article was discussed in the Otis Hood class at the Boston School of Marxist Studies.

Q. Who led the discussion? A. Mr. Hood led the discussion.

Q. Will you relate to us the substance of the discussion led by Otis Hood?

. . . . . .

THE WITNESS: Mr. Hood said that we had already studied the nature of imperialism and the nature of capitalism, and that we had already learned that imperialism and capitalism breeds wars and breeds depression and breeds most of the evils which are inherent in the Society of the World of today. He said we recognize that capitalism in the
8037 United States was that type of organization, an organization which developed wars and depressions,

a state organization of oppression, oppression directed not only against the people of the United States, the working people of the United States, but oppression which was rapidly being directed against the peoples of the world. He then went on to say that of course as Communists we recognize that we are on the side of the working peoples of the world. He said the basic question, becomes what do we mean by patriotism and what is true patriotism. He said that it must be perfectly clear to us that as Communists we recognize that as patriots, the true patriot is the one who fights on the side of the working class and who fights against capitalism. Therefore he said Foster and Dennis were completely correct in their statement issued not only in the Daily Worker but a statement which was issued to the press, that they were completely correct in boldly taking this stand and stating unequivocably that in case of an imperialist war on the part of the United States, all Communists not only in this country but in the world would oppose that war in every way possible, that we would do everything we could to stop the war and to defeat the military operations of the capitalist government of the United States.

By Mr. Taylor:

8038 Q. Mr. Philbrick, on the basis of your active participation in Communist Party affairs, your attendance at the innumerable party meetings, your attendance at classes, discussions with local party officials, can you recall any instances in which criticism was leveled by the leaders of the Communist Party of the United States, local or national, against the policies or activities of the Soviet Union?

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The Witness: The answer is simply no, I never recall hearing any criticism directly against the Soviet Union.

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8039 Q. In those instances in which the policies of the United States Government and the policies of the Soviet Union appeared to be in conflict, was the Communist Party leadership, either local or national, to the best of your knowledge ever sympathetic with the point of view of the United States Government?

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8040 THE WITNESS: I can not recall any instance where the policy of the United States seemed to differ from the policy of the Soviet Union that any leader of the Communist Party appeared to be sympathetic to the
8041 policies of the United States.

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Q. Mr. Philbrick, based on the entire gamut of your Communist Party experience, that is, the period of years in which you were a member, attending classes, conversations with officials, reading of Communist Party literature, attendance at meetings and so forth, will you relate to us your understanding of the basic objectives of the Communist Party in the United States?

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8043 THE WITNESS: In that period of time it was to establish a Soviet State in the United States following, without any deviation, the dictates and the methods laid down by Marx, Engels, Lenin, and Stalin. To repeat all the methods would be to go through all the testimony that I gave.

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8044 Q. I amend the question, then. Mr. Philbrick, did you ever use a pseudonym while a member of the Communist Party? A. Yes, I did.

Q. What was that pseudonym? A. At least one of the pseudonyms, the one I used most was Arthur Trobridge.

Q. When did you use that pseudonym? A. I used that name while a member of the pro group and while still a member of the state educational commission. That was my name as a member of the state educational commission.

Therefore, in instances such as in that Boston School of Marxist Studies job that I delivered through the locker to Manny Blum, I included in that a notation to Manny explaining how the job should be run off, my judgment as to the type of paper and so forth, and signed it as usual, Arthur Trobridge.

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8259 **John Victor Blanc** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

Direct Examination

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By Mr. Story:

8274 Q. Mr. Blanc, you were testifying at the recess yesterday about attending an emergency meeting of the County Committee which was called to discuss the Duclos article. What was the Duclos article? A. The Duclos article was an article which appeared in The Worker, the Communist Press, in May of 1945, criticizing the work of the Communist Political Association of the United States and urging it to revert back to the old revolutionary tactics of the Communist Party.

Q. Who wrote the article? A. Jacques Duclos of France, of the Communist Party.

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8275 Q. What meeting was called to discuss the Duclos Article? A. It was a County Committee meeting of Cuyahoga County, Cleveland, Ohio.

Q. When was the meeting called? A. It was called in May of 1945 at the Hotel Hollenden in Cleveland, Ohio.

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Q. Do you recall the names of any of the speakers at this meeting? A. I do. Arnold Johnson presided at this meeting and gave the main report. Roy Hudson, a Party functionary from New York City, was also present at this meeting.

Q. What position did Arnold Johnson hold at that time? A. Arnold Johnson at that time was state chairman of the Communist Party in Ohio.

Q. What was the substance of Johnson's report to
8276 the group? A. Johnson gave a very lengthy report to the delegates at this meeting and read Duclos' article and also was in favor of a resolution which was to be adopted abolishing the Communist Political Association and reverting the Party back to the Communist Party of America.

Q. Did Johnson approve or disapprove the Duclos article? A. Arnold Johnson highly praised the Duclos article at that time.

. . . . . .

Q. What did Mr. Hudson have to say at this meeting? A. Mr. Hudson spoke on the Duclos article at the same time, and he urged every delegate at that meeting to take the resolution back to their club meetings and to discuss
8277 it with their members and have it adopted so it could be acted upon at the state convention at a later date.

Q. You stated that Mr. Hudson was a Communist Party functionary from New York. Do you know what position he held? A. I do not.

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Q. Were any re[illegible]utions passed at this meeting? A. A resolution adopting the Duclos article to revert the Communist Political Association back to the revolutionary tactics, was adopted.

. . . . . .

8282 Q. Mr Blanc, was the Duclos article discussed at the state convention which was held in July 1945? A. The Duclos article was discussed at this convention by all party functionaries who attended.

. . . . . .

8283 Mr. LaFollette: What party functionaries were there at this convention?

The Witness: The duly elected delegates from the different clubs in the State of Ohio.

Mr. LaFollette: Were the state officers present?

The Witness: The State officers were present, yes, sir, at this convention.

Mr. LaFollette: Are they the people who discussed the resolution?

The Witness: Yes, that is right.

By Mr. Story:

Q. What generally was stated about the Duclos article at this convention in July 1945?

. . . . . .

8285 The Witness: Arnold Johnson, who presided at this convention, along with Adeline Cole, Betty Erhart, Admiral Kilpatrick, Roy Dennis, strongly opposed the Communist Political Association of the United States and praised the Duclos article and said it was urgently necessary to revert the Party back to benefit the classes, and there was the time to do it, that the Party should be reconstituted back to the Communist Party of the United States to benefit the working class of the nation.

By Mr. Story:

Q. Mr. Blanc, at this convention were any of the national leaders of the Communist Political Association discussed?

A. Earl Browder, who was then Chairman of the
8286 Communist Political Association of the United States, was criticized for the way he had run the Communist Political Association of the United States and for some statement that Browder had made claiming that the Communist Political Association of the United States could live with capitalism. The delegates at that convention disagreed with Browder's views and said that capitalism had to be abolished—

. . . . . .

Mr. LaFollette: Can you identify who made the statement, whether or not it was the same people that you mentioned previously?

The Witness: Admiral Kilpatrick for one, Arnold Johnson for another.

Mr. LaFollette: What was Admiral Kilpatrick's position in the Communist Party of Ohio?

The Witness: Admiral Kilpartick was a member of the Committee of the State of Ohio.

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8301 Q. Mr. Blanc, during your association with the Communist Party in Ohio did you receive any information concerning Communist Party members who had been sent to the Soviet Union to school?

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8302 The Witness: I have known three such Communists that told me they attended the Lenin Institute in Moscow, Abe Lewis, Admiral Kilpatrick, and Gus Hall.

By Mr. Story:

Q. They told you personally that they had attended the Lenin Institute in Moscow? A. They personally told me they attended the Lenin Institute in Moscow.

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8308 Q. Mr. Blanc, you testified that you attended a Communist Party school at Camp Solidarity in Ohio in 1946. A. I did.

Q. What textbooks, if any, were used at this school? A. The History of the Communist Party of the Soviet Union, Imperialism; State and Revolution; Wage, Capital, and Labor—

Q. Was the school publicly announced in any way? A. It was not.

Q. Were any measures taken by the Communist Party to conceal the existence of this school?

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8309 The Witness: Yes.

By Mr. Story:

Q. What measures were taken?

. . . . . .

The Witness: I was told by the county office of the Communist Party prior to the opening of the school that I would be told where the school would be held. I was told also by the office that I would be notified in time to let me know what stuff I had to take, bed clothing, et cetera, because this would be a two-week full-time school, and no member would be allowed to leave the school until it was over.

By Mr. Story:

Q. After you arrived at the meeting place of the school, were any measures taken at the school to conceal the existence of the school?

. . . . . .

The Witness: Immediately when we congregated at the school Hy Lumer, who was instructor at the school got the group together and told us that we weren't to leave the grounds under any circumstances unless we got special permission from him, and we were not to contact any-
8310 body on the outside, that if we had to use the telephone we had to get special permission from him to use it.

Q. Mr. Blanc, you have testified that you attended another school at the West Side Hungarian Home in 1947. Do you recall when in 1947 you attended this school? A. That was in April of 1947.

Q. What textbooks, if any, were used at that school? A. The History of the Communist Party of the Soviet Union; Imperialism; State and Revolution; Wage, Labor and Capital; Political Affairs.

Q. Was that school publicly announced? A. It was not.

Q. Were any steps taken by the Communist Party to conceal the existence of the school?

. . . . . .

The Witness: We were told not to divulge to the members of our clubs about this school, and although the measures weren't as strict as they were at Camp Solidarity School when I attended a two-week full-time school—

. . . . . .

8311 The Witness: We were allowed to go home at the end of the classes and stay home overnight and we were told not to use the telephone in the building for contact with the outside.

Mr. LaFollette: What, if anything, did you do with reference to speaking to other members of the Party about your attendance at this school that you are now testifying about?

The Witness: We were told not to divulge the school membership. I was a member of the club, and I was told not to discuss it with the members of that club that I had been chosen for that school.

Mr. LaFollette: All right.

By Mr. Story:

Q. Now, Mr. Blanc, you have also testified that you attended a school in the summer of 1948. Approxi-
8312 mately when in 1948 did you attend this school? A. That was either in July or August 1948.

Q. Was this school publicly announced by the Communist Party? A. It was not.

Mr. Abt: May we have the place of the school?

The Witness: The West Side Hungarian Home in Cleveland, Ohio.

By Mr. Story:

Q. Were any steps taken by the Communist Party to conceal the existence of this school? A. Stricter steps

were taken at this school because this was during the period of the time that Gus Hall had disappeared—

. . . . . .

The Witness: And many of the members of the school were very much concerned about where Hall was. We were told not to divulge to our membership or even to our families, although we were allowed to go home, where we spent our time during the day.

. . . . . .

8313 Mr. Story: Mr. Clerk, will you mark this document as Petitioner's Exhibit 346.

(The document referred to was marked for identification Petitioner's Exhibit No. 346)

By Mr. Story:

Q. Mr. Blanc, I hand you a document and ask you if you can identify the document. A. This is a study out-
8314 line used each day at the Ohio State Communist Party Marxist School at the West Side Hungarian Home in Cleveland, Ohio, from July 24 to August 1, 1948.

Q. Is this the study outline that you used while attending this school? A. This is the study outline that I used while at the school.

. . . . . .

8315 Q. Mr. Blanc, during your association with the Communist Party from 1944 on, were members of the Communist Party open members of the Party, or concealed members of the Party?

. . . . . .

The Witness: There were both open and concealed members of the Party. The open members were members who were on full time salary of the Communist Party, and the concealed members were members who belonged to union organizations or mass organizations and didn't want to come out in the forefront and admit they were Com-

8316 munist. They were concealed. I myself was told by Gus Hall not to make my identity known as a Communist in my plant due to the fact that I could do better work among the union members unbeknown to them that I was a Communist Party member.

Q. Mr. Blanc, were you publicly charged at any time as being a member of the Communist Party? A. Yes. I was.

Q. When and how were you charged as a member of the Communist Party? A. In the summer of 1948 the Cleveland News had run an exposé of the Communist Party members who participated in a Cleveland rally of the Communist Party.

Q. When did you say that the article appeared? A. In the summer of 1948.

Q. Did you discuss this newspaper article with any of the officials of the Communist Party of Ohio? A. Immediately after the exposé I contacted Gus Hall and William Haber and told them about the exposé in the news and what trouble it was giving me at my plant of employment. They told me I should go back to the plant and tell the workers that what the Cleveland News was running as an exposé on me was a lie, and not to admit to them that I was a Communist Party member.

Q. What position did Haber and Gus Hall hold at
8317 that time? A. Haber was head of the Cuyahoga County Civil Rights Congress. Gus Hall at that time was on the National Committee of the Communist Party.

Q. Did you contact the editor of the Cleveland News concerning this article? A. I did not contact the editor. I contacted the reporter who ran the exposé.

Q. What did you say to the reporter and what did the reporter say to you? A. I asked the reporter, A Mr. Kehoe, to retract the statement he had run in the exposé about my contributing to the May Day rally fund, and he told me that he had got the information from the Communist Press, The Worker, and that he had seen enough of my political

activities for quite some time, and although he couldn't openly accuse me of being a Communist he had seen enough to let that article stand and he would not retract it.

Q. Were you an active member of the Communist Party at that time? A. I was an active member of the Communist Party at that time.

Q. Mr. Blanc, did you receive any instructions as a member of the Communist Party on the admission of your Communist Party membership?

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8318 The Witness: Yes, I have.

By Mr. Story:

Q. What instructions did you receive? A. The instructions given me by Gus Hall—

Mr. Abt: Mr. Chairman, may we have when and where?

Mr. LaFollette: I think you will. Go ahead. Tell when and where.

The Witness: The instructions given me by Gus Hall after the exposé was run in the Cleveland News in the summer of 1948, was not to reveal my membership in the Communist Party to my local union members of the Local No. 776.

Mr. LaFollette: This is the same conversation you had, that you previously testified about?

The Witness: Yes.

By Mr. Story:

Q. After this article appeared in the Cleveland News were you called before any union group to admit or deny your membership in the Communist Party? A. On two different occasions. The first was at a local union meeting after the exposé appeared in the summer of 1948, a petition was drawn up by Local Union members of my local demanding that I either admit or deny that I was a Communist Party member. Upon the instructions I had

8319 received from Gus Hall previous to that, I took no stand. I did not deny or confirm that I was a mem-

ber of the Communist Party at that local union meeting.

Q. Were you called upon at any other time to admit or deny your Communist Party membership? A. In February of 1949, at that time when local union offices had been thrown up for re-election, I was nominated to the post of secretary-treasurer of that local, without opposition. Prior to the time that I had accepted the post, a group within the local union, through the chairman, wanted me to get up and either deny or confirm that I was a Communist.

Q. What action did you take? A. I didn't take any action. I did not answer them at that time.

Q. Did the Chairman call upon you to answer this charge? A. The chairman did not call upon me to answer that charge.

Q. Mr. Blanc, during your membership in the Communist Party do you recall any instances where members of the Communist Party were called before governmental agencies and asked if they were members of the Communist Party?

. . . . . .

8320 The Witness: Yes.

By Mr. Story:

Q. Tell us where and when this information came to you. A. It was in April or May of 1945 that a Miss Patsy Shaw called me on the telephone and told me that she had been requested to appear at the Federal Bureau of Investigation to answer some question under the Hatch Act, as she was an employee of the Federal Government.

Mr. LaFollette: Who was she?

The Witness: She was a Communist Party member of my club.

By Mr. Story:

Q. Did Miss Shaw appear before the Federal Bureau of Investigation? A. Miss Shaw did appear before the Federal Bureau of Investigation. She had made arrangements

with me over the telephone to pick her up and I took her down for the interview.

Q. You took her to the offices of the Federal Bureau of Investigation? A. I did.

Q. Did you give Miss Shaw any advice or did
8321 she request any advice prior to the time she went into the offices of the FBI? A. In our conversation—

Mr. Abt: Just a moment. Yes or no, Mr. Chairman.

The Witness: Yes.

By Mr. Story:

Q. What advice did she request? A. In our conversation on the way to the Bureau with Miss Shaw, she told me she had talked to Arnold Johnson about appearing in front of the Federal Bureau of Investigation and answering charges about whether she was a Communist or not. She said that Arnold Johnson had told her to deny —

. . . . . .

8322 The Witness: —that she was a member of the Communist Party, that it would be only a routine check as far as she was concerned.

By Mr. Story:

Q. Did Johnson hold any position in the Communist Party at that time? A. Arnold Johnson was state chairman of the Communist Party of Ohio at that time.

Q. Did Patsy Shaw request any advice from you
8323 prior to the time you took her to the offices of the FBI? A. She did.

Q. What advice did she want? A. She had asked me whether she should go down to the Bureau and deny that she was a member of the Communist Party, and I advised her—

. . . . . .

The Witness: I advised Patsy that if this meant losing her job, to go ahead and deny she was a member of the Communist Party to the Federal Bureau of Investigation.

By Mr. Story:

Q. Mr. Blanc, were you present at any time when leaders of the Communist Party in Ohio discussed the action to be taken by Communist Party members under the Government loyalty program? A. Yes, I was.

Q. Where and when did this discussion take place? A. At a county central meeting at headquarters, where Ben Gray had been advising one of the members—

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8324 Q. Who participated in this discussion? A. Some member asked Ben Gray about the action that any Communist Party member should take if ever called in front of the Federal Bureau of Investigation.

Q. Did Gray hold a position at that time? A. Gray at that time was chairman of the Review and Control Board of Ohio.

Q. What did Gray say on this occasion? A. Gray told this member at no time to reveal your Party membership to the Federal Bureau, that there was no harm done in going down there and denying it, that it was only a matter of routine check-up that the Bureau had for anybody who worked in the Federal Government under the Hatch Act.

Mr. LaFollette: Who else was present at this conversation that you recall? A. Pardon?

Q. Who else was present when this advice or this conversation that you have just related, if you recall? A. Betty Erhart and myself were present at the time Ben Gray was telling this member.

Mr. LaFollette: All right. Who is Betty Erhart?

8325 Did she have any position in the Communist Party?

The Witness: Betty Erhart was a member of the Communist Party. At that time I believe she was in charge of the press for Cuyahoga County.

By Mr. Story:

Q. Mr. Blanc, did the Communist Party in Ohio keep any records during your membership in the Party after 1944?

. . . . . .

The Witness: Yes, they did.

By Mr. Story:

Q. What type of records were kept by the Communist Party?

. . . . . .

8326 The Witness: I kept a record of the members when I was dues secretary of the Ward 22 Club. When I was press and literature director of Collinwood and Railroad Clubs I kept records at my home. In 1947 when I was Chairman of my shop club up to and including May of 1949, I kept records at my home of members' names, addresses, or any other records that the county gave me for policy for my club meetings.

Mr. LaFollette: What type of records did you keep as press and literature director?

The Witness: As ess and literature director I had to have records of where to dispose of m, papers and literature, at whose homes, who were Communist Party members.

Mr. LaFollette: You kept records?

The Witness: Yes, showing the names and addresses of these Communist Party members.

. . . . . .

8327 Q. Did you continue to keep records in your Communist Party activities throughout your membership in the Party? A. I did.

Q. Did you at any time change the system by which the records of the Communist Party were kept? A. Security measures—

. . . . . .

The Witness: Yes.

Mr. LaFollette: What did you do and when did you do it?

The Witness: For security measures—

The Witness: Originally we had kept records of name and card number for the purpose of collecting dues or any contribution that this Party member would make to
8328 the Party. That was at our disposal. From 1947 to 1949 when I was in the Party, the latter part of the time I spent in the Party, late in 1947 we set up what was commonly know among the Communist Party groups as card systems.

Mr. LaFollette: Describe it.

The Witness: The Club was to be divided into group captains. Every group captain would have two members to answer for. He would get a little score card where he would keep the numbers on it, not names, of the people that were under his direct charge, for the purpose of collecting dues and keeping the record straight on that. I as chairman got a master file, and I kept by numbers, not names, all the dues stamps that I distributed to these group captains.

Mr. LaFollette: May I ask you something about that. When you say numbers, do you mean the number, 2 or 3, or did you use numbers as designation of people's ames?

The Witness: As an example in my club, I had 11 members and I went from 1 to 11. Any group captain who had a group under his charge, he knew what numbers referred to the Communist Party members that he was in charge of. That limited the names for the records.

Mr. LaFollette: May I ask, would a man have numbers 5 and 6 and that would be all he had, those numbers?

The Witness: The group captain, that is right. If he had two, he would probably have 5 and 6, and maybe
8329 he would be No. 7.

Mr. LaFollette: Would he know who 5 and 6 were?

The Witness: He would on his little card that he kept. He would check with me so I could get my master file straight, because I would know who No. 1 to No. 11 were in my club.

8332 Q. Mr. Blanc, after the number system had been initiated in your shop club where did you keep the records that you have just identified as Petitioner's Exhibits 347 and 347-A? A. These records I kept at my home.

Q. Did you keep any other records in addition to these records after 1947? A. After this was initiated we were told to destroy all the membership books, to collect all the membership books and any other records where records were kept of names and book numbers, and to use this exclusively for security reasons.

Q. By whom were you told that? A. By Betty Erhart at this October meeting of 1947.

Mr. LaFollette: What position did she hold? A. She was secretary to the Collinwood section of the Communist Party at that time.

8333 By Mr. Story:

Q. Did you destroy your records at that time? A. I collected all my membership party books and all of my records and brought them down to Betty Erhart's home and destroyed them in front of Betty Erhart and Roy Leib.

Q. At any other time did you receive any instructions from your superiors in the Communist Party to destroy Communist Party records? A. I did.

Q. When and from whom did you receive these instructions? A. I received instructions from Roy Leib to destroy my membership cards.

Q. When did this take place? A. This took place in February of 1948.

Q. Did you destroy your membership book at that time? A. I had handed it over to Roy Leib and he had destroyed it for me.

Q. Who was Roy Leib? A. Roy Leib was chairman of the Collinwood section of the Communist Party.

Q. Mr. Blanc, prior to the time the number system of keeping records in the Party came into use in the Party, what type of records did you use and what happened to those records after the new system came into existence?

A. The records that I didn't turn over to the Federal
8334 Bureau I destroyed.

Q. You mean the Federal Bureau of Investigation? A. That is right.

Q. Did you receive instructions to destroy those records? A. I did.

Q. From whom? A. Betty Erhart and Roy Leib.

Mr. Abt: I think we have just been over that.

Mr. LaFollette: I think he is tying it up. That is all right. This is the same series of instructions you have just testified about, the same period of time?

The Witness: No. First I think I made myself clear or I would like to make myself clear at this time, that the shop records such as membership books I turned over to Betty Erhart and Roy Leib, but at home I had records that I was told to destroy by Betty Erhart and Roy Leib, and instead of destroying them, what I didn't turn over to the Federal Bureau of Investigation, I destroyed.

Mr. LaFollette: Were these the records that you kept when you were—

The Witness: Chairman of the shop club and dues secretary.

Mr. LaFollette: I see. This was when you were chairman shop club?

The Witness: That is right.

8335 Mr. LaFollette: What happened at the time you were literature and educational director of the Collinwood Club, I believe?

The Witness: Those records I had at home, because I was also in charge for literature and press in that section. It broke up into sections when security measures were taken, and the Collinwood section was the section that I belonged to. About nine or ten clubs would belong to a section.

Mr. LaFollette: Your shop club also belonged to the Collinwood section?

The Witness: That is right.

Mr. LaFollette: When did this take place?

The Witness: This took place in 1947.

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8336 Q. You were testifying, Mr. Blanc, concerning the new system of keeping Communist Party records of dues and membership which was started some time in 1947. After this period did the Communist Party issue any directives or publications in writing to the smaller units of the party?

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The Witness: No, they did not receive their directives.

By Mr. Story:

Q. Did you receive any directives in writing at all after this period? A. I did not.

Q. Did you see any documents of any kind in writ-
8337 ing which appeared to come from a higher Communist Party headquarters, directing the different clubs to do anything, to take any action?

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The Witness: The Collinwood section at the home of Betty Erhart kept such records, and only her or Roy Leib handled them. Directives, stamps or anything pertaining to Party matters or policy were kept in a bread box at Betty Erhart's home.

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Mr. LaFollette: How do you know that, Mr. Blanc?

The Witness: I have seen them myself.

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Q. Prior to 1947 did you receive any directives personally which after 1947 you saw at the home of Betty Erhart? A. Prior to that—

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The Witness: I received directives mostly through
8338 the mail, although sometimes it would be handed to

me at the county office when I would be down there, mostly through the mails prior to the period 1947.

Q. Did you receive any directives at all after 1947 through the mail? A. I did not.

Q. Mr. Blanc, you testified before the noon recess that you received instructions to destroy the membership books for the different members of your shop club. Where did you receive these directives or these instructions? A. I received them from both Betty Erhart and Roy Leib.

Q. Approximately when did you receive those directives? A. In the fall of 1947.

Q. Was this at a Communist Party meeting? A. This was at a meeting conducted at Betty Erhart's home.

Q. What meeting? A. The Collinwood section of the Communist Party.

Q. Were any statements made at this meeting as to why the membership books were to be destroyed?

. . . . . .

The Witness: Yes.

By Mr. Story:

Q. What was said?

. . . . . .

8339 The Witness: We were told for us to destroy all of the membership books for security reasons, that they did not want the books to get into the wrong hands.

Mr. LaFollette: Who made this statement?

The Witness: Betty Erhart made that statement.

By Mr. Story:

Q. Mr. Blanc, did any members of the Communist Party use a Party name or an alias at any time during your membership in the Party? A. Yes, they have.

Q. Did you at any time use a Party name or an alias in connection with your Communist Party activities? A. In 1934, '35, and '36 I used the Party name of Roy Smith.

Q. Why did you use a Party name?

. . . . . .

The Witness: I was told to use a Party name to conceal my identity in the Communist Party.

Mr. LaFollette: By whom?

The Witness: By Johnny Williamson.

Mr. LaFollette: Who was he?

8340 The Witness: Johnny Williamson at that time was a state functionary of the Communist Party of Ohio.

Mr. LaFollette: What position did he hold?

The Witness: He was state secretary.

By Mr. Story:

Q. Is that the same John Williamson that was at one time a member of the National Executive Board of the Communist Party? A. It is.

Q. Was Mr. Williamson one of the defendants in the Foley Square trial?

. . . . . .

The Witness: That is right; he was.

By Mr. Story:

Q. Mr. Blane, was any other system used in Communist Party directives to conceal the identy of members of the Communist Party, other than the use of Party names? A. There was.

. . . . . .

8341 The Witness: A directive was issued to the clubs for a recruiting drive, where the names weren't used in full. It is possible that their first name and their initial was used.

By Mr. Story:

Q. Were you told by any members of the Communist Party why that was done?

. . . . . .

The Witness: I was.

By Mr. Story:

Q. Why was it done? A. For security reasons, for the Party members not to be identified as doing that type of work.

Mr. LaFollette: When was this?

The Witness: 1947.

Mr. LaFollette: By whom were you told?

The Witness: At the conference meeting.

Mr. LaFollette: At the conference meeting?

The Witness: At the General recruiting meeting.

Mr. LaFollette: Where was this general recruit-
8342 ing meeting held?

The Witness: It was held in Cleveland, Ohio.

Mr. LaFollette: Yes, but I mean was it held in any branch or section?

The Witness: The Collinwood section.

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8349 Q. Mr. Blanc, I hand you Government's Exhibit 349 for identification and ask you if you can identify the document. A. Yes. This is the document which was given to me at that reconvened convention held in August of 1945, the recommendations of the nominating committee for the state committee.

Q. Is that the copy which you used during this convention? A. It is the copy that I used in that convention.

Q. Did you retain that copy in your possession until the time that you appeared before this Panel? A. I only retained this until after the convention, and I offered this to the Federal Bureau of Investigation as my report, with my report.

Q. Did you place any marks of identification on that copy prior to the time you turned it over to the FBI? A. I did, on the last page. I made a notation on there telling the agent "Wherever X appears in front of the name,

that member was not elected to the State Committee. 59 members on the State Committee."

8350 Q. Mr. Blanc, in order to clear the records will you check in document and read the names of the persons appearing on that list who were not elected to the State Committee? A. The first one was Fred Hall, whose correct name is Fred Haug. The next is Marie Rice, whose correct name is Marie Reed. Wendell Ringholtz. That is the correct name. Francis Murphy, Gene Stoll, Clara Furing, Anne Brown, Laverne Slagle, and Jerome Woodward are all correct names of people not elected to the State Committee.

Q. I notice that there appears to be an "X" in front of Max Wall's name. Was he elected to the State Committee? A. I don't remember at this time. There are
8351 some down at the bottom of page 1; Tommy Miller and Tommy West were not elected to the State Committee.

Q. Mr. Blanc, you have mentioned that some of the names appearing on that document were not the correct names of individuals as they are listed on the document. Will you check the names and tell the Panel the correct names of the persons appearing on this list under Party names or aliases?

The Witness: Fred Hall is the actual Fred Haug. H. Larkin is H. Schneider.

8352 Mr. Abt: Who is that?

The Witness: H. Larkin.

Mr. LaFollette: Shop leader, AF of L.

The Witness: Above that, Joe Kelley is Joe Cress. Hy Lewis is Hy Lumer. Marie Rice is Marie Reed.

That is all.

By Mr. Story:

Q. Mr. Blanc, did you know these individuals whom you have just listed? A. I did.

Q. Personally, outside of party activities? A. I did.

Q. Did you know their names outside of the Communist Party activities? A. Yes, I did.

Q. Mr. Blanc, what happened to these nominating lists after the balloting had been taken at this convention? A. The nominating committee that handed these lists out had the correct number of lists that was given out. The Chairman asked that all of these nominating lists be returned at the end of the elections.

Q. Were all the nominating lists returned after the elections?

. . . . . .

8353 The Witness: All but two of these lists were returned. The Chairman of the nominating committee, after counting them upon the return of these documents, pleaded with the delegates to return the other two.

By Mr. Story:

Q. Was a search conducted in an effort to find these two lists? A. A search was conducted.

Q. Did they find them? A. They did not.

Q. Did you know where either of these missing lists were?

. . . . . .

The Witness: I did.

By Mr. Story:

Q. Where were they? A. The one list I had, which I turned over to the Federal Bureau of Investigation after the convention.

. . . . . .

8355 Q. Mr. Blanc, how were Communist Party directives transmitted during the latter years, namely 1948 and 1949?

. . . . . .

The Witness: They were picked up at the county office and taken over to either Betty Erhart's home or Roy Leib's.

. . . . . .

8356 Mr. LaFollette: How do you know this?

The Witness: I used to go to the county office on Saturday mornings and pick up the Sunday Worker when I was press director, for delivery among the different clubs that I delivered to, and directives and messages in envelopes were given to me for Betty Erhart or Roy Leib, and I would deliver them to either party as I was directed to, to Roy Leib or Betty Erhart.

. . . . . .

Q. Mr. Blanc, prior to the recess you testified that you were used as a courier for Communist Party directives between the County office and the section office. Did you ever receive any Communist Party directives by way of courier at any time? A. At my home on two occasions I received directives which Roy Leib brought to my home.

Q. Approximately when was that? A. That was in the spring of 1949.

Q. Prior to that time how did you receive similar directives or documents? A. Outside of picking them
8357 up and taking them to where they were supposed to go, like Betty Erhart's or Roy Leib's home, the directives weren't given to any chairman. They were read off either by Betty Erhart or Roy Leib at our Collinwood section meeting.

. . . . . .

Q. How did you receive similar directives back in 1944?

. . . . . .

The Witness: Either through mail or when I used to visit the office, mostly through the mail.

Q. Did you receive any directives by mail during the years 1948 and 1949? A. I did not.

Q. Mr. Blanc, at any time during your membership in the Communist Party were you called upon by any governmental agency to admit or deny your membership in the Communist Party?

. . . . . .

The Witness: I was. Being a member of—

. . . . . .

8358 Q. When and by what agency were you called upon to admit or deny your membership in the Communist Party? A. Being a member of the Executive Board of the Local Union, under the Taft-Hartley Act we were required to sign a non-Communist affidavit.

Q. Do you recall when? A. That was in February or March of 1948.

Q. Did you discuss this affidavit with any of the members of the Communist Party? A. I discussed this with both Gus Hall and Roy Leib.

Q. Did you receive any instructions as a result of this discussion?

. . . . . .

The Witness: I was told to go ahead and sign the non-Communist affidavit as required by the Taft-Hartley law, and it wouldn't make any difference because all I would have to do to overcome being prosecuted was to submit my resignation in to the Communist Party prior to the time that the Taft-Hartley law took effect.

Q. Did you submit a letter of resignation? A. I didn't submit a letter. The letter was drawn up at the
8359 county office of the Communist Party.

Q. Who, if you know, drew this letter up? A. Gus Hall.

Q. Did you sign it? A. I signed both the original and a duplicate. I gave them the original and maintained the duplicate myself.

. . . . . .

Q. Mr. Blanc, I hand you a document which has been marked for identification Petitioner's Exhibit 350 and ask you if you can identify the document? A. I can.

Q. Is this the letter that you have just testified to, concerning your resignation from the Communist Party? A. This is a duplicate of the original that was drawn up at the County office, and they maintained the original and this is the duplicate.

Q. Did you keep this copy of the letter in your 8360 possession until you appeared before this Board?

A. I only kept this in my possession for a few days and then I turned this letter over to the Federal Bureau of Investigation.

Q. Is that your signature on this letter? A. That is my signature.

Q. Petitioner's Exhibit for identification 350 is dated July 28, 1947. At what time did you sign this letter? A. It was in February of 1948.

Q. Were you told why this date, July 28, 1947, was placed on this letter?

. . . . . .

The Witness: I was told by Gus Hall at the time I was in the county office in February 1948 that the letter would have to be pre-dated prior to the time that the Taft-Hartley went into effect so that if anything went wrong they would always produce evidence that I had tendered my resignation to the Communist Party p or to August 1, 1947, at which time the Taft-Hartley Act became effective.

By Mr. Story:

Q. Did you have a membership card in the Communist Party at the time you signed this letter? A. I did. I was told by Gus Hall to destroy it.

Q. Did you destroy it? A. I didn't destroy it. Roy
8361 Leib destroyed it for me.

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8415 Q. Mr. Blanc, did you attend any meetings of the Communist Party in Ohio where plans were discussed for taking the Communist Party underground?

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The Witness: I did, in May 1948.

By Mr. Story:

Q. Where was the meeting held? A. In Hy Lumer's home in Cleveland, Ohio.

Q. What took place at this meeting? A. This was
8416 an emergency meeting at which all chairmen or anybody else in the clubs that held a job as secretary or chairman and top union level people that worked with the Communist Party met at the home of Hy Lumer for preparations for emergency raising a fund of $50,000. This fund was to be raised among the different clubs in Cleveland, Ohio for the purpose of buying stencils, inks, papers, et cetera, for the Party to have on hand when it moved underground.

Q. Were any provisions made for transporting or storing this equipment?

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The Witness: There was. Joe Brandt presided at the meeting. When asked by different people at the meeting where the stuff was going to be taken to or who was going to pick it up he made reference that Dave Katz would pick it up in his truck and only Dave Katz would know where the stuff went to.

By Mr. Story:

Q. Were any statements made at this meeting as to why the Party was planning underground activity? A. Joe Brandt made a statement at this meeting clarifying

the reason for such a meeting, saying that we had to be prepared to move underground in case the Mundt
8417 Bill passed and that we had to make preparations to be prepared to work from underground.

* * * * * * * * * * * *

Q. Did Joe Brandt hold a position in the Communist Party at the time he attended this meeting and made these statements? A. Joe Brandt at that time was working at the top level Communist Party in Cuyahoga County with the local unions.

* * * * * * * * * * * *

Q. How long did you know Joe Brandt in the Communist Party out in Ohio? A. About three years, up to the time I left the Party.

Q. Did you participate in collecting any money
8418 for this fund and in organizing this meeting? A. A quota for my section was handed to Roy Leib and I who represented our section at that meeting, a quota of $3500 to be raised among our club members and ourselves, and we were given a ten-day period in which to raise it.

Q. Did your section meet its quota? A. No, we did not. I think we fell short some three or four hundred dollars.

Q. What happened to this money after it was collected in your section? A. All the money was turned over to Roy Leib.

Q. What position did Leib have at that time? A. Leib at that time was the Chairman of the Collinwood section of the Communist Party.

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Q. Was membership on important committees of the Communist Party changed at any time during your membership?

* * * * * * * * * * * *

The Witness: It was.

. . . . . .

8419 Q. Mr. Blanc, you have testified that you attended the state convention of the Communist Party of Ohio in 1948, is that correct? A. That is correct.

8420 Q. You have just testified that at this state convention, the state committee was reduced from a certain number, 50 or 60, I think, to a total of 11 members, is that correct? A. That is correct.

Q. Were any reasons stated by any of the members or delegates at this convention as to why the state committee was to be reduced? A. There was.

Q. What was that reason? Who made the statement and tell what was said. A. Gus Hall made the statement, that the reason that the state committee was reduced from its present membership to a total of 11 was that it would be a close-formed committee and it would be better to operate with a smaller committee, that if anybody got into trouble they would always have replacements for such a committee from the past members who had served on that state committee.

Q. When in 1948 was this convention held? A. In the summer of 1948.

Q. Mr. Blanc, was the subject of allegiance owed by members of the Communist Party discussed in any Communist Party school or Communist Party meeting which you attended?

. . . . . .

8421 The Witness. There was.

. . . . . .

Q. Mr. Blanc, were members of the Communist Party taught that they owed allegiance to the Government of the United States during your membership in the Communist Party?

. . . . . .

8422 The Witness: The Communist Party members were always taught that they owed their allegiance to the democratic forces of the world, and that Russia was that democratic force.

. . . . . .

Mr. Brown: Can you further identify the making of this statement as to the time, place and by whom made?

The Witness: At several meetings in the spring of 1948 at either Jack Lencl's home or Roy Leib's or Betty Erhart's, the statement was made by either Betty Erhart or Roy Leib.

Mr. Brown: In your presence?

The Witness: In my presence.

By Mr. Story:

8423 Q. Mr. Blanc, you have testified that you attended the Communist Party school at the West Side Hungarian Hall in June of 1948, is that correct? A. That is correct.

Q. Was the subject of allegiance mentioned at any time during the course of that school? A. There was.

Q. Will you tell the Panel what was said and who made the statement? A. Anthony Kirchmarek, who was an instructor at that school at the time, told the class that the United States was out to crush Russia and the progressive party. He said it was the duty of all Communists in the United States not to fight an unjust war, that Communists would recognize and fight a just war, but an unjust war, no. It was our duty to defeat their every purpose. We weren't to be brought into a third world war and we weren't going to be neutral as we were in the second world war. We would know when the time came for a third world war between the United States and Russia that we would be prepared to do what we could to hamper their every effort in crushing Russia.

. . . . . .

Q. What were you taught, Mr. Blanc, as to the meaning of an unjust war, by the Communist Party? A. An

unjust war is a war that is fought among the money monopolies for the control of world interests, and an unjust war would be a war of Wall Street brokers and money
8424 monopolies against Russia.

. . . . . .

Q. What did Hall say at this rally in May of 1948?
8430 A. There again Hall stated that Napoleon tried to
8431 win wars for the French kings and was defeated, that Hitler tried to win a war for the German trusts and cartels and he also was defeated. Now, he said, we are faced with the money monopolies and the Wall Street brokers trying to make war against Russia. He said, they will be defeated because the money monopolies of Wall Street know well that the Communist Party of the United States will not stand still and be neutral, that we would have a voice in it, that we would go out and hamper their every attempt in trying to crush Russia and trying to keep the United States of America from ruling the world.

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8584 Redirect Examination

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Q. Did you send this letter by mail to the Communist Party headquarters in Ohio? A. I did not.

Q. Will you explain the portion on the bottom of Government Exhibit 350 where you have stated that you wrote "Sent by mail 7/28-47"?

. . . . . .

The Witness: That was put there on the advice of Gus Hall, who told me to make that notation in case some reference was made to it when I resigned from the Communist Party of Cleveland, Ohio. That was put there for the purpose of protection for myself. I resigned prior to August 1, upon the inception of the Taft-Hartley
8585 law, when it became effective.

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**William Garfield Cummings** called as a witness for Petitioner, having been first duly sworn, was examined
8603 and testified as follows:

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Direct Examination

Q. What was the purpose of this meeting of the state committee?

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The Witness: The purpose of this meeting was to discuss the National Board Resolution on dissolving the
8617 Communist Political Association.

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8619 Q. What was said about Earl Browder and his policies? A. Several of the delegates made statements that Mr. Earl Browder had deviated from the Marxist-Leninist line and that they appreciated very much this being called to their attention by Mr. Jacques Duclos, and then also—I want to think just a minute. I want to get this in there. After the meeting between Mr. Churchill, Mr. Roosevelt and Mr. Stalin, they said that the Party had completely deviated from the Marxist-Leninist line and it had generated into revisionism.

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8629 Q. What was Roddie Lester's position in the Communist Party at the time you knew him? A. At the time I knew Mr. Lester he was press director of the Communist Party of Lucas County.

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Q. What did Roddie Lester tell you about Party schools in Russia? A. In the course of a conversation with Roddie Lester he told me that he attended a Communist Party school in Russia.

Q. When did this conversation take place? A. This conversation took place in the latter part of 1945.

Q. Where? A. In Toledo, Ohio, the headquarters of the Communist Party at Lincoln House.

. . . . . .

8637 Q. Did Lewis mention any people he had met at the Lenin Institute?

. . . . . .

The Witness: He spoke of Mr. George Siskind. He said Mr. George Siskind attended the Institute at about the same time he did.

. . . . . .

8644 Q. While you were a member of the Communist Party did you know of there being more than one type of member?

. . . . . .

The Witness: I do. There was more than one type, open and concealed members.

By Mr. Nelson:

Q. In your position as a member of the State Committee did you of your own knowledge know any concealed
8645 members?

. . . . . .

The Witness: I did.

By Mr. Nelson:

Q. Can you name any concealed members of the Party?

. . . . . .

8646 A. Mr. Charlie Clark of 2746 Mulberry Street in Toledo, Ohio. He was a concealed member.

8647 Q. How do you know that?

. . . . . .

The Witness: At a Communist Party state committee meeting in Cleveland in 1948 the local Communist Party of the City of Toledo was instructed by the State leadership to keep Mr. Charlie Clark's membership concealed in the

Communist Party. He was also a member of the Progressive Party.

. . . . . .

Q. What contacts did you have with this Charlie Clark? A. One of the contacts was through his Communist Party membership. The second contact was in the industrial club of the Communist Party in the City of Toledo. He was also a trade union member.

Q. Were you present when Charlie Clark was given these instructions? A. I was. I was present in Cleveland and also in the City of Toledo.

8648 Q. Who gave him these instructions? A. Joe Sokol gave him the instructions in the City of Toledo.

Q. Do you know the name of any other person who operated as a concealed member of the Party? A. Ed Love operated as a concealed member of the Communist Party.

Q. How do you know that? A. I knew him to be a member of the Communist Party, and I know that he operated under the name of Edwin Lee in the Communist Party.

. . . . . .

Q. Do you know the names of any other concealed members? A. Not in the City of Toledo. I can not recall the names of any other concealed members in the City of Toledo.

Q. Do you know other concealed members elsewhere? A. Only on the State Committee.

Q. I don't think you understand me. Do you know

8649 of concealed members in the Party other than in the City of Toledo? A. In Cleveland and in Youngstown there were concealed members.

Q. Do you personally know of your own knowledge? A. Of my own knowledge I know.

Q. Who were the concealed members in Cleveland that you know? A. I know of Kermit M. Kirkendoll, who was on the State Committee.

Q. Going back to Charlie Clark, what function did he perform as a concealed member of the Party?

. . . . . .

The Witness: He was on the State Committee. He functioned on the County Committee, the Committee of Lucas County.

Q. What private business was he in? How did he make his living? A. He was employed at the Dana Corporation of the Spicer Manufacturing Co. He was chief steward of that local unit, Local 12.

Q. You say he received his instructions to operate as a concealed member in 1948. What functions did he perform for the party operating as a concealed member?

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8650 The Witness: He was vice chairman of the Progressive Party of Lucas County.

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The Witness: He also ran for city councilman on the Progressive Party ticket in 1949.

By Mr. Nelson:

Q. How about this Edwin Lee or Edwin Love—that is the same person? A. The same person.

Q. What did he do for a living? A. He was employed at the Willys-Overland and his profession was school
8651 teacher. For the duration of the war he was employed at the Willys-Overland Motors.

Q. What function did he perform for the Party as a concealed member? A. He wasn't too active in the Communist Party. His biggest function, he was on what they call the Social Committee, a committee to arrange social functions for the Communist Party. He was on the Social Committee. He was chairman of the Social Committee in 1946.

Q. This other man you mentioned was Kermit Kirkendoll. A. Kermit M. Kirkendoll.

Q. What was his means of livelihood? A. He was in the State Senate, the State of Ohio.

Q. What function did he perform for the Party? A. I believe he came from the trade union movement, and then he went to the Senate. That was his function.

Q. What position did he hold in the Party? A. He was on the State Committee of the Communist Party, the State of Ohio.

Q. Mr. Cummings, while you were a member of the Communist Party and a member of the State Committee of Ohio did you ever have any discussions with other party members or state committee members concerning Party members testifying in courts or before legislative bodies?

A. I did.

8652 Q. Where and when did you have such a discussion?

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8654 The Witness: Mr. Joe Sokol instructed me personally, he also instructed the members of the County
8655 Committee of the Communist Party of Lucas County that at no time they should admit that they were a member of the Communist Party if they were asked by any law enforcement officers, such as the Federal Bureau of Investigation, police force, and not even the trade union leaders should know it if they were asked. That was after the security period in 1947 in Cleveland, Ohio at the home of an attorney by the name of Sam. In East Cleveland, Ohio, at a Communist Party state committee meeting, special State Committee meeting, Mr. Gus Hall also gave these very same instructions.

By Mr. Nelson:

Q. Mr. Cummings, were you yourself personally given such instructions? A. I was personally given these instructions by the local Communist Party of Lucas County and also the state leadership gave me these instructions.

Q. Who else was present when Joe Sokol made that statement to you? A. Mrs. Regina Sokol, Max Wall and Flo Wall was present.

Q. On the occasion when Guss Hall gave those instructions? A. Miss Betty Riley was present; Frank Hasmall was present; Joe Sokol was present; and there were a number of others. I just can't recall them offhand.

Q. Were they all Party members? A. All Party members because this was a concealed meeting, one of
8656 the concealed meetings. It was a state committee meeting.

. . . . . .

Q. Mr. Cummings, were you ever asked by any legislative body or a court or any person if you were a member of the Communist Party?

. . . . . .

The Witness: I was.

. . . . . .

Q. On what occasion, when and where? What was the occasion? A. I was asked in 1947 by Mr. John Begg, the Chairman of the Electric Autolite unit if I was a Communist. He didn't ask me if I was a member of the Communist Party. He asked me if I was a Communist.

Q. What answer did you give him? A. I gave him a truthful answer. I told him no, I wasn't, that I wasn't a Communist.

. . . . . .

8657 Q. At the time Mr. Begg asked you this question, were you a member of the Communist Party? A. I was.

. . . . . .

Q. How do you reconcile the statement that you were a member of the Communist Party with the fact that you answered Mr. Begg that you were not a Communist? A. Because I absolutely didn't believe in the teachings of the Commnuist organization.

8658 Q. Mr. Cummings, during your membership in the Communist Party from 1943 to 1949, did you have anything to do with Communist Party records? A. I did.

Q. Were you acquainted with the way the Party maintained its records? A. I was.

Q. Will you describe these various records that as a Communist you knew about? A. They had what was known as the membership list. They had the Daily Worker list, the Daily and Sunday Worker list. They also had what was known as the regular mailing list.

Q. Were all these records kept in the same manner? A. They were not kept in the same manner, not exactly the same manner. They were kept separately. There were different records. The regular mailing list was a list to which they mailed weekly or monthly certain Communist Party literature, trade union throw-aways, et cetera, the regular mailing list. The membership list was simply a list of the Communist Party members. The Daily and Sunday Worker list was the list of the people who read the Daily and the Sunday Worker.

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8659 Q. Where were the various records kept and how were they kept? A. Up until the security period the record was kept in the Communist Party headquarters, but after the security period then they began hiding these records in different places.

Q. What did you mean by the Security period, Mr. Cummings? A. Until up until 1947-48 the records were kept in the Communist Party headquarters, but after the Party began making preparations to go underground they referred to it as the security period.

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The Witness: It was referred to as a security period. That started in 1947 and 1948.

By Mr. Nelson:

8660 Q. Will you describe the manner of keeping records before the security period and after the security period? A. I think I partially described the method of keeping records before the security period. The records

were kept in the office. They had cards, the names were put on cards, and they were put in a file. That is the way the records were kept. But after the security period then they didn't keep records in the same way as they did before. The regular mailing list was blown into quite a large list with a number of prominent Toledo people included who didn't belong to the Communist Party, that they didn't mail out the literature to, but they were included in this list.

. . . . . .

Q. How do you know? A. Because I had access to the list, and I knew the members of the Communist Party and I knew also people who were on this list—I didn't know the people who were on this list, but I knew there were people on this list, prominent people in Toledo, who were on this list. I also participated in the discussions when this was included.

8661

. . . . . .

Q. Did you discuss the inclusion of these people in this list with other party leaders? A. Yes, we did.

Q. What was the nature of that discussion? A. The nature of that discussion was that it had been handed down from the National Committee that they should take all measures of security to protect the Communist Party members, and it was agreed locally, the local executive board, that that was the method, that they would devise that method of blowing up this membership list to conceal the membership.

. . . . . .

8662 Q. Mr. Cummings, were these names of non-Party persons included in this list fictitious names? A. A few were fictitious names, but the most of them were correct names.

Q. Correct addresses? A. There weren't any addresses at all.

. . . . . .

Q. Why were you Communist Party members padding this list? A. We were padding it to conceal the identity of the members, the actual Communist Party members. It was a security measure.

Q. After the security period were the records maintained in the office? A. They were not.

Q. Do you know what was done with some of
8663 these records? A. Some of the records were kept in the home, the business place of Sam Boris. This was near the corner—It was on Superior Street near the corner of Jackson Street in Toledo, Ohio. It was a photographer's shop.

Q. Sam Boris was a Party member? A. He was a Party member.

Q. Did the Party have an office at the time these records were kept in Sam Boris' place? A. They did, at 501-1/2 Monroe Street.

Q. Do you know of any other places that the Party records were maintained after the security period? A. At the home of Max Wall, 147 Maumee Avenue.

Q. During what period were these records kept at the home of Max Wall? A. This was also during the security period.

Q. Was there any other place the Party maintained records? A. Well, I had them at my mother's place at one time, at my mother's home. That was 1201 Ironwood Avenue.

Q. You are speaking of records generally. Just what records were these that were kept at these various places other than the office of the Party? A. There was the mailing list, the regular mailing list, the Daily and Sunday Worker list. Those are the ones.

8664 Q. Mr. Cummings, do you know a person by the name of Elizabeth Gurley Flynn? A. I do. I know her.

. . . . . .

Q. Where and when did you meet her? A. I met her on three different occasions. I met her at a meeting at Kapps Hall in the City of Toledo, where she spoke, I also met her in the summer of 1947 at the home of Charlie Clark, 2746 Mulberry Street.

Q. What was the occasion for your meeting there at the home of Charlie Clark? A. There was a special meeting that was called on security.

Q. Did you know what position Elizabeth Gurley Flynn held in the Communist Party? A. At that time Miss Flynn was national chairman of the Women's Division of the Communist Party.

Q. Was this meeting at which you met her a regular meeting of the Party in Toledo? A. No, it was not. This was a special meeting. It was a called meeting, an emergency meeting, on security.

Q. Did Miss Flynn address this group on that occasion?

A. She did. She addressed the group.

8665 Q. What was the substance of her conversation or her address? A. Emphasizing security. This was in 1947 and she said we should stop using the telephone to call Communist Party members. We should not use the mail for mailing literature to Communist Party members. She said we should not carry lists of the Communist Party members around on our person or billfolds, our person, and et cetera.

Q. Did she make any mention of the official Party records? A. She said the official Party records should be destroyed.

Q. Did she make any specific mention of membership lists? A. She said they should be also destroyed.

Q. During her speech, which you say was on the subject of Party security, did she say anything about using party names?

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The Witness: She said we should use false, fictitious Party names, not your correct name, an incorrect name, for concealed members.

By Mr. Nelson:

Q. Was anything said as to why the meeting was called and why a member of the National Committee would address this meeting? A. I don't recall just why
8666 this security measure was being taken, but there was something happening, whether it was a real scare thrown into the organization, and she was assigned to one section of the country to warn the Communist organizations in the different localities to begin going underground.

Q. After this meeting that Miss Flynn addressed were there any subsequent meetings of Party officials in Ohio, in the county or in the state, concerned with the same subject, security? A. In the county and state. There was a county meeting held immediately of the county executive board and then a county committee. It was a question of their both being held the same night. The county executive board met and then the county committee went into session right after that.

Q. You attended that? A. Yes.

Q. As a member of the county committee? A. As a member of the County committee and also of the executive committee.

Q. Can you fix the date when Miss Flynn addressed this first meeting you spoke of? A. It would have been July of 1947, about July of 1947.

Q. You mentioned that a state meeting was held thereafter. Can you tell us where and when the state
8667 committee meeting was held? A. I mentioned this meeting before in an answer. This meeting was held also in July 1947 in Cleveland, Ohio, at the home of an attorney by the name of Sam.

Q. Who was present at this meeting? A. Arnold Johnson, Gus Hall, Miss Betty Riley, Frank Hashmall, Joe Sokol, Admiral Kilpatrick, myself.

Q. Who was the main speaker, if there was a main speaker? A. There were two main speakers. Mr. Arnold Johnson was one of the main speakers, and Mr. Gus Hall was one of the main speakers.

Q. What did Gus Hall have to say in his remarks to the state committee meeting? A. In regard to the security he was critical of the members of the state committee for attending the meeting, breaking the rules that had been handed down by the National Committee for the state committee as far as attending meetings was concerned. We were not to attend this meeting in groups—we were only to attend in groups of two. We were to take the street car and not use cars at all. If four people arrived at this meeting simultaneously, two were to walk past the meeting place, two go in, two walk past the meeting place and come back and go in later, unless they met with someone simultaneously two more, and then the last two would keep going and those two would go in. That
8668 is the way the meeting was arranged.

Q. Did Gus Hall say anything about Party records, subscription lists for the Daily Worker, membership lists, and that sort of thing? A. He did, but I would like to finish this other question first. There is something I would like to add to it. That is that—May I please, Mr. Chairman?

Mr. Brown: Surely.

The Witness: That this method was handed down, orders were handed down from the National Committee, which were not kept at this meeting. People drove cars to the meeting. They congregated going into the meeting, et cetera. They didn't keep the orders that were given. Now your next question again.

By Mr. Nelson:

Q. To carry on what you mentioned there, did Gus Hall speak of this violation? A. He spoke of the violation. He was critical of the state committee for not following the orders that were handed down by the National Committee. He said he was going to take this up with the National Committee, and he was going to recommend expulsion for the members of the State Committee that had broken this rule.

Q. To your knowledge did anything follow from this criticism of Gus Hall? Were any members expelled? A. There were not any expelled, not to my knowledge.

Q. After Miss Flynn spoke you stated there was
8669 a meeting of the county committee, following shortly after Elizabeth Curley Flynn spoke? A. The Lucas County Committee meeting and executive committee meeting.

Q. What was the purpose of this meeting? A. The purpose of this meeting was to inform or instruct the county committee on the report which was given by Miss Flynn. Miss Sokol was the main speaker at this meeting.

. . . . . .

Q. What did the committee say and decide? What happened? A. It wasn't a question of the committee deciding what it was going to do because those were orders that were handed down by the National Committee. The only thing they did at this meeting was to devise methods to comply with the orders of the National Committee.

Q. Where was this meeting held? A. At 147
8670 Maumee Avenue, at the home of Max Wall.

Q. What methods were devised by the county committee? A. There was one method—several of the ones we participated in and made suggestions. I gave one suggestion, and that was that the first name of Party members be written on one sheet of paper and the second name on another paper, paper with lines, and one list kept in one place and one in another, and when we wanted to find out just who was who, all we had to do was get the two sheets of paper and put them together and then you would have them. That method was devised locally there for a while, up until 1949. I don't know whether it was used after 1949.

Q. Was anything done with the records of the Party in Lucas County after this meeting? A. Most of the records were destroyed.

Q. You say you made a suggestion just how to keep future records of members. Was that suggestion adopted? A. It was adopted.

Q. You further stated that the previous records were destroyed. Did you play any part in that destruction? A. I did.

. . . . . .

8671 Q. What part did you play in the destruction of these records? A. I had access to a car, so I picked up the records at the office and at the home of Mr. Max Wall, a couple of large paper cartons and burned most of them after a period of time.

Q. The records you are speaking of that you obtained at the home of Max Wall—just what type of records were those? A. They were pamphlets, generally referred to as throwaways, bound books, et cetera.

Q. Were the Party membership lists destroyed at the same time? A. Part—I will say the old method of keeping Party membership lists was destroyed at that time.

Q. During all this time did the Party have an office in Toledo? A. They did, 501-1/2 Monroe Street.

Q. Mr. Cummings, were communist Party membership books issued for all the years that you were a mem-
8672 ber of the Party? A. They were not.

Q. Can you tell us when they stopped issuing Party membership books? A. They were issued up until 1949.

Q. Were instructions given to discontinue membership books? A. They were.

Q. That was when? A. 1948.

Q. What happened to the old Party membership books? A. You are referring to the period of time before—

Q. When they had them. A. You were required to return the old Communist Party membership card or book to the Communist organization and you received a new one.

Q. Did you turn in your Party membership book each year turn back the old one? A. Well, there was one year I believe I didn't have one to return.

Q. Were you ever told to destroy your membership book?

. . . . . .

The Witness: I was. I was told to.

By Mr. Nelson:

Q. Who told you that? A. I was told locally
8673 by Joe Sokol to destroy my Communist Party membership book, but I also attended a state committee meeting in Cleveland where it was discussed and I was also instructed at the state committee meeting to go out and instruct the Communist party members in Lucas County to destroy their membership books, which I did.

Q. Mr. Cummings, during your membership in the Party did you ever know any other Party member by more than one name? A. I did.

. . . . . .

8674 Q. Earlier, I believe you mentioned a Party member by the name of Edwin Love. Did you ever know him by any other name? A. By the name of Edwin Lee, I did.

Q. Do you know which was his actual name? A. Edwin Love was his true name.

Q. How did you happen to know him also as—under what circumstances—did you know him as Edwin Lee? A. His membership in the Communist organization, and he subscribed to the Sunday Worker of the Communist Party under the name of Edwin Lee.

Q. Did you know other Party members by more than one name? A. I did. I knew Jack Carson by the name of Tony Ryan.

Q. Was it a common practice in the Party for certain Party members to use more than one name?

. . . . . .

The Witness: It was a common practice.

By Mr. Nelson:

Q. Did you ever use any other name yourself? A. Not in connection with the Communist Party, I didn't.

Q. What was the purpose of these persons using more than one name?

. . . . . .

8675 A. To conceal their identity with the Communist Party.

Q. You mentioned Edwin Love went under the name of Edwin Lee. Can you name others that used other false names or Party names? A. Yes, Eugene Stoll used the name of Johnston. I believe it was Eugene Johnston. He used the name Eugene Johnston, I believe that was in the thirties. I am speaking locally.

Q. Locally, Toledo. A. I was speaking locally of the local organization, out on a state scale I knew a gentleman in Akron, Ohio, who was known as Tommy L. I don't know what his full name was. He was only referred to as Tommy L.

Q. Do you know a person named Regina Sokol? A. I do.

Q. Was she a member of the Communist Party in Toledo? A. She was a member, the wife of Joe Sokol.

Q. Did she use any other name besides Regina Sokol? A. She did in her employment at the Willys-Overland Motors company. She used the name of Regina Rosen.

Q. Did you know a member of the Communist
8676 Party in Toledo named George Carson? A. I do.

Q. Did you ever know him to use any other name? A. Tony Ryan.

Q. Are there any others you can think of offhand, Mr. Cummings? A. Not locally.

Q. Mr. Cummings, you previously testified you were the chairman or captain of the shop club at Electric Autolite. A. That is right.

Q. As captain or chairman of this group what were your responsibilities? A. My responsibilities were to keep in contact, daily contact, with each member of Electric Autolite Shop Club.

Q. Did those responsibilities include collecting dues? A. Collecting dues, asking for financial contributions to the organization, et cetera.

Q. What method would you use for collecting dues? That is, recording payments of dues. A. They devised a method locally for collecting dues that went by numbers. I believe it was eight members of the Electric Autolite, and they started at one and came down to 8. They started putting the 1948 Party card numbers.

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8677 Q. Mr. Cummings, I show you what has been marked Petitioner's Exhibit for identification No. 353 and ask you if you recognize this. A. I do. I recognize this document.

Q. I call your attention to the initials "W.G.C." thereon. Did you write that on there? A. I did.

Q. Is any of the other handwriting on there your handwriting? A. At the bottom, "Call Joe Sokol." That is mine.

Q. "Autolite CP shop cell." That isn't? It is
8678 "Call Joe Sokol"? A. It is "Autolite, CP shop cell." That is as far as I went, mine is "Call Joe Sokol."

Q. The only writing is your initials and "Call Joe Sokol"? A. That is right.

Q. How did this paper happen to come into your possession? A. Mr. Sokol gave me this to use in the shop in regards to collecting dues and financial contributions.

Q. He gave this to you to use to collect the dues? A. That is right, at the Electric Autolite.

Q. At the top there is a column of numbers running down one through 8. At the top opposite number 1 appears the number 63042. What does that number mean to you, if anything? A. That was my card number for 1948, my party card number for 1948.

Q. Opposite No. 4 appears the number 63112. Does that mean anything to you? A. That was Mr. Walter Harrison's card Party number for 1948.

Q. You didn't write these Party card numbers? A. I did not. Sokol wrote those.

Q. This is what you used to collect dues? A. That is right.

8679 Q. Just how would you use this paper or what was the significance of the column of numbers 1 to 8?

The Witness: By those numbers I was to know, myself and Mr. Sokol, were to know each person by this 1, 2, 3, 4, 5, 6, 7, and 8, even if we weren't able to get each one of the 1948 Party numbers on there. I was No. 1, and I know Walter Harrison was No. 4, and there were others.

By Mr. Nelson:

Q. Why didn't you use the names?

8680 The Witness: For security reasons. It was another one of the security measures that were used.

By Mr. Nelson:

Q. How did it happen that you used this number system? Did you receive instructions to do it this way?

The Witness: We received instructions locally to use them that way.

Q. Who gave you those instructions? A. Joe Sokol.

Q. Anybody else? A. The state leadership—they instructed—instruction was given at the state committee meeting for each locality to devise methods to keep a record of the Party dues and collections. That was devised as far as the shop club was concerned in the City of Toledo.

Q. When you say the State Committee do you recall the particular member of the Committee that gave those instructions? A. I recall that Gus Hall was Chairman and he gave those instructions, because they were instructions from the National Committee that it was so important that each state committee meeting throughout the United States as far as the Communist Party was concerned,

8681 that the chairman of each state should emphasize

security, security, security. That was handed down from the National Executive Board of the Communist Party.

. . . . . .

Q. Mr. Cummings, you testified that you attended the second convention of the Communist Party of the State of Ohio in August of 1945 that reconstituted the Party. Did you see any persons there that you knew by more than one name? A. I did.

Q. Can you tell us what you recall on that subject? A. It was Joe Kress. Let me think for a moment. Kermit M. Kirkendoll was known as K. Ball.

Q. How do you know this? A. Because his name was listed in the nominations—he was nominated for the State Committee, and his name was on the nominating list. I knew him as Kermit M. Kirkendoll, and on this list he was listed as K. Ball.

. . . . . .

8682 Q. I show you, Mr. Cummings, what has been identified as Petitioner's Exhibit No. 354 and ask if you have ever seen this document before. A. I have.

Q. I call your attention, down here in the corner, to the date. Is this your writing down here? A. Yes, that is my writing.

Q. August 13, 1945, with a circle around it? A. That is right.

Q. What is this lis as you know it? A. This is the recommendations of the Nominating Committee, a list of names, recommendations of the Nominating Committee.

Q. At the state convention in August 1945? A. That is right.

Q. Look down this list under the heading of Cleveland, going on down here is a person by the name of Al Jones, with an "X" beside it. Did you make that X mark

8683 there? A. I did.

Q. What is the significance? Why did you put it there? A. I wasn't sure whether that was his correct name or not.

Q. Did you know this Al Jones by any other name? A. No, I didn't know him by any other name.

Q. Going down here further is a person by the name of Joe Kelly with an "X" mark beside his name, and out at the side the name of Joe Kress. Did you make that notation? A. The writing in ink is my writing, and that is the correct name, Joe Kress. He is listed as Joe Kelly.

Q. Going down further in the name column I call your attention to a person by the name of B. Mack. Will you explain the markings there? A. This gentleman is an AF of L leader and his name was McGorty.

Q. Two names below that I call your attention to the name of Marie Rice, with an "X" mark. How about that? A. Her name is Marie Reed Hague.

Q. Going over to the second column and coming down under the designation of Cincinnati, there is only one name there. Will you give us that name and explain the "X" mark and so forth? A. The "X" marking—the name is Max Smith listed here, and you notice after the
8684 "X" mark is a question mark. I didn't know at that time the correct name, and I didn't find out later what it was.

Q. Turning over to the second page where there is only one column, the first name under the designation Dayton, what about that name? A. He is listed here as K. Ball, CIO union leader. His correct name is Kermit M. Kirkendoll.

Q. Did you personally know Mr. Kirkendoll? A. I personally knew him.

Q. Was he a member of the Party? A. He was a member of the Communist Party and a member of the Communist Political Association. He was a member of both.

. . . . . .

8687 Q. Mr, Cummings, were you a member of the Nominating Committee at this state convention? A. I was. I was a member of the Nominating Committee.

Q. Was there anything said about the persons listed on this nominating list? A. There was. Mr. Arnold Johnson instructed the nominating committee not to use the correct names of certain members who might be nominated for the state committee.

Q. Mr. Cummings, during the time that you were a member of the Party and a member of the County Committee and the State Committee, did you have any knowledge as to the methods of communication used between the various administrative offices of the Communist Party? A. I did. There was a courier system after 1948, in 1947 and '48, during the security period.

. . . . . .

8688 Q. How do you know they used a courier system?

. . . . . .

The Witness: On two occasions I was present when couriers brought messages in to the city of Toledo. On one occasion Mr. Joe Brandt brought messages in and delivered them to Joe Sokol at a hall on Gennessee Street in the city of Toledo, at a Communist Party meeting.

Q. Who was Joe Brandt? A. Joe Brandt was trade union director of the Communist Party of the State of Ohio.

Q. You say he brought documents to Joe Sokol. Where did he bring them from? Where did Brandt live? A. From the state office in Cleveland, Ohio.

Q. Were you present when he delivered these documents? A. I was present when he delivered the documents.

Q. You saw him deliver them? A. I saw him deliver them.

Q. Do you know what was in the documents, what it was about? A. One of the documents was on trade union concentration for the City of Toledo, Lucas County,
8689 and the other documents were instructions on the intended schools for the City of Toledo.

Q. What kind of schools? A. Communist Party schools.

Q. You mentioned you had two occasions to see such delivery of documents by courier. Will you recite or relate the circumstances of the other occasion? A. The second occasion was in March of 1949. Mr. Bob Campbell, who was Chairman of the Negro Commission of the State of Ohio, who was also on the State Committee of the State of Ohio, and the State Executive Board, came in Toledo and delivered documents to Joe Sokol.

Q. Were you present when these documents were delivered? A. I was present. I was chairman of this particular meeting.

Q. Did you see the documents delivered? A. I saw them delivered.

Q. Do you know what the documents were about? A. I think those documents—I am not sure, but they were on trade unions also.

Q. Mr. Cummings, during the time you were a member of the Communist Party in Toledo did the Communist Party receive mail at any place other than their official headquarters? A. They did. There were places
8690 where they received mail.

Q. How do you know? A. I went to those places to pick up Communist Party mail personally, and then I would drive the Chairman by to pick up mail.

Q. Were the places other than the Party headquarters where they would receive mail generally known?

. . . . . .

The Witness: These were secret places where we received mail.

. . . . . .

Q. How did you happen to know? A. Because, as I said, I picked up mail at those places. One was at a home of Mary Vallient and the home of Max Wall, 147 Maumee Avenue, and at the home of one Doctor John Pile on 12th Street, in the City of Toledo.

Q. Was Mary Vallient a member of the Communist Party? A. She was a member of the Communist Party.

Q. Was Dr. John S. Pyle a member of the Communist Party? A. He was. He was a member of the Communist Party.

Q. Did you pick up mail at all three of these addresses?

A. I did. I picked up mail at Dr. Pyle's on several
8691 occasions, and at the other places also.

Q. Did you deliver this mail to the official headquarters in Toledo? A. I delivered the mail to Joe Sokol, not to the headquarters. I delivered the mail to Joe Sokol.

Q. Who was chairman—A. Who was chairman of the Communist Party of Lucas County.

. . . . . .

8697 **Philip E. Mosely** recalled as a witness for Petitioner, having been previously duly sworn was examined and testified further as follows:

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8706 Cross examination

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9031 Mr. Lenvin:

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9032 As I am saying, we have not made any attempt to show how the Communist Party reaches the views which it did. All we are attempting to show is that it reached the view.

. . . . . .

9035 By Mr. Abt:

Q. Now Professor, in your opinion could an informed American observer during the entire period we have been discussing, that is from 1945 roughly to 1950, have formed the following opinions with reference to developments in China on the basis of his own independent judgment and in the honest and sincere belief that those opinions were in the interest of his own country?

Mr. Paisley: Objection.

Mr. Abt: I am making that preliminary statement, and then I am going to ask a series of questions as to the opinion.

By Mr. Abt:

Q. First, that the Kuomintang regime was decadent, feudalistic, reactionary and corrupt.

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

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9054 Q. In your opinion, Professor, could a conscientious scholar, on the basis of an examination of Exhibit 276, which is the Foster article, form any opinions as to whether or not the views in that article with reference to the seating of the People's Republic of China in the United Nations were reached by Mr. Foster independently of what you testified to be the Soviet view on this question as typified by Exhibit No. 275?

. . . . . .

Q. Do you recall the question, Professor? A. Yes; I do, thank you.

In my opinion the basic policy recommendations and line of reasoning between the two items are directly parallel, and I have not previously testified on whether I had an opinion as to whether one was inspired by the other or directed by the other.

. . . . . .

9055 Mr. Abt: I think you had better read the question again, Mr. Reporter.

(The pending question was repeated by the Reporter)

The Witness: In order to answer that question more directly than I did in my first answer I would like to say that the evidence in the Foster article and the evidence in the statement by the Soviet representative at the Security Council is in my opinion as a conscientious scholar

evidence of their views, of their line of reasoning, but not of the thought processes or political processes by
9056 which one or the other arrived at the position which he stated.

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9057 Q. As I understood your answer to the previous question, Professor, you answered not only with reference to the particular exhibits and the particular view that we are now discussing, that is, Exhibits 275 and 276 and the issue of the seating of the People's Republic of China in the United Nations, but you answered with reference to all the exhibits which have been offered in evidence. In other words, as I now understand it, you testified that the question of whether or not the views stated in any of the exhibits stemming from a Communist Party source were arrived at by the author of that view independently of what you testified to be the Soviet view as typified by an exhibit from a Soviet source is not a matter within your competence and that in no case you have an opinion on that question. Am I correct? A. I have concluded from my study of these and many other materials that the policy recommendations made by the official spokesmen of the Communist Party in the United States and in general the line of reasoning through which they support those recommendations are closely parallel to the policies advanced and promoted by the Soviet Government and supported by a closely parallel line of reasoning and analysis on the part of the Soviet presentations. I have not expressed any expert opinion as
9058 to the process by which the Communist Party of the United States arrives either independently or dependently, with dependence on the particular statement or instruction or indication from another source, at its position. I do not consider that I have expert knowledge of that aspect of Communist Party policy decisions.

. . . . . .

9100 Q. Is it not a fact, Professor, that many contemporary commentators and many historians and other writers, subsequently commenting on this episode, all of whom are non-communists, expressed views simi-
9191 lar to those expressed by Hoover and Gibson and similar to those expressed in Exhibit 166 with reference to the role of the League of Nations in the case of the Japanese invasion of Manchuria?

Mr. Lenvin: The same objection.

Mr. Brown: Sustained.

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9180 Q. In your opinion, Professor, could not an informed American observer have come to the conclusion in 1934 that the entry of the Soviet Union into the League of Nations would make a material contribution to the cause of preserving world peace and come to that conclusion on the basis of his own independent judgment and in the honest belief that that view was in the interest of his own country?

Mr. Lenvin: I object, Mr. Chairman. It is wholly irrelevant.

Mr. Brown: The objection is sustained.

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9310 Q. In other words, if I understand you, you are now saying that what occurred was that a proposal was made to the affiliates of the Communist organization. You say that, having refreshed your recollection—Just a moment. You say that, having refreshed your recollection from Exhibit CP 30 for identification. And that no further public action or public statement of action was made, but that you observed that the building formerly occupied by the Communist International was no longer occupied by them when you were in Moscow, in 1943. Is that your statement? A. That is correct, in this sense: That I recall statements by individual national communist parties or their leaderships stating that they concurred

in the decision. I do not know of any day at which representatives of those Communist Parties met and said that on this day the dissolution is legally carried out.

Q: Have you checked that question? Did you check it before you testified about the dissolution of the Com-
9311 munist International? A. No, because the statement of the proposal to dissolve the Communist International was regarded as a decision to dissolve it.

Q. So regarded by you, was it not? A. Yes. Among other people—

Q. You don't know whether it was so regarded by the Communist International? A. Well, if it didn't regard it as so, I don't know of any outward expression of such views in contrast to the proposal made by the presidium in its executive committee.

Q. Wasn't the submission for ratification an outward expression of that? A. Well, I have already referred to the fact that whether the Communist Parties operated legally, the formal step was taken of approving or concurring in the proposal made by the Presidium of the executive committee of the International.

. . . . . .

9411 Q. Professor, would it not be possible for a reasonable and unbiased person, who examined the transcript of the evidence of the trials and studied all the surrounding facts and circumstances, independently and in the exercise of his own best and reasonable judgment, to reach the conclusion that the confessions were true and the defendants guilty as charged?

Mr. Paisley: I object.

Mr. Brown: Sustained.

By Mr. Abt:

Q. As a matter of fact, Professor, did not very many observers and commentators who studied the trials, or who were observers at the trials, reach this conclusion completely independently of, and without regard to, and without being influenced by, the so-called Soviet view?

Mr. Paisley: I object.

Mr. Brown: Sustained.

By Mr. Abt:

Q. Isn't it a fact, Professor, that such men as former Ambassador Davies, whom you testified this morning
9412 attended the trial daily, such men as the former President of Czechoslovakia, Mr. Benes, such men as Lord Beaverbrook, among many others, reached and stated their conclusion that the confessions of the defendants were true and that they were guilty as charged?

Mr. Paisley: I object.

Mr. Brown: Sustained.

By Mr. Abt:

Q. Professor, have you read Ambassador Davies' book, "Mission to Moscow"? A. I have.

Q. And have you read his article on the treason trials which appeared in the American Magazine for December, 1941? A. By whom?

Q. By Mr. Davies. A. I believe I did read it at the time.

Q. Does not Mr. Davies state both in his book, Mission to Moscow, and in the American Magazine article, the title of which is "How Russia Blasted Hitler's Spy" that on the basis of his daily attendance at the trial, his observations and all other knowledge with reference to them that he gathered while in the Soviet Union, that the defendants were substantially guilty as charged in the indictments?

Mr. Paisley: I object.

Mr. Brown: Sustained.

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9577 Q. Now at the time of the Seventh World Congress, the Communist party was an affiliate of the Communist Internationale, was it not? A. Yes.

Q. And as an affiliated organization, is it not a fact that it sent a number of delegates to the Seventh Con-
9578 gress? A. Yes, that is my understanding.

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9581 Q. Professor, you testified that the Communist party characterized the war between Germany and Britain and France which began in September, 1939, as an imperialist war and unjust war, did you not? A. Yes, that was the general purport of my comments on that.

. . . . . .

Q. In coming to this conclusion as to the character of the war, is it not a fact that the Communist party applied the Marxist or, if you prefer, the Marxist-Leninist concepts as to the causes and nature of wars, and as to the distinction between just and unjust wars which we reviewed in this cross-examination yesterday?

Mr. Lenvin. Before he answers that question, I would like to have the question read. I do not think I could understand it. I may be dense.

Mr. Brown. Mr. Reporter, please read the question.

(The pending question was read by the reporter
9582 as above recorded.)

Mr. Lenvin. I object to the question on the ground that it is irrelevant. It does not make any difference as to how they arrived at the view as to the war or that we had established what the view was.

Mr. Marcantonio. In other words, it does not make any difference how the Communist party reached any conclusion. Its thinking, its motivations, its literature in connection with, historical literature upon which it predicated its conclusions, in a given subject, has no bearing any more. Is that the contention?

Of course, I understand that is the contention of the petitioner. But I am addressing myself to the Panel in connection with this objection.

Mr. Brown. Well, the issue here is as to whether or not the same stand was taken on a given issue by both the Soviet Union—

Mr. Marcantonio. And how or why we took it does not make any difference, is that the decision of the Panel? I

would like to have it at least for the Panel so we know what the decision is. How it came about, the reasoning that brought it about, the background, the historical references, and the literature upon which the decisions were predicated, all that is considered irrelevant.

9583 Mr. Paisley. The Act says—let's read it.

Mr. Marcantonio. We know what the Act says.

Mr. Paisley. The extent to which its views and policies do not deviate from those of foreign governments or foreign organizations. It doesn't say anything about whether the policy was good, bad or indifferent, or why each side arrived at their conclusions.

Mr. Lenvin. How they arrived at their conclusions—

Mr. Marcantonio. I know what the Government's contention is. That is all right with me. Frankly, I am very happy that they have taken their position because it reveals the complete absurdity of their position. But I want to know what the ruling of the Panel is.

Mr. Brown. It occurs to the Chair that the reply to respondent's question would be in the affirmative.

Mr. Marcantonio. In the affirmative, that it is irrelevant? In other words, how the respondent came about reaching certain decisions and taking certain public positions on various issues is irrelevant?

Mr. Brown. Yes, sir.

Mr. Marcantonio. Then we will ask our questions for the record, Mr. Chairman.

Mr. Abt. I do not think, formally on the record, that the Panel has ruled on the question.

Mr. Marcantonio. Yes, Mr. Lenvin objected—didn't you?

9584 Mr. Lenvin. Yes, I did.

Mr. Brown. Off the record.

(Discussion off the record.)

Mr. Brown. The objection is sustained.

By Mr. Abt:

Q. Is it not a fact, Professor, that any person who applied these Marxist concepts as to the cause and nature of wars, and as to the distinction between just and unjust wars, to the facts of this particular war would at that time independently have come to the same conclusion to which the Communist party came?

Mr. Lenvin. The same objection.

Mr. Brown. Sustained.

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9841 Q. Could not an unbiased, objective and informed American observer as of that time have come to the conclusion, on the basis of his own independent judgment of what was in the best interests of his country and its people, that the United States should not intervene in the Soviet-Finnish negotiations and should have supported Soviet position in those negotiations?

Mr. Lenvin: The same objection.

Mr. Brown: Sustained.

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9883 Q. Would it not be accurate to state, Professor, that there was a very large and broad measure of agreement among the people and many of the leaders of both the Soviet Union and the United States on the need for the prompt establishment of a second front in Europe?

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

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9890 Q. Is it not a fact, Professor, that in June 1942, shortly after the appearance of the Dennis article, the United States, British and Soviet governments issued a communique announcing that complete agreement had been reached, and I quote, "With regard to the urgent task of the creation of a second front in Europe in 1942"?

Mr. Lenvin: Objection.

9891 Mr. Brown: Sustained.

By Mr. Abt:

Q. Was not that communique made after the visit of Mr. Molotov first to London, where he conferred with Mr. Churchill, and then to Washington, where he conferred with President Roosevelt?

Mr. Lenvin: The same objection.

Mr. Brown: Sustained.

By Mr. Abt:

Q. To be precise as to date, was not that communique issued on June 11, 1942?

Mr. Lenvin: The same objection.

Mr. Brown: Sustained.

By Mr. Abt:

Q. Would it not be accurate, therefore, to state that the Communist Party position on the second front paralleled the policy of the three allies, that is to say, the United States, Great Britain and the Soviet Union, as officially announced in this communique?

Mr. Lenvin: The same objection.

Mr. Brown: Sustained.

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9940 Q. On the basis of the evidence with reference to the Oatis case in this record, Professor, could any reasonable thinking human being come to any conclusion other than the conclusion that Oatis was guilty as he was charged of being, as he confessed to being, and as he was convicted of being?

Mr. Lenvin: I really ought to let him answer that question, but I object.

Mr. Brown: The objection is sustained.

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9981 **William Garfield Cummings** resumed the witness stand, and having been previously duly sworn, was examined and testified further as follows:

Direct Examination—cont'd.

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9982 Q. Did you attend different types of meetings? A. I did.

Q. Will you tell the Panel about these various types of meetings? A. I attended secret meetings, I attended the National Convention, I attended the State Conventions, I attended local conventions, secret conventions. I also attended the membership meetings that were
9983 held in the city of Toledo, Ohio, and I attended the CP trade union meetings.

Q. Were there any other types? A. I attended meetings where there was discussion held on the secrecy of the Communist organization.

. . . . . .

Q. Mr. Cummings, directing your attention to your previous testimony about meetings you attended in Cleveland, Ohio in 1948, how did you receive notice that a meeting was to be held in Cleveland? A. The way we received notice in Toledo that a meeting was going to be held in Cleveland was by courier. After we arrived in Cleveland to attend these particular meetings we would go to the Communist Party headquarters, and there
9984 we would be given—

. . . . . .

The Witness: We would arrive in Cleveland, Ohio and go to the Communist Party office and there Mrs. Helen Kirchmarek would give us directions as to just where the meeting was going to be held. That is the way we received the final instructions about where the meeting was to be.

By Mr. Nelson:

Q. Was this always the practice whenever a meeting was to be held in Cleveland? A. This was not always the practice. This started in 1948. At one time she could tell you orally where the meeting was going to be held, and later they didn't trust their officers in the Commu-
9985 nist Party office and said we should write it on paper.

. . . . . .

Q. How long was this practice in effect? A. It started in 1948 and remained until I was out of the Communist oragnization in 1949, May 9, 1949.

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Q. What methods were used in the Communist Party in Lucas County to hold such meetings? A. Practically the same methods that were used on the state scale were used on the local county scale. Meetings were held in groups of one or two on street corners, in parks, et cetera.

9986 Q. Mr. Cummings, directing your attention to your previous testimony about your attendance at the National Midwest Communist Party training school in Chicago in December 1946, I believe it was—A. That is right.

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Q. What instructions if any were given you while you attended this school? A. Mrs. Caroline Drews gave instructions that we were not to use any of the mail boxes near the school for sending our mail, that we weren't to call our homes by telephone. We weren't to use our last names in classes. I think that is about all on secrecy.

Q. Mr. Cummings, you previously testified that you were a member of the State Committee of Ohio. How long were you a member of this committee? A. I was a member of the State Committee from 1944 until 1946.

9987 Q. Did you resign from the committee? A. I did not resign from the committee.

Q. Why were you not on the committee thereafter? A. For security reasons the committee was reduced.

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9988 Mr. Brown: What were the circumstances, Mr. Cummings, by which you were no longer a member of this committee?

The Witness: The circumstances were that there was a directive handed down from the National Committee of the Communist Party to reduce the size of all committees,

and at the State Committee meeting in 1948 that is where the reduction took place. We were told by Gus Hall—We were read the directive from the National Committee by Mr. Gus Hall, who was Chairman of the Communist Party of the State of Ohio, and they said this committee must be reduced for security reasons.

. . . . . .

Q. Will you tell the Panel where and when this occurred? A. This was in, I believe July of 1948, and the meeting was held on Buckeye Road. I can't recall the exact adress of the hall, but it was the East Side Hungarian Hall and the number ran into five figures.

Q. You were present? A. I was present.

Q. Did Gus Hall state why these committees were being reduced? A. Oh, yes, he did. He said it was being
9989 reduced for security reasons, that a directive was handed down from the National Committee of the Communist Party that they should be reduced, that it was a "must."

Q. At the time that you yourself were a member of the State Committee how many members were on the State Committee? A. I will say there were about 42 members.

Q. Do you know what the Committee was reduced to? A. It was reduced to—I can't recall just what it was reduced to. I believe it was around 12 or 14, something like that.

Q. Speaking of the State Committee, were there any other committees reduced? A. The County Committee was also reduced. The County Executive Committee was also reduced. The State Executive Committee was also reduced.

Q. Were any reductions made in other organizations and units of the Party? A. The membership organizations were always reduced to not more than three or four members.

Q. At this time, in addition to being a member of the State Committee, were you in charge of any Communist unit or group? A. I was in charge of the Eighth Ward

Group, what we referred to as the Eighth Ward.
9990 Group.

Q. Prior to this reduction in the State Committee how many members did you have in the Eight Ward Group or branch? A. Approximately 60, approximately 60.

Q. Prior to 1948 how did this group meet? A. They met in a group, in a group.

Q. The entire membership would meet in a group? A. That is right.

Q. After the reduction of the State Committee was anything done with this Eghth Ward Branch of which you were chairman? A. It was reduced to that they only met in groups of no more than two or three.

Q. Where did they meet? A. They met in various homes in the Eighth Ward.

Q. How was notice of these meetings given after the branch was reduced? A. After the reduction of the branches Mr. Joe Sokol would go around and tell these two or three members where there was going to be a meeting and what time they were supposed to be there, not to come two together, but one at a time, to go around to the back door, or something like that, until the three or four arrived at the particular meeting.

. . . . . .

9992 Q. Mr. Cummings, you described the secret meetings. What was the distinction between the secret meetings and the so-called open meetings? A. The secret meetings were meetings where only the Communist Party members were allowed to attend. The open meetings were more or less open mass meetings where Communist sympathizers and fellow travelers could attend.

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9993 What occurred at these secret meetings?

. . . . . .

The Witness: I will give you for example at the home of Charlie Clark, 2647 Mulberry Street, where Miss

9994 Elizabeth Gurley Flynn came in the city of Toledo. There was a special meeting. That is where the over-all secrecy of the Communist Party in Lucas County began. That is where she gave the instructions that the National Committee had instructed her to cover a certain part of the country and to inform the Communist leaders that they should not use the telephone for calling Communist members, that Communist documents and directives should not be sent through the mails, that you should not use the names of the Communists over the telephone, and that you should not carry lists of names of Communists on your person.

Mr. Marcantonio: When? We didn't get the time.

The Witness: That was about July of 1947, about July of 1947.

By Mr. Nelson:

Q. What was Miss Elizabeth Gurley Flynn's position in the Communist Party? A. At that time she was Chairman of the Women's Commission, I believe, at that particular time.

Q. The Women's Commission of the National Party? A. Of the National Party, that is right.

Q. Did the Club or branch carry out these instructions? A. Those instructions were carried out. That was in 1947.

9995 Q. Mr. Cummings, where did the Party have its offices in Toledo? A. Well, in 1949 the office was 501-1/2 Monroe Street. It was several different places. They moved around in Toledo there.

Q. You were frequently in the office? A. Oh, yes, I was frequently in the office.

. . . . . .

Q. In your position in the Party did you take any part in the running of the office? A. I did.

Q. Were you in any sense in charge of the office? A. I was in charge of the office.

Q. And the equipment there? A. And the equipment.

Q. Was all the Party office equipment maintained at the Party Office? A. Not in 1949, no.

Q. It was moved? A. Some of it was moved.

Q. Did you have any part in moving it? A. My car
9996 was used in the moving of the equipment.

Q. Did you have any part in discussions about moving this equipment? A. I did.

Q. Will you tell us what was said at these discussions?

. . . . . .

Q. Who did you have these discussions with? A. The discussions were led by Joe Sokol, who was Chairman of the Communist Party of Lucas County—

Q. And where? A. Just a moment. And Max Wall, Flo Wall, Regina Sokol, Charlie Clark, and myself were on this committee. The discussion was all between us, and the meetings were held, one meeting was held at the home of Max Wall, 147 Maumee Avenue, Toledo, Ohio. At this particular meeting Mr. Sokol said that he had received instructions or a directive from the Communist Party not to maintain the office equipment such as mimeograph machines in the office, that they should be stored in the homes of secret members where they could be used secretly.

At this meeting it was agreed that one of the ma-
9997 chines would be stored at the home of Curley Swan, who worked at the Dana Corporation of the Spicer Manufacturing Company, and he was somewhat of a secret member. The other machine would be stored at the home of Charlie Clark, 2647 Mulberry Street, who also worked at the Dana Corporation of the Spicer Manufacturing Company. Curley Swan is what he was known by, but his name was John Swan.

Q. These discussions were with fellow members of the County Committee and led by the Chairman, Joe Sokol? A. That is right, fellow members of the County Committee.

Q. Did this take place after Elizabeth Gurley Flynn gave you these previous instructions? A. It did. It took place after they gave the instructions.

Mr. Forer: May we now get the date when this took place?

The Witness: I can't give you the exact date, but Elizabeth Gurley Flynn—it was in July of 1947 that Elizabeth Gurley Flynn came to Toledo, and I believe that this meeting took place on Wednesday following the Tuesday that she came to Toledo:

By Mr. Nelson:

Q. Having taken part in this discussion, did you take part in carrying out what was decided upon? A. I was the driver of the car that carried the machines.

9998 Q. Just where did you take the machines? A. From the office one machine was carried out to the home of Curley Swan, and the other was taken out to the home of Charlie Clark, 2647 Mulberry Street.

Q. Did you ever actually see these machines in these two homes? A. Not only did I see the machines in the two homes, but I have driven in the alley of both of these homes at night to help run off Communist literature on those machines.

Q. During this time the Communist Party had an official office in Toledo? A. 501-1/2 Monroe Street.

* * * * * * * * * *

10001 Q. Wait a minute, Mr. Cummings. You were asked if you were taught anything about what your duties as a member of the Communist Party of the United States would be in the event of a war between the United States and Russia? A. I was.

Q. Where were you taught this? A. At the Midwest Training School in Chicago, Illinois, in December of 1945.

Q. Who taught you this? A. George Siskind.

Q. What was his position? A. His position was National Educational Director of the Communist Party.

Q. What subjects did he teach in the school? A.

10002 He taught—I will have to refresh my memory. There are so many subjects, if you are asking for all.

Q. We will particularize on the point we are on. What did he teach on the subject of what a Communist Party member should do in the event of a war between the United States and Russia, a member of the Communist Party of the United States? A. He taught—I think I will approach it this way—George Siskind said that around the turn of the century the capitalist forces of the world had reached a point where the only way that they could continue was to create a war. He said that the uneven development of Germany over the United States and England, that the United States and England had to start a war to regain some of the world's markets, because of uneven development that Germany had taken most of the world markets. He said that is what brought about the war, World War I. He said the same thing brought about World War II. He said that World War II was a capitalist war until the Soviet Union was attacked, and he said when the Soviet Union was attacked then it became a people's war. He said that the Communist forces throughout the world owed their allegiance and support to the Soviet Union. That is what he taught in regard to the Soviet Union, that the Communist Party throughout the world, not just in America, but throughout the world, owed their allegiance to the Soviet Union.

. . . . . .

10003 Mr. Brown: Did Mr. Siskind say that you people owed your allegiance to the Soviet Union rather than to the United States?

10004 The Witness: I believe I said—I was putting it in Mr. Siskind's words. Those are things that George Siskind said. That is what he said.

. . . . . .

Q. What did Mr. Siskind say about the United States Government as constituted at that time, if anything?

. . . . . .

Mr. Brown: I think it is a leading question.

Did Mr. Siskind teach anything else with regard to this specific subject matter?

The Witness: He taught that the American Gov-
10005 ernment was an imperialist government.

Mr. Brown: Is that all he taught—

The Witness: Oh, no.

Mr. Brown: —on this subject?

By Mr. Nelson:

Q. On this subject. A. He taught that the American Government was an imperialistic government, and the Communist Party was struggling to eliminate imperialism throughout the world.

. . . . . .

10025 Q. Mr. Cummings, directing your attention to your past testimony that you attended the State Convention of the Communist Party in Ohio in July 1948, who was the principal speaker at this convention? A. William Z. Foster.

Q. What was his position in the Party? A. He was Chairman of the Communist Party of the United States of America.

Q. Can you tell us the substance of his remarks?
10026 Were you present at this convention? A. I was present at the convention.

Q. Can you tell us the substance of his remarks? A. He gave a very short report. The reason he gave a short report was on account of his physical condition. One of the statements that he made, he said that the Communist Party in the State of Ohio should be very careful in picking their leadership, that they should pick men that they could depend on in case of war between the Soviet Union and the United States.

Q. Mr. Cummings, were you ever present at any Communist Party meetings when the Universal Military Training Program of the United States was discussed? A. Several.

Q. Will you particularize on one meeting where it was held, who attended, their official status in the Party? A. I attended one such meeting in Lucas County. Joe Sokol, Mr. Joe Sokol, who was Chairman of the Communist Party of Lucas County at that time, led the discussion at this meeting. This meeting was held at 147 Maumee Avenue, at the home of Max and Flo Wall.

By Mr. DeNunzio:

Q. Give us the approximate date, if you can. A. The approximate date, about June, I believe, 1948. The attendance at this meeting were Joe Sokol, Regina
10027 Sokol, Max Wall, Flo Wall, Melvin Dahlmann, and Edwin Brooks.

By Mr. Nelson:

Q. What was the nature of the discussion? A. The nature of the discussion was the position of the Communist Party relative to UMT Universal Military Training, which is referred to as UMT.

Q. Were any decisions made? A. There were decisions made, yes.

Q. What was decided? A. It was decided that two youths would go out and picket the building or house of the four local draft boards of Lucas County. Two youths were chosen. They were Melvin Dahlmann and Edwin Brooks. They went out to picket it.

Q. What was the purpose of the picketing? A. The picketing was to try to stop the youths from registering for UMT, Universal Military Training.

Q. Was anything said as to why the Party didn't want the American youth to register? A. Joe Sokol made the statement that, he said, the Communist Party should do everything they could to keep the youth from registering for military training because the United States Army should be kept at as low an ebb as possible. He said the money should be spent to better the conditions of the working people of the United States instead of for UMT.

Q. Did these two men, Brooks and Dahlmann,
10028 actually do any picketing? A. They did.

. . . . . .

Q. What were you taught was the primary objectives of the Communist Party?

. . . . . .

10029 The Witness: We were taught that the primary objective of the Communist Party was to infiltrate trade union movements, Negro organizations, and any organization that we were able to get into and take control of, to eventually change the system of the American Government.

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10126 **Philip E. Mosely** resumed the witness stand, and having been previously duly sworn, was examined and testified further as follows:

Cross Examination—cont'd

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10148 Q. Professor, on the basis of your testimony with reference to Duclos and the assumptions which you would make and did make as to its authoritative character of any statement or speech or article by Duclos, wouldn't you have to say on the basis of the same reasoning that prior to 1940, at least, Browder, Foster, and Green, to use your words, appeared regularly as spokesmen for the international organization of the Communist Party? A. That would be a logical conclusion, but there is this factor which in practice is difficult to evaluate, and that is that at any given time the Executive Committee of the Communist International might prefer to introduce this or that new definition of policy through one person and not another.

Q. You would have no knowledge of that? A. No, I would have no knowledge of that.

Q. No knowledge of it whatsoever? A. No, I don't claim knowledge of that.

Q. It would be speculative on your part to make
10149 that statement, would it not? A. I merely say that there is the general impression that some international Communist spokesmen were regarded as serving more often as a means of stating authoritatively an interpretation of policy of the Executive Committee.

Q. That is just a general impression, as you described it, right? A. Yes, based on the relative frequency with which this or that person might be the one to give the interpretation of the line. A person who occupied a high parliamentary position, for example, would be more impressive and effective means of communication for public purposes.

Q. You are just expressing your own judgment on this question now, aren't you? A. You asked me to express my judgment.

Q. No, I asked you whether your statement was based on a general impression, which is what you said it was based on. A. Well, based on a careful reading of the published materials and an attempt to try to see the pattern. For instance, members of the executive committee coming from countries where the Communist Party was either outlawed or underground would not have the same advantage of a rostrum with wide resonance as would, for example, a leading figure of the French Chamber.

. . . . . .

10153 Q. Then you said, after a long colloquy, at 4953:
"The second instance which I recall immediately and in detail, is that Monsieur Duclos inaugurated a very strong campaign of the French Communist Party against the Marshall Plan by his major speech at a large
10154 public gathering in Paris in August 1947."

. . . . . .

10155 Q. Would it not be correct, then, to say that in making this speech Duclos—and I am now using the words you used on direct testimony—was acting as the spokesman of his own party, the Communist Party, in French public life, in making that speech? A. That is

correct in large part. In the case of a man of his eminence in the international movement it is difficult to separate the two. Since no contradictions have appeared publicly in the two roles it is hard to see how it is possible to separate one from the other. Only a little over a month later Monsieur Duclos attended the founding meeting of the Com-
10156 munist Information Bureau and again took an active part there in re-establishing a center of guidance to the International Communist movement.

Q. You say it is difficult to make that distinction? A. I think it is very hard to see just where you are going to draw the line when the two roles are intermingled in the same person and the line of thinking is identical.

Q. Didn't you make the distinction yourself, Professor, in your direct testimony? Look at transcript 4948, the bottom of the page. You refer to "A man"—that is Duclos, is it not? "who had served frequently as the spokesman of his own party in the French Chamber and in French public life and his public writings and who prior to 1943 and after 1947 appeared regularly as a spokesman for the International Organization of the Communist Party."

You made that distinction, did you not? A. I made the description rather than the distinction. In other words, the two roles seemed to be fused.

. . . . . .

10180 Q. Professor, I have here from the Library of Congress a volume consisting of the issues of Humanite from August 23, 1944, to December of 1945, and I myself have examined all of the issues in this volume for the month of March, and I have not found in any of those issues any reference to a visit by Duclos to Moscow during that period.

I would like to ask you, with the permission of the Panel, not to take time during the hearing itself here today, but during a recess of the hearing, to examine the issues of Humanite for the month of March so that you will be in a position to state whether or not your recollection is accurate and whether or not there is any news article or

other story in Humanite for the month of March, 1945, indicating that Duclos during that month had been in Moscow.

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10187 Mr. Brown: Under the circumstances, I will ask Dr. Mosely if he will be kind enough to look through these issues of Humanite which appear in the bound volume which Mr. Abt has presented.

Mr. Lenvin: Before you do that, Mr. Chairman, I will tell you what. I will agree and we will stipulate to strike from the record his answer.

Mr. Brown: All right.

Mr. Marcantonio: Let's indicate where the answer appears on the record, so that there will be no misunderstanding.

Mr. Abt: Let me state it, if you will, and see if you agree. It is now stipulated between counsel for the Petitioner and the Respondents that the following portions of

10188 the witness' testimony on direct-examination be stricken: They appear on page 4949 of the transcript, starting with lines 12 and 13, the testimony or language, "However, a few weeks before the article was published by Monsieur Duclos he returned to Paris from Moscow."

And then the entire colloquy which follows, between myself and Mr. LaFollette, will be stricken, which is lines 14, 15, 16, 17, 18, 19, and 20. And then the witness' answer, lines 21 and 22, as follows:

"From the French Communist newspaper, Humanite, of that time, March 1945."

Do you so stipulate, Mr. Lenvin?

Mr. Lenvin: Yes, I so stipulate.

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10302 Q. Now look at the second column, top of the page, 214-A, which is the Zhdanov report, "The International Situation," is it not? A. Yes.

Q. Does he not say with reference to the new democracies, in the last sentence of the first partial paragraph of the column, "As a result, the peoples of these countries have not only torn themselves from the clutches of imperialism, but are paving the way for entry onto the path of socialist development."

He so states, does he not? A. Yes, he so states.

Q. Does he say they are paving the way for entry onto a new path of socialist development? A. He does not so state.

Q. Is there anything in this article that states that these people's democracies are entering onto a new path of socialist development? A. The significance of this passage in Zhdanov's speech was that he used the expression, "Are paving the way for entry onto the path of socialist
10303 development," because over a period of some months it became clear from the developments as well as the resulting shifts in interpretation that this was a signal for the conclusion of the period of coalition rule in the people's democracies.

Q. That it was what? A. That this was the signal for ending the period of coalition rule on the assumption that it would be permanent.

Q. I am sorry I can't follow you. A. The coalition rule was based on the assumption that it would be permanent, because if you were a coalition only long enough to destroy the partners in the coalition, that is not exactly a conducive atmosphere to mutual confidence within the coalition. The Zhdanov speech and the Cominform founding meeting at which it was delivered thus come in retrospect to represent the speeding up of the process of establishing the monopoly of Communist power in these countries in order to strengthen their further integration into the Soviet sphere and also to speed up the development along lines similar to the Soviet system in political and economic respects. Thus you put your finger on the very passage which probably has most significance in this speech as far as concerns the evolution of the so called people's democracies.

Q. I may have put my finger on a significant
10304 passage, but you have not answered my question, which was, does Zhdanov in this passage or anywhere else in the report describe people's democracy as a new path to socialism. A. He describes them as paving the way for entry onto the path of socialist development.

Q. Yes, but he does not say that the path of people's democracies is a new path to socialism, does he? A. No, he is marking the abandonment of that slogan and the shift to emphasis on a single path to socialism, the Soviet path.

Q. Professor, you said just a moment ago that this report of Zhdanov's was the signal for the abandonment of the coalition form of government and for, as I understood you, to paraphrase you roughly, for the taking over of the governments by the Communist Party, isn't that right? A. Where it had not already occurred.

. . . . . .

10528 Q. Could not, Professor, an informed American observer, basing his opinion on what he believed to be the best interests of his country, reasonably come to to the independent conclusion that the Truman Doctrine and the Marshall Plan conflicted with the best interests of the United States?

Mr. Sheehan: Objection.

Mr. Brown: Sustained.

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10549 Q. Professor, could not an independent American observer, unbiased and objective observer, come to the conclusion in the spring of 1949 that the North Atlantic Pact was inimical to the peace and security of the American people for the reasons set forth in the editorial and in the statement of the National Committee?

Mr. Sheehan: Objection.

Mr. Brown: Sustained.

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10794 Q. Have you heard of Mr. Youngjeung Kim—

Mr. Lenvin: I object.

Mr. Marcantonio: Just a moment. —Youngjeung Kim, president of the Korean Affairs Institute in the United States.

Mr. Lenvin: I object.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. The Korean Affairs Institute is not a Communist organization, is it?

Mr. Lenvin: Same objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. In fact, it is known to be highly conservative?

10795 Mr. Lenvin: Objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. But did not Mr. Youngjeung Kim state in a letter published in the New York Times August 12, 1947, as follows: "In South Korea there is little law and order. The last election of the South Korea interim legislative assembly was carried out in such improper manner that even some of the officials were not aware that an election was being held."

Did he not so state?

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. And did he not state in a letter printed in the New York Herald Tribune, May 20, 1950, "It is a well known fact that the Government of South Korea maintains itself with military and police power."

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. Did not an article by Allen Raymond in the New York Herald Tribune, May 5, 1948, state, "South Korea is obviously in the hands of rightist groups bent on rule as arbitrary as that of Generalissimo Franco's Spain"?

Mr. Lenvin: Same objection.

10796 Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. Did not a dispatch by Walter Sullivan of the New York Times of March 6, 1950, state, "Large sections of South Korea are darkened today by a cloud of terror that is probably unparalleled in the world. It is universal shadowing the lives of police, peasants and guerillas alike."

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. Is it not true that on December 1, 1947, the New York Times reported that there were 10,000 political prisoners in South Korean jails?

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. And on September 6, 1949, the New York Times carried a report of the South Korean Home Ministry giving the prison population of South Korea as 36,000—16,000 more than capacity?

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

By Mr. Marcantonio:

Q. Do not all these statements closely parallel the views of Mr. Clark and Mr. Malik in Exhibits 286 and 281?

Mr. Lenvin: Objection.

10797 Mr. Brown: Sustained.

By Mr. Marcantonio:

Does that prove or have any tendency to prove that the authors of these statements are dominated or controlled by the Soviet Union?

Mr. Lenvin: Same objection.

Mr. Brown: Sustained.

10850 Q. It is a fact, is it not, that there was in this country and elsewhere almost universal welcoming of Mr. Malik's speech of June 23, 1951, opening a possibility of achieving peace in Korea, is that correct?

Mr. Lenvin: Objection.

10851 Mr. Brown: Sustained.

10858 Q. In your opinion, could an informed American observer basing his views on what is the best interest of the American people reasonably and sincerely conclude, one, that Mr. Malik's proposal was a great service to the cause of peace and in the best interests of the American people as well as all of the people of the 10859 world; two, that the representatives of the American government attempted to frustrate Mr. Malik's proposal but were forced into truce negotiations by the overwhelming desire of the people; and three, that American representatives by provocative conduct and various pretexts attempted to cause the breakdown of armistice negotiations in Korea?

Mr. Lenvin: Objection.

Mr. Brown: Sustained.

10870 Q. And in view of the parallel between the Malik proposal and the Johnson resolution, does this indicate in your mind and by your standards that the Communist Party of the United States dominates and controls the foreign policy of the Soviet Union?

Mr. Lenvin: What? I object to the question even though I don't understand it.

Mr. Brown: Sustained.

Miss McHale: Dissent.

. . . . . .

10871 Miss McHale: I would like an answer for this reason. It is a two way street, so to speak, and I
10872 would like to know the direction.

The Witness: I have been giving expert testimony on the basic analysis, point of view and policy recommendations of the Communist Party of the United States, and those contained in the foreign policy of the Soviet Government. I have not given expert testimony on what dominates what. I feel that the kind of evidence which has been presented as illustrations of the points of view is designed to show how each party of the two thought, analyzed and recommended. I have never testified that because one says "A" and the other says "A" at approximately the same time, and on the same general subject, that one is dictating to the other. If I gave an expert opinion on the issue of whether the Communist Party of the United States dominated, through favoring the position presented in the Johnson resolution, the Soviet Government, when the Soviet Government instructed Mr. Malik to make his speech of June 23, I would be claiming an expert knowledge of the system of communication between the Communist Party in the United States on the one hand, and the Soviet Government on the other, and I feel that I should remain within that sphere in which I have requested to give expert testimony.

By Mr. Marcantonio:

Q. So, therefore, you now state that it has not been your intention to testify as to domination where you
10873 show that one party takes the same position as another party on a given subject and approximately the same period, is that correct? A. My testimony has

been directed toward analyzing the basic line of thinking analysis and advocacy in the case of the Communist Party statements, and the statements of the Soviet Government.

Q. But as you said a moment ago, that it did not show domination of one over the other? A. No, I have not stated that. I have merely stated that as an expert, I would want to consider fully the question of whether I could and should properly as an expert give testimony on the question of communication between the Communist Party of the United States, and the Soviet Government. If I am placed under subpoena to give that kind of testimony, I will, of course, give it when it is convenient for the panel.

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11098 **Balmes Hidalgo** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

Mr. Brown: Take the stand, please.

Direct Examination

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11106 Q. Now, I would like to direct your attention to the spring of 1947. Was there any particular
11107 Marxist book which was being studied in the educational periods at that time? A. There was one book we were studying. It was "State and Revolution."

Q. "State and Revolution." By whom? A. Lenin.

Q. Do you remember any of the discussion periods that took place at this general period on that book? A. I remember one discussion that took place.

Q. Where did that discussion take place? A. It was at a meeting held at the apartment of Abner Levine.

Q. Do you recall where that apartment was located? A. It was located on West 81st Street, New York City.

Q. Who was Abner Levine? A. He was a member of the Executive Committee of the Tom Paine Club.

Q. Do you recall the main subject of that discussion? A. The main subject was a quotation from the book read by Betty, Executive of that Club, who was the Chairman of

the Club reading the discussion. The replacement of the Bourgeois by the Proletarian—

. . . . . .

11109 Q. Will you tell us just what went on at the meeting in your own words?

. . . . . .

The Witness: She quoted from the book and said that the replacement of the bourgeois by the Proletariat could not be accomplished without violent revolution. She went further to say that we as Communists knew this to be the truth, but if we were accused of this we would say no we don't advocate this, we merely predict this.

. . . . . .

11110 The Witness: We were always instructed in the Party by all the executives and afterwards I in-
11111 structed never to give your last name, only your first name, a false one if need be. And never ask a person for his last name. Take his first name given to you at face value.

By Mr. Sheehan:

Q. After this discussion period, or rather during this discussion period, who was the highest officer in the Thomas Jefferson section at this time? A. The section organizer of that Thomas Jefferson section, who at this time was a man named Julie.

Q. Did Julie have a last name? A. At the time I did not know it.

Q. Did you ever find out what it was? A. I found out that at times he was known as Julie Katz, and other times he was known as Julie O'Donnell.

Q. Did Julie address any meeting at which you were present? A. Yes, he attended that same meeting at which this discussion took place.

Q. And what did he say at that meeting to the best of your recollection? A. He told us that he had been sent into

that section because there was entirely too much looseness in that section, there was a leak somewhere, and he didn't want to see or hear anyone using a person's last name in any communications, not to use the telephone at
11112 all, and if there was no other way of communication and the telephone had to be used, to make it as brief and short as possible, and after a time to try to get away from using even first names, to try and use the numbers of the Party cards.

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Q. You said that this man Julie told you why he had been sent into the section. A. Yes.

Q. When was he sent into the section? A. That was his first meeting when he told us that.

Q. What was the next meeting after this that you recall? A. I recall having attended a Party Congress later
11113 on that year at the City Center, I believe it was, in New York City, New York.

Q. Can you tell us approximately when that was? A. In the spring of '47, about June of 1947, I would say.

Q. Do you recall any of the speakers at this meeting? A. Yes, I recall them.

Q. Whom do you recall? A. I recall Bob Thompson. At the time he was State Chairman of the Communist Party of the State of New York.

Q. Will you tell the panel briefly what Mr. Thompson had to say at this meeting? A. He spoke, one of the things he said was that the world was divided into two parts, on one side we had the imperialistic nations and on the other side, as he put it, we had the truly democratic countries of the world, Hungary, Poland, Yugoslavia, all led by the USSR.

Q. After you attended the Party Congress, did you thereafter attend any meetings of the club? A. Yes.

Q. And what club was that now? A. The Charles Krumbein Club, originally Club No. 2. It had now been given a name, Charles Krumbein.

Q. I would like to direct your attention to November of 1947. At that time, did you have a membership
11114 card in the Communist Party? A. In November 1947, yes, I had a card in the Party.

Q. What happened to your membership card? A. I gave that card to my club membership director. Do you want me to name her?

Q. Yes. A. Ann Greenfield.

Q. And at what time was that you gave her your card? A. In November of that year.

Q. Do you recall where it was that you turned over your card to Ann Greenfield? A. It was at a meeting held at the apartment of Georgette Taggart.

Q. Did you have a conversation with Ann Greenfield at this time? A. Yes, she took me aside and told me that I would have to hand in my own card, that it was a directive from a high group. She would give me a new card with a new number, and suggested that I put an entirely different name on this new card.

Q. Did you put another name on that card? A. Yes, I did.

Q. What name did you use? A. Bernard Harris.

Q. I direct your attention to the early part of
11115 1948. Do you recall any changes in the administration of your section around that period? A. Yes, I recall one change.

Q. Will you tell the Panel briefly how you learned of this change? A. The section organizer at that time was a man by the name of Morty Kamen. He called me aside and told me that from there on any names, addresses and phone numbers in my roster, I at the time was section press director, would have to be kept in a different manner. He told me to keep them in some sort of code, using numbers and symbols so if that book were to fall into the hands of any unauthorized persons the identity of those members would be a secret. It would not be disclosed.

Q. Did he tell you that this method— A. He told me. He suggested the method, and he told me this was the method being used by the regional directors, region of the Upper West Side—

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11116 Q. Did he tell you why it was so important that the identities were not revealed? A. In case of the Party going underground.

Q. Did he say anything at a later date about how members were to go about concealing their identity?

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11117 The Witness: I was told to immediately just give our name and address and ask for a lawyer, talk to the Civil Rights Congress, refuse to let ourselves or our houses be entered or searched without a search warrant, refuse to be arrested without a warrant, and to refuse to give any names and addresses of any other persons, and to refuse to admit to being a member of the Communist Party.

By Mr. Sheehan:

Q. Where and when did he tell you these things? A. He told us at a meeting held at the section headquarters at 72nd Street in New York City.

Mr. Abt: May we have the date, Mr. Chairman?

Mr. Brown: Do you recall the date, Mr. Hidalgo?

11118 The Witness: The date was in July. Associating it with other things, I would say it was July 22.

Mr. Brown: What year?

The Witness: 1947.

Mr. Brown: Very well.

By Mr. Sheehan:

Q. About how many members attended this meeting, do you recall? A. No, I don't recall exactly the number. They were composed of delegates of every club in the sec-

tion. It was a section conference. Not a conference, but a convention.

Q. Do you recall Mr. Kamen speaking to a section at a later date?

(No response.)

Q. If you don't recall— A. Not at the moment, I don't.

Q. I won't belabor the point. You previously testified that you were a member of the Charles Krumbein Club of the Thomas Jefferson section. Was that club divided up into any groups or other divisions? A. Yes, it was.

Q. Will you tell the Panel briefly what they were? A. It was composed of several groups, approximately five or six groups, each approximately of five, six or seven members. Each group was in charge of a group cap-
11119 tain. The captains were in the main the executives of that club, the club organizer, the club press director, the club membership director, and so forth.

Q. Did anybody tell you what was the purpose of the club being broken up into these groups?

. . . . . .

The Witness: We were told the purpose of it was again if we went underground, it would be a lot easier for one person to contact five others. He would only have to remember five names and addresses. He would not have to carry any list.

By Mr. Sheehan:

Q. Who told you this and when was it? A. The speaker was Rita Stevens.

Q. And where did she tell you? A. It was at a meeting of one of the club meetings.

. . . . . .

11120 Q. What position did Rita Stevens hold in the Communist Party, if any? A. She was a member of the executive of that club. She was a club membership director.

. . . . . .

11121 Q. Do you recall anything further being said at this meeting regarding this subject of going
11122 underground, to use the term that was used there?

A. In the case of the Party going underground, we were told that it would be so much easier if all the functioning of the Party was done through a group system, somewhat like she had mentioned, the five persons being contacted, say, by the club organizer, and all the club organizers being contacted by one member of the section, five or six members of the section being contacted by one member of the county. In that case the most that any one person would know would be the names and addresses of five persons, and he refused to tell them if he had been instructed to do so—

Q. Did someone other than Rita Stevens speak at this meeting on that subject? A. Yes. That last statement was told to us by Mortie Kamen, rather by the membership director of the section, Nell Greenfield, who was also at that particular meeting.

. . . . . .

11124 Q. Will you tell us what you were taught in your classes? You told us you attended school. Will you tell us what you were taught during your classes about the objectives of the Party?

. . . . . .

The Witness: The objectives of the Party were to fight for socialism here in this country.

By Mr. Sheehan:

Q. By what means was that to be done?

. . . . . .

11126 The Witness: We were taught to use any means possible, but as we were taught by their own textbooks, the only method could be by force and violence. That was the only method taught to us as being a possibility.

. . . . . .

11149 **John Lautner** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

Direct Examination

. . . . . .

11157 Q. Who operated the school to which you have just referred? A. The National Hungarian Bureau.

Q. Who were the instructors in this school? A. Bebrits, James Lusztig, John Szanto, Louis Weinstock,
11158 Antonio Wexler, and Louis Engdahl, E-n-g-d-h-a-l.

Q. It is d-a-h-l, isn't it? A. Engdahl, yes.

Q. Did John Gyetvai teach there? A. Yes, Dr. John Gyetvai. Joseph Feher.

Q. What languages were used in the school? A. Both Hungarian and English.

Q. Can you tell the Panel what courses these men taught? A. Lusztig taught Marxism-Leninism. Szanto had a course on the decisions of the Sixth World Congress of the Communist International and strategy and tactics. Louis Bebrits taught the Communist Manifesto, and he had a special course on labor journalism. J. Peters taught political economy. Antonio Wexler the Paris Commune. J. Feher, sick and death benefits, administration of the Hungarian Working Men's Benevolent Association. Gus Majer tanght present tasks of the Communist Party in relation to the tasks of the Hungarian Bureau of the Communist Party. J. Louis Engdahl gave a series of three lectures on Party policies.

Q. What did Weinstock teach? A. Weinstock taught the history of the Soviet Union, the Bolshevik Party, and the October revolution.

. . . . . .

11165 Q. Did the Communist Party policy in trade union matters undergo a change about this time?

. . . . . .

The Witness: That change came about in 1933 and '34, and that change came as a result of lessons that the Communist Party as a whole had to draw when Hitler came to power in Germany.

Q. What was the policy of the Party at this time, 1930? A. At this time it was to build a red revolutionary trade union movement under the leadership of the Profintern.

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11192 Q. What significance did you as a section organizer attach to the remarks of Edwards in this particular meeting?

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11193 A. Well, the fact that he was already known to us as the representative of the Communist International, we were very attentive to what he had to say, and what he did say was taken as, well, he should know, he is the representative, and what he says is the Party line. There was no questioning of Edwards' judgment.

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Q. Do you recall any other meeting, Mr. Lautner, during this period when Edwards or Eisler was present? A. Yes. In 1935, just before they opened Camp Unity, the staff was not there yet—we were called to a meeting to Camp Unity by the District leadership. It could have been the latter part of May or the early part of June, and Eisler or Edwards was present at that meeting, too. This meeting was called by the New York District leadership with the section organizers of New York.

Q. Did he have anything to say? A. Yes. The report at that meeting was given by J. Peters. The report was about the need and necessity on the part of the Party to concentrate on National Guard work at that time, to pay attention to the weekly drills in the National Guard

11194 armories. The District told us in the report—the report was given by J. Peters, who was a member of the National Commission at that time—and he projected

a two pronged approach to this concentration work. One, to make a survey of all Party members who are members of the National Board, and to build Party units within the armories within the Guard, and then in each section where their is an armory to assemble or to organize a concentration unit that will work from the outside on Guard nights, on drill nights, to distribute leaflets in front of the armory and to socialize and get acquainted with Guardsmen. That was the idea that Peters conveyed in this report.

Edwards was present at that meeting at that time.

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11196 Q. When was the last time you saw this man?

A. The last time I saw Eisler was shortly before he left on the Batary for Germany. On a number of occasions I once saw him one morning at the Party building at 35 East 12th Street early in the morning, about 9:30. He was looking for somebody on the third floor. I saw him at a banquet once held in New York, the Smorgasbord place on 54th or 55th and Broadway, where Eisler was one of the speakers alongside a number of other Party leaders and other prominent speakers.

Q. Will you fix the time of these two instances? One time you say you saw him in the Party Building, and then the second time was at a banquet. Will you fix the time as nearly as you can?

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The Witness: I don't know the exact day, but I can fix the time. It was about two or three weeks after he came out of Ellis Island.

By Mr. Paisley:

11197 Q. Approximately what year? Fix the year. A. '48-'49; '48, I think.

Q. You mean he had been arrested for deportation and was being held on Ellis Island. Is that what you mean? A. Yes.

Q. When did he leave on the Batary?

. . . . . .

The Witness: I think it was the spring of 1949.

By Mr. Paisley:

Q. How did you learn that Eisler and Edwards were the same person, do you recall?

. . . . . .

The Witness: I ought to know. I know the person. I saw him in the Thirties. I took part in meetings
11198 with him, and the same person turns out to be Eisler.

By Mr. Paisley:

Q. I was just asking when you first learned it, if you remember. A. When I first saw him. I didn't know who Eisler was. I didn't know Eisler was identical with Edwards until I saw him.

Q. You had a lot in the papers. A. I knew Eisler after the war, after the Second World War. I didn't know that this Eisler was identical with Edwards. I knew that Edwards was here in the early Thirties. I knew Edwards went to Spain. I didn't know that in the late Forties this same person turns out to be Eisler.

Q. I was just wondering when you first learned it. A. When I first saw him after the War, and that was when he came out of Ellis Island. I didn't see him before that.

. . . . . .

11207 Q. When you left the National Headquarters in New York, did you have any understanding with any of the leaders as to how you should communicate with them on Party affairs? A. Yes, I had a number of addresses to communicate. I remember the normal letters were sent to Box 92, Station D. We had an address in the Bronx where we sent letters, where we discussed problems, district problems pertaining to personnel and con-

centration work and application of policies in the coal indusfry. We used to send it to this Bronx address. And then there were plenums twice a year, organized by the National Committee of the Party, to which plenums I came.

Before I went to West Virginia in the organizational department, they gave me a code that I could use if the situation will arise. It was a very simple code based on two books. I had a copy and Peters had one in the National Office. And I was to use the number system with these books as to line and letters on pages.

Q. Did you talk to Peters about it? A. He told me that I should take it along with me, but I never had occasion to use that. I even asked him, "Why do I need this?" He said, "Well, the other districts have it, so you might as well have it." But I never had occasion to use it.

11208 Q. What was his position at that time? A. He was a member of the organizational department of the National Office at that time.

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11209 Q. Were you in West Virginia, Mr. Lautner, when the Hitler-Stalin Pact was first publicized? A. Yes.

Q. And were you then the district organizer? A. Yes.

Q. Were you called upon by the membership to explain that pact?

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The Witness: Yes.

By Mr. Paisley:

Q. Just how did you explain it?

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The Witness: The Hitler-Stalin Non-Aggression Pact and Commercial Treaty, when it was signed, the explanation was that this was a technical move to forestall the efforts of the Chamberlain-Deladier government to

11210 bring about a situation where Hitler will attack the Soviet Union at that time. There was a Munich

Pact concluded by Chamberlain and Deladier and Mussolini and Hitler, and it was consistent with the policies of the Soviet Union at that time as enunciated by Litvinov in the League of Nations that the Soviet Union was ready to conclude a non-aggression pact with any nation that is willing to conclude such a pact. So this was the jist of the explanation, that it was a technical move to forestall a situation bringing about an alliance on the attack against the Soviet Union. Stalin made a famous statement that the Soviet Union will not pull out the chesnuts for anybody out of the fire, or anybody's chesnuts out of the fire.

By Mr. Paisley:

Q. Did this pact come as a surprise to you? A. It did.

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11211 The Witness: It was not an emotional surprise. It was a political surprise. It was a political surprise in this respect: For years the Communist Party endeavored to build an anti-fascist alliance and anti-fascist unity and here comes a pact out of the blue sky running against this whole effort for years, a pact is concluded with the Nazi regime. So this was the political surprise, not the emotional surprise.

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Q. What was the reaction of your Party mem-
11212 bership in West Virginia on the reversal?

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The Witness: First of all the reaction was as follows: The Daily Worker for days had nothing to say. It had nothing to say. I, myself didn't believe it at first. I thought it was just another headline sensationalism or something of that sort. But when it was verified that such treaty was concluded, that such alliance was concluded, the explanation was that this was a counter move to the Munich Pact.

By Mr. Paisley:

Q. During that period when the Daily Worker was silent, did your Party members interrogate you on the subject? A. I was asked a lot of questions and I told them let us wait to see what the Daily Worker has to say. We hear this on the radio and we read it in the paper, and we will see what the Daily Worker will have to say on this. Some were disgusted. I know when I came into New York shortly thereafter, some of the Party leaders disagreed with this pact, and they left the Party. One of them was the business manager of the Daily Worker, Wishnak, who said he will never endorse or cooperate or work in that kind of a movement that can conclude an alliance with Hitler. That was the business manager of the Daily Worker.

11213 There were some others who disagreed and they also drifted out of the Party. It was a jolt as far as the Party is concerned, and a lot of people did leave the Party at that time. I remember at the National Committee meeting after that when a report was given on Party building, that fact was registered, that the Hitler-Stalin Pact made a dent in the numerical strength of the Party membership.

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11224 The Witness: I came to New York to the special convention in November.

By Mr. Paisley:

Q. Were you a delegate to the convention? A. Yes.

Q. What was the purpose of this special convention? A. This special convention of the Party was called to meet a specific problem that arose, that is, an act was passed in Congress known as the—

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11225 The Witness: —the Voorhis Foreign Agent Registration Act. This convention was to meet that

problem, to disaffiliate from the Communist International, which was a move of expediency to get from under this Act.

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The Witness: The purpose of this meeting was stated by Earl Browder, who was the Secretary of the
11226 Party at that time.

By Mr. Paisley:

Q. Did the Party disaffiliate from the Communist International? A. Yes, with this emphasis: That that disaffiliation from the Communist International in no way will affect our attitude, that is the Party's attitude, on the question of proletarian internationalism, and with that understanding the Party disaffiliated from the Communist International.

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11240 Q. What length of time was required to complete this schooling? A. The National Training School in 1941 got together at the beginning of February and it lasted all the way to May 1.

Q. In New York City? A. In New York City.

Q. Where was it conducted? A. This school was not conducted in any specific place. It was held in
11241 homes, in various parts of the city, in organized places that were pre-arranged for sessions from day to day. It never met at the same place more than once or twice.

Q. Was it a full time activity? A. Yes.

Q. Approximately what hours did you attend? A. We had a session usually in the morning, a school session with all the students, with all seven students and an instructor. Then we were broken up into two groups. Then we had group study in the afternoon. Then we also had assignments to write papers on various assigned topics and subjects. I would say from 12 to 14 or 15 hours per day went into study at the National Training School.

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11295 Well, after that party I took sick. I had the grippe and I stayed home for about a week . . . When I got up I went out for a walk before I went into the office downstairs, and I saw two people hanging around my house. One of them was John L. Spivack and the other one was the sister-in-law of Abe Isserman.

Q. Who was he? A. John L. Spivack and the sister-in-law of Abe Isserman.

Q. Is that the lawyer Isserman? A. Yes. So I was quite surprised, what should John L. Spivack be doing in this neighborhood.

Q. Who was Spivack? A. Spivack was in charge of security for the legal office at Canal Street for the Party during the trial.

Q. The trial of the eleven? A. The trial of the eleven.

11296 John said, Where could I get some films for some kind of camera he had, around here? I lived on 22nd Street and Seventh Avenue at that time and there was no film place nearby around there for the type of film that he wanted. That was another incident.

Before I went down to the office I went up to 42nd Street and bought some of these pamphlets, and I went down to the office. About a half hour later Jack Kling came into my office.

Q. What was his position? A. He was treasurer of the Communist Party. That was the time I showed him this pamphlet, what Browder said about international relationships and whether he was responsible solely for the Party line projected by Browder. He told me that the national office will ask the state office to release me to go to the Midwest and accelerate preparations in the Midwest for the same type of work that I was doing in New York, in other words, preparations to take the Party underground.

I told him, I don't know. I wouldn't leave New York. He said, "You would work out of New York, but you will spend some time in the Midwest and work with people

there who are carrying on the work out there. You have a lot of experience here in New York, and I think we will benefit by that down there."

So we went in to see Bill Norman. Bob wasn't
11297 around. Bill Norman and Hal Simon agreed that I should be released and work for the national office.

The next day—this was on a Thursday, the 12th of January—

Q. The exact date I don't presume is of importance. A. Jack said that I should go to Cleveland and meet him there on Saturday at one o'clock at the Union Station. That day, Friday, all day long I had a meeting with Hal Simon, with one of the members of the state secretariat. I gave them a full report on the status of the preparations to take the Party underground in New York State, a detailed report, and that was how I spent that day. That same evening I took a train out of New York and arrived in Cleveland Saturday morning. As per agreement with Jack Kling, I checked into the Cleveland Hotel and I was waiting for one o'clock to come around. I went down to the Union Station and I met him around the information center at Union Station in Cleveland.

Q. Was that by pre-arrangement? A. Yes. He told me to check in at the Cleveland Hotel. We had lunch together, and then we took in a show. I think we went to the Hippodrome on Euclid Avenue. He told me that we had to stall for time because the person we were to meet was not available until six o'clock, that he was out of town.

11298 After the show we ate some more and then we walked down to Sinclair Avenue, which is the closest avenue in Cleveland running parallel with the Lake, east. We went out to 95th Street. We got there about 5:30. We still had about half an hour or so. We were walking around. Around six o'clock a car came along, and we got into that car. By that time it was dark. We rode on that boulevard belt from Sinclair Avenue

crossing Superior and Euclid, Woodland, Buckeye, to Kinsman Road. We came down on Kinsman Road, and around the seventies we took a bridge down into that section in the hole known in Cleveland as Kingsbury Run. We were circling around blocks over there and then we went into a house. I was going ahead and Jack was behind me and the driver was behind Jack. Jack told me to go down in the cellar. I was going down in the cellar, and as I looked down there were two persons there playing a card game on a small table. I looked back and Jack wasn't around behind me. He stayed upstairs. These two characters told me to undress. I was puzzled. I didn't know what was happening over here. I looked back and I called for Jack and Jack didn't answer. They were husky guys. I saw on a pile of wood over there long rubber hoses. There were knives. Both of them had guns. I was stripped stark naked. Even my socks were taken off. They went through my clothing. They were searching even in the seams. What they
11299 were looking for I don't know. In my folder they found a few names, and one of them made the remark, "You are a hell of a security officer in the Party going out of town and carrying Party names on you." They were not important names. They were personal friends and personal addresses.

By that time Jack came down with this driver, and following him were Solly Welman from Detroit, a Party leader in Detroit, and Joseph Brand, the Party leader from Ohio.

Q. Had you known those two before? A. I had known them for years. Solly Welman was on the original national review commission and secretary of the original national review commission that was established in 1945 after the reconstitution convention.

I asked them, what is this. I was puzzled. I didn't know what would happen. "You will find out." Then the most abusive and foul language that I have ever heard in the Communist Party. I was called everything under

the sun, a traitor, a spy, a stoolpigeon. I was crying. I said, "A terrible mistake is being made and let's calm down and let's discuss this thing." I was just abused. They wouldn't even listen to me. They had two gadgets there. One was a recording machine, a wire recording machine, and the other one was supposed to be a lie detector. It was a gray little machine with a wire at-
11300 tached, with a ball on the end, and a strip that was fastened to my forearm. I was supposed to hold my hand on the table over there. On the other side of that gadget it was supposed to indicate whether I was telling the truth or not. This chauffeur was the expert on this lie detector.

I was asked, since when was I an agent of the CIA, the Counter Intelligence Agency. I told them I was not an agent of any government organization, that they had to show proof to me that I was. They asked me what was my relationship with Noel & Herman Field, the Field brothers.

Q. Who is Noel, now? A. I don't know who they are. All I know is what I read in the papers, that they disappeared behind the Iron Curtain, that one of them was supposed to be a close friend of—

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The Witness: They asked me who did I talk to about the preparations to go underground. I told them that I had an all-day meeting with Hal Simon. I had to go into details of the content of that meeting that I had with Hal Simon. That took almost an hour and a half or two hours.

By Mr. Paisley:

9303 Q. Had you been informing any of the government agencies on the Communist Party? A. No. While I was a member of the Communist Party never was I in contact with anybody, any government agency whatever.

Q. Go ahead. A. They asked me who knows that I was in Cleveland. I told them that a friend of mine in New York

does know. I told them that I wrote a letter to my mother, to Youngstown, Ohio, that I would be in Cleveland and I would be over Sunday afternoon in Youngstown, Ohio to see them. I saw the predicament I was in, and I also told them that I left Jack Kling's name at the hotel desk in case we don't meet each other at Union Station, and if he inquired about me, I would be back in an hour. I didn't leave his name at the hotel desk, but seeing the predicament I was in, I injected that.

Immediately they went upstairs. Joe Brand and Welman and Kling went upstairs. They had a conference for about five or ten minutes, and then they came down. Prior to that I was threatened time and time again that if I don't come clean I will never leave that place. There was a spigot on the side of the basement wall there, and the water was running full blast. There was always trouble with the mike because what I was saying wasn't audible
11302 enough. They were replaying it and checking it and testing it. There was another guy behind my back with a gun and he was nudging me to get closer to that loud speaker, to talk louder into that recording machine.

When they came down from upstairs the situation changed immediately. I was told to look down and keep my head down, not to look sideways or any ways, not to look back of me and not to look at the fellows that were behind me. One fellow was hitting the wall all the time with one of these rubber hoses. That also created noise over there that interfered with the recording machine.

Then I was told to sign a statement. The statement was dictated by Jack Kling. They gave me a piece of paper and pencil. The statement said the following, that I, John Lautner, was accused of being a spy and an agent in the ranks of the Communist Party, and that I had a fair hearing, and I was supposed to write that and sign it.

The gun was behind my neck. I did sign such statement.

Q. You say you did? A. I did. Joe Brand got the bright idea that that was in pencil and they had better have it in ink. So I wrote the same statement over again in ink.

Then they packed up their paraphernalia and Jack Kling told me that this hearing will continue, that there
11303 are some phases of it that are not clear to them yet, and I was supposed to meet them the next day, Sunday, across from the May Company on Euclid Avenue in a small restaurant, the Mayfair Restaurant. Then they left. They packed up their paraphernalia and left the place. I was left there with the chauffeur of the car and the two other persons who were in the basement when I got there. They gave me back my clothing piece by piece. I begged them, I cried out, I was freezing there in that basement, and they wouldn't give me my clothing back until I was ready to be taken out of there. They gave me back my clothing. Some of my papers were taken away from me. I had that reply from the State Department on me, my passport application. They took that away from me. For the first time in my life I was quite surprised that even money was taken out of my purse, about $15 were taken out of my purse. I had a pair of gloves that was also not given back to me. Then they pulled my hat down. I was told to keep my head down. I was taken out by the two fellows on their arms into a car, and then driving around about 12 minutes to 15 minutes or so, I remember going across the wooden bridge, I was dumped out at a factory site under a bright light. I was walking along that factory. I was told to go to the end of the factory, and there was a bus stop that would take me downtown to Cleveland.
11304 When they let me out of the car I was afraid that they would shoot me while I was walking away, and I was practically running. I was running. I took a bus. I went downtown. I went up to my hotel room. I was in a daze. I didn't know what had happened. I hoped that this was a way of testing me or something like that because I knew that I was never in contact with any government agency before.

Well I took the train—first of all, I went there at eleven o'clock in the morning to the appointed place. It was rain-

ing Sunday morning, and they didn't show up. They didn't show up. I waited there for about an hour and a half.

Q. Did Kling stay at the same hotel? A. I don't know where he stayed.

So I took the train and went to Youngstown, Ohio. The next day I took a train and I came back to New York. I picked up the Daily Worker, and there was my expulsion notice with my picture in it. I was charged with trying to protect Angela Calomiris from being expelled from the Communist Party. Angela Calomiris was one of the persons who testified against the 11 in the New York trials.

Q. You mean this was in the Daily Worker? A. Yes. I was further charged that I recommended irresponsible and unreliable persons to work in the defense office.

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Q. What defense office? A. In the defense office of the Party that was set up at Broadway and Canal Street during the trial of the eleven.

At the caption of my expulsion there was in bold, large type letters, "Traitor," above my picture.

Q. Did they accuse you of these things out in Cleveland when they were giving you this trial or whatever you want to call it? A. I beg your pardon?

Q. Did they accuse you of these things out there in Cleveland? A. I was not accused. I was branded. I was not charged. I was just branded outright that I am an enemy agent, period. That was the so-called hearing I was supposed to have in that cellar in Cleveland which that expulsion notice referred to, that a special committee was set up by the Party to investigate and give me a hearing. That was the hearing.

Q. You got no other hearing? A. No. I wrote a letter a few days later to Trachtenberg, who was Chairman of the National Review Commission. I told him in that letter that a terrible mistake was made in my behalf.

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The mistake is made, but I want a hearing. I never got a reply to that letter. My brother took that letter up

to his office. It was given to him. I never got a reply to that letter.

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11307 Q. Incidentally, when did you go to the FBI?

A. Well, after my expulsion I had some personal problems because of it. I went to stay with my brother. My brother was living at Washington Heights. I stayed with my brother there. Well, I said to reevaluate my whole life in the light of my experience, I had to come to certain conclusions. On the basis of that, finally in 1950, September, toward the end of the month of September, I wrote to the Department of Justice.

Q. September of what year? A. 1950. I told them who I was, and I told them that I am willing to give my full effort, my knowledge about this movement to the services of the Department of Justice. Shortly after that I was contacted by the Federal Bureau of Investigation.

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11326 Q. Were you given any assignment in the Party, Mr. Lautner, in 1946 or 1947 in reorganization work? A. Yes.

Q. Tell the Board what assignment you were given, who gave it to you, and what your duties were. A. After the reconstitution of the Communist Party, the convention as such reaffirmed itself to go back to the Party of a new type based on the prinicples of Marxism-Leninism. This was done in the convention in the form of resolutions, and those resolutions were later elaborated. There were articles written about it, reports given on how to interpret these resolutions in terms of organization, because right after the reconstitution in 1945 the organization as such was intact. There was an election of a new National Committee. After the convention there was a first step in the reorganization. The breaking up in New York County of the large clubs, community clubs, which were the only form of Party lower organization at that time.

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11328 The Witness: So these large clubs were broken up into smaller organizations. New sections were established all over New York County, with which I was familiar. The clubs were streamlined. They were known as branches from there on. There was a survey made throughout the Party to seek out those Party members who were employed in industries of various types and industrial sections of the Party were established under the leadership of the New York County leadership. Such industrial sections were in furniture, needle trades, on the waterfront, longshore section, cement section, teamsters section, UE section, industrial section of the Com-
11329 munist Party, machinist section, AFL general industrial section, which included bakers and similar industries that are organized in the American Federation of Labor, building trades section of the Communist Party, New York County, professional sections of various types—those that were in government service, one section, those that were in civil service another section—a section was in the making for the teachers as a special section for teachers in New York County, a special division was created under the hegemony and leadership of the New York State organization known as the Cultural Division of the Party, railroad concentration section was established, and some other sections in which Party members belonging to these various industries were drafted from the various community clubs to which they belonged in the Political Association days, and soon after the Party was reconstituted in 1945.

By Mr. Paisley:

Q. Was there a commission created to supervise that work? A. The next step was a commission was created to work out for New York County a concentration plan based on this first step that was made. The main concentration task for New York County was transport. That entailed the waterfront, cement, longshoremen, teamsters, railroad and American Railway Express.

11330 Q. Who were on this commission? A. On this commission was Tim Torney, the Executive Secretary of New York County, myself, Lenny Levinson, Louis Sass, and when I left the building trades section to go to Chelsea, Ralph Glick was put in my place on this special commission to reorganize the Party in New York County.

Q. Was that type of reorganization confined to New York County or was it nationwide? A. As far as I am concerned, I was on this commission in New York County, and this plan was initiated by the Party resolutions after the reconstitution of the 1945 convention specifically by John Williamson in one of his reports on concentration work.

Q. Who assigned you to the commission? A. I was assigned by George Blake, New York County Chairman, to work on this Commission for New York County.

Q. How were Communist Party membership records maintained at that time? A. In 1946-47 there were no name records kept in the Communist Party on any level except names of committee members who were known as Communist Party leaders. No branch records as far as names were concerned. However, we had in the Party a yearly registration period where when a Party member
11331 was registered for the following year, there were certain statistics given about the individual, but no name indicated. Just male or female, what industry the person is pursuing, where he is working, what organizations does the person belong to, and what race does the person belong to, white or Negro, and similar general statistics.

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The Witness: These statistics were then compiled and only figures were released that so many Party members registered, there is so much more to be registered, the composition of the Party membership is as follows. These were the records kept,

Then besides that there were records kept about the press, the Daily Worker, on branch level, how many Daily Workers the branch distributes, how many subscribers the branch had or got in a drive or campaign, records of that type, but no name records whatever.

. . . . . .

11337 Q. Now, Mr. Lautner, you were testifying about how the records were kept after the reconstitution of the Party. I am now confining myself to that period after 1945. Were any records kept of the names of the individuals attending Party meetings? A. No, no names were kept on individual Party members or by Party members.

Q. Were any records kept of the number of persons attending meetings? A. In some instances there might have been a list. I will give you an example. If a national plenum or a convention was called, there was a master list of those that were invited as delegates to the convention, those that were invited as alertnate delegates to the convention, and those that were invited as fraternal delegates to the convention.

Q. I am talking about the unit or section meetings. A. No, no lists were kept whatever. Even the unit, the branch, the lowest organization was broken up into groups. There was a group system within the smallest organic part of the Party organization. There was a group system and only the group captain maintained contact with those that were in his or her group. But no list of names
11338 whatever was kept.

Q. Were any records kept of the subscribers to the Daily Worker? A. Subscribers to the Daily Worker, that would be public. The Daily Worker had its own list of subscribers. They had to mail out the Daily Worker to those that subscribed to it. They had their name plates in the Daily Worker offices, and it could be that in some branches they even kept the names of readers of the Daily Worker. But as far as Party members are concerned, there were no names kept on the lower levels.

Q. Were any records kept as to the number of copies sold in a particular district, and the money received from the Daily Worker? A. Oh, yes, these records were kept. Even in the branch they had a press director whose main function was to keep these records about who are in that particular branch territory readers of the Daily Worker. There were records kept on a section level. There was a section press director who kept records about the volume of business that was done in that section territory as to the spreading of the Daily Worker, the list of subscribers, how many bundle orders are taken daily, and how many Daily Workers are distributed in house to house canvassing on Sundays or on weekends. These types of records were kept.

11339 Q. Was there any change in record keeping as you have described it up to the time you left the Party? A. No, the tendency was the other way. For party security, to give the utmost security to the individual in the Party, his name should not be kept by anyone without his or her authorization.

Q. If the Party leaders wanted to locate, say, a house painter in a certain section of the United States; would they be able to do it? How would they go about it?

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The Witness: If a Party leader wanted to get in contact with a house painter, how would he go about it?

By Mr. Paisley:

Q. Or somebody in the steel industry or on the docks. A. The only way a Party leader could do that was to get down to the specific organizer who was in charge of that particular Party organization where this particular individual would be, and through the organizer, contact him. Unless this particular individual is a personal friend of the Party organizer, then the approach is different. But through organizational channels, it would have to come down to that organizer in whose organization this particular individual was a member.

11340 Q. Did the Party in New York ever issue any instructions while you were active there after the reconstitution of the Party as to what they would say if they were asked whether or not they were members of the Party?

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The Witness: Shortly after the indictment of the eleven, an instruction was issued pertaining to the rights of Party members. These instructions came from the law offices of Unger, Friedman and Fleischer on Fifth Avenue, and the instructions said that individual Party members have the protection of the First and Fifth Amendments. In these instructions these amendments were cited. And a telephone number was given in case of any arrest or molestation by authorities to call that particular telephone number which was the phone number of Friedman.

The Party also had a discussion on this problem of safeguarding the individual, and as a result of that, another form was also projected, a small pamphlet informing the individual about his rights in case they are asked by authorities whether they are Party members or other form of molestation, and this pamphlet—

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The Witness: This pamphlet was published by the Civil Rights Congress, and was widely distributed in the Party, and also in some of the organizations where the Party had influence, such as the International Workers' Order, and similar organizations.

I reproduced the original legal advice that we got from the offices of Unger, Friedman and Fleischer, and supplied all Party leaders in the New York State organization with this legal protection, and also with the telephone number that was given to them in case they are approached by authorities about their Party membership.

By Mr. Paisley:

Q. Now, will you tell the Panel how the Communist Party controlled the attendance at conventions, if they did so?

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11342 Q. Tell us also whether you had anything to do with the control of personnel admitted to the meetings of the conventions. A. At the 1948 convention of the Communist Party, the national convention was held in Riverside Plaza, on 73rd Street near Riverside Drive on the West Side. I happened to be in charge of security at the national convention.

Q. Let me stop you and ask you there, what time in 1948 was that convention held? A. 1948, the summer.

Q. Had the eleven leaders of the Party been indicted at that time? A. Yes. In fact, Gil Green was picked up at that convention that morning when the convention assembled, either at home or at the convention, I don't know, but he was picked up that morning. I was in charge of the security of that convention, and here is the way the convention was controlled as far as delegates are concerned.

There must have been a master list somewhere with names—

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11343 The Witness: I was told there was a master list by Betty Gannett.

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The Witness: Where all the names of the regular delegates, the fraternal delegates, and the alternate delegates were listed. The national org. department placed a number against these names. Our working list on which we checked the delegate coming into the convention, we already checked the individual delegates to their number. This number also corresponded to the number on their delegate ticket. So we checked their three color tickets. For regular delegates they had one color ticket; for alternate delegates they had a different color ticket, and for fraternal delegates and invited guests, they had a different color ticket. All these tickets were numbered. So if it was one ticket color, we knew in what category this delegate was. And we checked every session in the morning and every

session in the afternoon as they came into the convention floor.

We were also instructed in case they left the floor we should also mark the fact that they left the convention floor while the convention was going on.

So this is the kind of control we instituted in
11344 this three day convention at Riverside Plaza at that time. This daily working control list was turned over to Betty Gannett after each day after the daily sessions were over and next day we started with a new list with the same identical numbers and with the same procedure.

By Mr. Paisley:

Q. Now, were any persons admitted who were not invited?

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The Witness: No persons were allowed to get in there without any authorization or delegates cards. Even the press was not allowed to get in there.

By Mr. Paisley:

Q. Who would keep them out? A. We had a person in charge of press relations. Her name was Marian Bachrach. She was in charge of keeping the press out.

Q. Were Party members stationed at the door? A. Yes, we had security guards, not only keeping those that are not invited to the convention out, but also not to allow any commotion there or walking around, to maintain the highest type of discipline in that particular convention.

Q. Who was in charge of security at the 1948 national convention? A. I was.

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11345 Q. Who was in charge of security at the 1948 state convention? A. I was.

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Q. Mr. Lautner, did you ever attend any National Committee meetings? A. Yes.

Q. During what period of time? A. From 1936 up to about 1941.

Q. You were not a member of the Committee? A. No.

Q. What would be the occasion for your attendance? A. There was a procedure in the Party twice a year to have plenary sessions of the National Committee, usually in the spring and in the fall. From 1936 on these plenary sessions of the National Committee, district organizers and other additional functionaries of the Communist Party who were not members of the National Committee but were key people in various organizations were invited

11347 to participate in the plenary sessions of the National Committee.

Q. What public notice, if any, was given of the sessions? A. No public notice whatever. The National Committee, when called together, went into session, and the first general notice about the National Committee was usually either on the last day but most of the time when the National Committee meeting was over. Then there was public notice of it in the Daily Worker, that the National Committee met and there was news about the work of the National Committee, resolutions, decisions, et cetera. There was to my knowledge never any advance notice of a National Committee Meeting.

Q. Were any security measures adopted at those meetings? A. The same security measures prevailed in National Committee plenary sessions as I described in relation to the 1948 National Convention. In the course of those years from 1936 on the person who was in charge of the security of National Committee meetings was J. Peters.

Q. Did they have a meeting of this type during the trial of the eleven leaders of the Party? A. During the trial of the eleven leaders there were National Board meetings. I was instructed from time to time while the trial was going

11348 on and there was a long week-end or there was a free day, if the National Board was to meet, I was instructed by Gene Dennis to secure a number of meeting places for such meetings.

Q. What was Gene Dennis' position in the Party at that time? A. Gene Dennis was the General Secretary of the Communist Party. He described the type of place he wants, the location he would like to have the meeting to be held, and this was usually on a Monday or Tuesday if the meeting is to take place the following week-end. So I solicited two or three or sometimes five places. I got these places for him around Thursday. Then he told me that he was dissatisfied with some of the places, some he didn't make comment. Then he said, "Well, we will check." He selected one place out of the five. I don't know which one where the meeting was to be held. On one occasion he made a sudden shift there from Long Island out to Westchester County. There was some security problem there, and he told me that this shouldn's happen any more. A place secured in Westchester County through the County Chairman wasn't secure enough. It was in a small community where there were a lot of party members living there. They knew right away when cars were pulling in that Communist Party leaders were meeting over there. I got scolded for not exercising vigilance enough and checking personally on that place.

When he selected the place where the meeting
11349 was to be held it was at his discretion. I know on early Saturday morning he gave me a note to give to Bob where the meeting would be.

Q. Who is Bob? A. Bob Thompson, who was state chairman of the Party.

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Q. Let me go back and ask you, what was your position in the Party at that time? A. I was head of the
11350 State Review Commission and a member of the National Review Commission and in charge of security for the New York State organization of the Communist Party.

Q. Do you know why you were selected to do this particular type of work? A. I have no other reason to believe

than the fact that when I was brought into the state organization as a Review Commission secretary, the person who held that position prior to me was doing the same thing, and that was J. Peters.

Q. Did you attend any of these board meetings? A. No. I want to say that at one occasion I knew the place selected and I was observing whether any of the persons that went to this place, whether they were shadowed or tailed. That board meeting was held in New York on 22nd Street just about a stone's throw away from where I lived. I had an opportunity to observe that morning whether any of the leaders who came to the meeting were shadowed by the authorities.

Q. Did Dennis tell you why he wanted you to select a number of places? A. Yes. He said that he wanted to make his own choice. It was a security measure on his part. The final decision was to avoid going into a place that might be wired.

Q. How many were on the board? A. Twelve
11351 or thirteen.

Q. Do you know how they were notified of the meeting? A. I beg your pardon.

Q. Do you know how they were notified of the meeting? A. They were notified personally by Eugene Dennis.

Q. Speaking about the organization of the Party now, into what sections were professional and semi-professional people placed? A. In industrial sections that were orgaized under the leadership of the New York County organization.

Q. What do you mean by industrial sections? A. Industrial sections were composed of members who worked in the same industry and were integrated in a special section having plans and aims for working among those industrial workers and shops or offices where these people were occupied.

Q. You mentioned teachers a while ago in your testimony. Were they in a separate section?

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The Witness: Yes. Teachers were organized up until 1948 in clubs, and these teachers clubs were distributed first among various counties and various sections
11352 in the counties. In the school year of 1948 and 1949 there was an effort to organize the teachers into a different type of organization, to break up these clubs and to eliminate these clubs and to organize them into a security structure where three teachers would be in one group and they would work in echelons, and the primary steps in this direction to integrate the teachers from the various clubs into this structure was abruptly halted at the end of the school year '48-'49. They went on their vacations. When they came together in 1949, September, this organization then proceeded until by the time I was expelled from the Communist Party 300-some-odd teachers were integrated into this new structure with a committee of three. That was a separate organization. With this structure there was a liaison established that would communicate with the Party leadership.

Q. Were they open and notorious members of the Party?

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The Witness: Some of them were known as Party members. Most of them were active in local 555 of the Teachers Union. They were carrying out the trade union policy there, the Party trade union policy in the local union, which was known as the left-wing teachers trade union organization.

11353 By Mr. Paisley:

Q. To what extent were the teachers open and notorious members?

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The Witness: Some of them were ex-teachers who were known to be Party members. Some of them became Party functionaries, like Isadore Bengun. He was known as a former school teacher and became a Party leader. There

was Dave Goldway, who was a school teacher, and he became head of the Jefferson School. And there were others. Some of them were teaching in the Jefferson School. They left the school system. Most of the teachers were active as trade unionists in their own organizations and in the parent teachers association and other types of activities that teachers would be active in.

By Mr. Paisley:

Q. Were there any other professional or semi-
11354 professional groups to your knowledge? A. Yes.

There were. I think I testified to the fact that there were civil service workers organized in a section. There were federal workers organized in a section. There were lawyers organized in a section. The person who was in charge of civil service workers was N. Rollins.

Q. Who was the section organizer for lawyers? A. For the lawyers the section organizer was Abe Unger. Abe Unger was known also as the Party attorney, with offices at 100 Fifth Avenue.

Q. Did you have any official contact with him? A. Oh, yes, as a Party attorney and also as a section organizer. He attended large county committee meetings as the Party representative of attorneys.

Q. Do you know how many members he had in his section? A. I wouldn't know. I don't know.

Mr. Abt: I object.

The Witness: I know some of them, but I don't know the names.

By Mr. Paisley:

Q. These professional and semi-professional groups which you have mentioned—was the membership generally known?

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11355 The Witness: Not in these professional sections. The reason for that was that—

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The Witness: To give personal portection, personal security to these individuals because in the main their effectiveness in their respective professions would have been impaired if they were to be known Communists.

By Mr. Paisley:

Q. Do you know May Miller? A. Yes.

Q. Did you work with her? A. Yes, May Miller was the assistant organizational secretary of the New York State Organization of the Communist Party.

Q. Did you and she have anything to do with this teacher set-up? A. Yes. May Miller and myself were designated by the Party secretariat to carry out this reorganization and to integrate the school teachers in this special
11356 structure to safeguard their identity and their security as Party members.

Q. What was the purpose of this teacher section?

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The Witness: Because there was an attack against left-wing teachers in New York. There were laws made in Albany, the Fineberg Law, and the Board of Higher Education was under pressure to ferret out Communist teachers. The Party felt it was necessary to give the utmost security to the teachers who were members of the Communist Party within the framework of the organizational structure of the Communist Party.

By Mr. Paisley:

Q. What was the status of this teacher organization when you left the Party?

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The Witness: The status of this teachers organization was that the reorganization was completed. Out of a possible 500 party members, teachers in the New York school system, a little over 300 were integrated into this new structure, and at the time I left the Party a top liaison maintained contact, a top committee of this new structure

maintained liaison contact with the Party leader-
11357 ship.

Q. Did there come times when an open member was withdrawn as an open member.

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The Witness: Yes.

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Q. What would be the purpose of that? A. The purpose of that was that members from branches were withdrawn from time to time for various reasons. One reason would be that the person was selected to be a mail drop. The address was to be used. That person was isolated from his branch, and he became known as a member at large. Or in the period of 1949 a whole number of places, I would say close to 100 such party members were withdrawn for the following reasons. There were efforts to get as many meeting places, telephone contact places, places for individual party leaders to stay for a long period of time, for a specified period of time or just for meeting another person at a specified time. So these people were all drawn out from the Party organization and were told that their function from now on would be to carry out the assignment that they were assigned to. There were people who were drawn out, who were not integrated in the Party organization who were key people in mass organizations, so to speak. For example, in the top coun-
11358 cils of the American Jewish Congress there were a number of Communists who were not members of any branch, who maintained contact with a Party person and got guidance and consultation through that type of liaison.

Then there were trade union leaders in the Party who at a certain given period of time in 1947 already and later on more frequently, just dropped out from Party activity and maintained personal contact with Party leaders on trade union problems.

These are the various reasons why Party members were drawn out from their regular Party organization to which they were belonging and became members at large.

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The Witness: I want to say there were also members of the New York Police Force who were members at large, and I used to collect dues from these policemen in the Communist Party, and get donations from them at the time when there was a fund drive to raise funds for the Communist Party.

By Mr. Paisley:

Q. In the summer of 1948 you were Secretary of the State Review Committee, were you? A. Yes.

11359 Q. What was the position of Emanuel Levine? A. Emanuel Levine at that time was on the ninth floor as a security officer. This was in the summer of 1948?

Q. Yes. A. Because shortly after that he went in as circulation manager of the Daily Worker.

Q. Did he have occasion to make complaints to you? A. Yes.

Q. About a Party member being exposed? A. I recall one instance. This was in the spring of 1948, during the fund drive.

Q. You mentioned the ninth floor. The ninth floor of what? A. The ninth floor, popularly known as the headquarters of the National Committee of the Communist Party.

Q. The Daily Worker was where? A. The Daily Worker business offices were on the second floor.

Q. The same building? A. The same building.

Q. What is the address? A. 35 East 12th Street

Q. So Emanuel Levine came to you and made a

11360 complaint? A. Made a complaint that one of his members at large, who was integrated in one of his apparatuses—

. . . . . .

The Witness: A member in one of his apparatuses was contacted by the open regional director of the Party for money. This person was Lenny Levinson, who was at that time the regional director of the Communist Party on the upper West Side. Levine complained that because of this now he will have to drop this person because the identity of this person, if not isolated, would lead to the others in that set-up, and complained about Lenny Levinson, that he sticks his nose into too many things that are not his affairs. He said that Lenny crossed his path once before on the West Side with people who were under the protection of Emanuel Levine, in contact with Levine.

By Mr. Paisley:

Q. What was the name of this person? A. Rogozin, R-o-g-o-z-i-n, I believe. Johnny Williamson spoke to me about it, too, after Emanuel Levine said that
11361 Johnny wanted immediate action on this, that we will not allow a situation where such sloppiness can be real, and an investigation of Lenny Levinson. Such investigation was conducted, and it was found out that Lenny Levinson was formerly an employee of the Federal Bureau of Investigation in the fingerprint department. When John Williamson found that out he immediately instructed us to see that Lenny Levinson was removed as regional director. I conveyed that instruction to George Blake. Lenny Levinson shortly after the 1948 convention was removed as divisional director and Betty Haubrecht became the regional director. A little bit later on Levine came to me complaining that while Lenny was removed, he was still on the payroll. What happened I don't know. I told George Blake. I don't know what organizational steps were taken.

Q. All this resulted from his having discovered this undercover person? A. Having contacted one person in Emanuel Levine's apparatus.

Q. Mr. Lautner, did you have any official function to perform in the Communist Party in connection with the Party's going underground? A. After the indictment of the 11 that was my main function, to prepare the New York Party organization to go underground.

Q. Who gave you the assignment? A. This
11362 assignment was given to me by Bob Thompson, State Chairman of the New York State organization.

Q. Were your activities to be confined to the New York region? A. To New York State.

Q. Just tell the Panel all about it, what you did, who worked with you, and so forth. A. When the indictments came down Bob was not available for a week or so. Finally when he came into the office a few days after that he called me in and he said he wanted to have a meeting with me and the secretariat.

Q. He was one of the individuals who had been indicted, I understand. A. Yes.

Q. He had made bail, had he? A. I beg your pardon?

Q. Had he made bail? You said he was not available. A. He wasn't arrested when the indictments came down. The others were. He was out for a while. Then he voluntarily came in, and I met him a few days after that. Then he told me he wanted to have a meeting with me and the secretariat. I asked him about the nature of the meeting, and he said, "Well, I want you to prepare a report on what steps are in effect to safeguard the Party and what security steps are in effect as of the present."

11363 Q. What experience had you had in the Party that would particularly qualify you for this work? A. The fact that I had certain security measures in effect up to that point that I took over from J. Peters as to contacting people, as to calling meetings of section organizers, and similar measures.

Q. Were you also teaching classes at this time? A. Yes, I was teaching classes in that period of time, yes.

Q. All right, go ahead and tell us what you did. A. I called a meeting in my place, in my house, and I gave him a report of what steps were put into effect to eliminate some of the sloppiness that existed in the indiscriminate use of telephone, calling meetings by letter, calling meetings by telephone, and things of that sort. I told him that we worked out a structure in New York County where if George Blake wanted to call a meeting of section organizers, all he had to do was to get in touch with two contacts, and these two contacts in turn would get in touch with three each, that is six and 12, and in this way through three contacts, through a chain, get in touch with the section organizers and convey a message from the County leader.

Q. When you were first directed to do this work did you meet with the secretariat of the New York State Committee? A. I gave this report to the secretariat
11364 at that meeting. Besides Bob Thompson, Bill Norman and Hal Simon were present. They were the secretariat of three at that particular period. I gave this report of what measures we had taken, how we had tried to discourage the indiscriminate use of telephones, not to give Party leadership by telephone from an office, but to have personal contact, and this system of communication. Bob said, "Well, this is not the thing that we want. We need something else." Then he told us that Foster, William Z. Foster, who recently came back from Europe—he was in Europe in late 1947—that Foster in discussing repressive measures—

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11365 The Witness: In discussing the possibility of the repressive measures against the Communist Party in the United States, certain organizational measures were suggested and Foster described that it was desirable to adopt the three system that was in effect in Europe, in most of the countries where the Party was underground. Bob told us that the authorities know this system. Never-

theless, it is the best devised system yet for the protection of the Party. Also Bob further went on to say that it was the experience of the Communist Parties in Europe that when these parties were driven underground there was a contraction of about 90 per cent of the Party membership in the various countries, Germany, Italy, Hungary, wherever the Communist Party was driven underground. So, Bob said, "We must base ourselves on these experiences and we must expect a similar situation that might develop here in case the Party is declared illegal." He said, "Our problem will be, therefore, to find that 10 percent of the Party membership now, while we have time, that can be integrated into an organization and will function as the Communist Party even if the Party as such is declared illegal."

He said that this 10 per cent must be established where it could be most effective in the labor movement and the trade unions and in the mass organizations where they had reasonable protection working in these mass
11366 organizations.

By Mr. Paisley:

Q. Did you decide to adopt this system of threes, which you say Thompson said Foster had suggested? A. Yes. Bob told us to work out a detailed plan how it would look, and also to designate levels in this structure.

Q. Tell the Panel now what steps you took to put it into force. If necessary, you can use the blackboard there to illustrate how it worked.

. . . . . .

Q. Did you put the system into effect? A. Yes. By the time I was expelled from the Communist Party all levels were integrated. There were seven levels in the underground organization, and it was functioning on the principle that the initiative always comes from a higher level, and that no lower level of this structure or no lower three can at any time contact a higher level. The initiative comes

from above. That is one of the essential principles of this structure.

11367 When Bob told us to work the details out we had about three or four meetings after that. Bob pulled out after this initial meeting because he was busy with his trial. I met with Hal Simon and Bill Norman on a number of occasions where we were perfecting on paper a plan before we even would discuss it outside of this small circle. We divided up New York State into three areas. Area 1 was New York County with its trade union industrial sections and the cultural division of New York County, the cultural division that was attached to the New York State organization. Area 2 in this structure was Kings County, Queens, Nassau, whatever was in Nassau, Bronx County, and Westchester County, and the industrial sections that were in Kings County. Area No. 3 comprised the upstate part of New York State, Buffalo, Rochester, Albany-Schenectady, and the tier, Endicott, Johnson, Binghamton and that part of the state. That was area 3.

By Mr. Taylor:

Q. What do you mean by the cultural division? A. The cultural division is the division that we spoke about, an industrial form of set-up under the New York State leadership, not the New York County leadership. In the cultural division you had all those who were professionals, in radio, television, the arts and the sciences. Those people

11368 were members of the cultural division of the party. The cultural division organization was led by Dave —I don't recall the name. Lionel Berman was the organizational secretary, and I don't recall the other names.

By Mr. Paisley:

Q. Go ahead. A. Dave Gordon was the educational director of the cultural division, Lionel Berman was the organizational secretary. There was a change in positions there for a while when Dave Gordon became the organiza-

tional secretary and Dave Golden was the political head of the cultural division of the Party.

Q. Let's get back to this plan to go underground. A. I described the three areas that were divided. I wish at this time that I could visualize this structure, what it looks like.

Mr. Paisley: That is quite all right. Do you have a piece of chalk?

The Witness: May I use the blackboard?

Mr. Brown: Surely.

By Mr. Paisley:

Q. As I understand it, there were two aspects, one a vertical and one a horizontal, is that right? A. At this stage we were discussing only the vertical aspect of the structure, integration of that ten per cent that we
11369 thought would be the underground organization in case the Party was driven underground.

. . . . . .

The Witness: The top three of the structure were known to be the state leadership of the Party. The state leadership was composed of three people, three persons, the political head, the organizational head, and the trade union mass organization head of the state leadership.

The next step was that the political head on his own initiative, but by instruction, would select three political heads, one for each area.

. . . . . .

11373 The Witness: I would like to say that what we planned was put into effect.

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Q. You said that before, didn't you, Mr. Lautner? A. Yes.

Q. In plain English? A. Yes.

Q. Just a few minutes ago? A. Right.

Q. All right, now go ahead. A. The political head of the state leadership on his own initiative was to appoint

a political leader for each one of the three regions. The organizational leader was to do the same thing, and the trade union mass organization leader of the organization was to do the same. So we had the same three leaders on an area level. How were these three to get together? By a preliminary arrangement, by giving a certain identification from the top and by setting a date and a
11374 specified time and by instructions from the top three, these three were to come together. Then they knew each other. This person only knew his three people.

Q. By this person will you identify whom you mean? A. The political person knew his three people in the lower organization on the lower level, on the areas level. The organization person knew his three. The political person did not know this or this person. All he knew was the three persons below him. The same principle applies to others.

In case these three on the state level made a decision it was not necessary for him, the political leader, to run to each of his three people on the lower triangles, but he would by prearrangement inform any one of them in the triangle, either this one or that one or this political leader and if he chose this one then the original and the trade union chose the other one of the two. So one person by informing only one on the lower level covered all three, each on the top taking care of one area leadership. It was not necessary to duplicate or triplicate decisions down the way.

Then this level further down the third level, was known as the county level. It was just a designation. It
11375 didn't adhere to any specific county lines. That was the third level.

The next level was the regional level, and then there was the section level, and then there was the sub-section level, and then there was the basic organization of the structure, the bottom three, the unit. We had seven levels. If there were three on the top level, 9, 27, and it multiplied

by 3 that way, 81, 183, 729, altogether about 3150 or 3200 people were integrated into this structure.

We worked on these plans up until the beginning of 1949, and then we called a meeting of county leaders where we projected in a general way the plan, and then this plan was to go down to the fourth level by the middle of 1949. I was busy with another aspect of this structure while this known as the vertical structure of the Party was being built. We decided to take out of the work a former treasurer of the New York State organization of the Party by the name of Dave Leds or Dave Ameriglio, to work with Hal Simon in checking how the four levels that were established already functioned. We called a meeting of county leaders in the middle of 1949 to check whether there was a proper integration, whether the proper personnel was integrated on the four top levels. We came to a number of conclusions there. One that on the first four levels when we checked—and we checked through an envelope
11376 and colored paper method—when we checked the first four levels we came to one conclusion, that we hit the bottom of the barrel too quick, that not the proper personnel was integrated in the four top structures of this organization. We came to another conclusion, that no Negro leaders of the Party were integrated into this structure in the top four levels in New York State. We were quite alarmed and concerned about it because this was in 1949 at the highest, when a political campaign was conducted in the Party and the struggle against white chauvinism here in this phase of the work was a clear manifestation of white chauvinist practices. We felt that we were leaning backwards too much, in other words security too much at the expense of this over-all political question, the Negro question.

When this check up was made it was decided to yank out from this structure those that were not suited to be on the second, third, or fourth levels, and to replace them. How that was to be done, that was done through the top three and through those who were integrated on an area

level. I myself went upstate to Buffalo where I had a meeting with the upstate area top three, and there we had a different problem. The problem was that the structure provided for the underground organization was too big. There weren't enough people in some places, and they were scattered all over the upstate area, that could not
11377 fit into this structure, so in some places the structure went down to the fifth level, in some places it remained at the fourth level from the area level down, and some places only two levels were accomplished in smaller places like Binghamton or the outskirts of Buffalo. When these four layers were checked the integration was made. The "go" signal was given to build the structure all the way down to the seventh level.

Q. Who gave the "go" signal? A. The "go" signal was given by the secretariat. I had a discussion with one of the persons in area No. 1 and one of the persons in area No. 2. As I said before, upstate we had a special problem, and this building of the structure all the way to the seventh level proceeded. So by the time of the end of the 1949 structure was complete, we had a meeting and it was in the process of testing. The question arose that Kings County—it was protested that Dave Leds, who was a Kings County functionary, part time functionary, was taken out from Kings County with the consent of the county but they didn't realize for how long and they were demanding that Leds should go back. However, it was agreed with Hal Simon that as soon as the checking of the structure all the way down was done, Dave Leds would go back to Kings County and function in the capacity of finance secretary or what.

Q. You answered a moment ago the secretariat.
11378 Did you mean the national secretariat? A. The party secretariat, the state secretariat, who in the meantime was composed of Bill Norman, Hal Simon and George Blake. George Blake in the summer of 1949 was drawn into these discussions. We had a number of meetings at various places, at various times. If necessary, we have all that.

. . . . . .

Q. Mr. Lautner, after the county leaders were informed about these plans were any steps taken to put the plans into operation? A. What we were involved with here was to build up this structure while the legal organization of the Party was functioning, and at this meeting in January in 1949 when we informed the county leaders that this plan was going to be put into effect and that they should inform any and all of their members in their respective counties of any questions that are raised, what is the Party doing, is the Party doing something in the face of these attacks, that they should inform these people that an or-
11379 ganization was being put into effect that would take care of and face any eventuality. Also we made it clear that it was necessary to build a structure to safeguard the continuity of the Party, and that it was necessary to have a structure in case even if the Party is driven underground, to have an organization force that can fight its way back into legality. In a disorganized way that is practically impossible. In an organized way through this structure it would be possible to fight back in an organized fashion and possibly get back to a legal status. That was made clear at the meeting.

What happened when the first four levels were built after our meeting when we were evaluating the structure to that point, Hal Simon was designated to make a test of the first four levels. About a month later we had a meeting where Hal Simon reported that the test was put into effect and that it was satisfactory. Bill Norman made the additional statement at this meeting that we must now take steps on the question of the integration of Negro leadership into the four structures.

By Mr. Paisley:

Q. To whom were they reporting? A. To the following people who were at this meeting. The meeting was held near St. Mark's Place. I don't know the house number there, but it was a home of Lefkowitz, known in the Party

as Lefty Lefkowitz, who was a youth leader. He
11380 gave his house for an all-night meeting where this evaluation was made. Bill Norman instructed me to speak to Pettis Perry and acquaint him with what we were doing, if he was not acquainted in a general way, and sound him out on the question of integration of Negro leadership. That meeting between myself and Pettis Perry did take place, where Pettis Perry made a strong point that this is not a question of a purely organizational nature but this is a highly political problem. That week-end he was going down to the south and he said he would have opportunity to discuss the form of Party organization in the South and when he came back he would have a conference, that we would have a discussion about it and he would have definite opinions. I also sounded out "Stretch" Johnson.

Q. Is Pettis Perry a Negro? A. He was elected at the 1948 convention as an alternate member of the National Committee, a Negro leader of the Party, head of the negotiation commission of the Party. I also sounded out Howard "Stretch" Johnson in a general way what we were doing and what were his views about the integration of Negro leaders into the structure. He said from the point of your security it is a ticklish problem, but the political aspect of this problem is more important to him too than only the
security aspect of it. I reported back to Bill Nor-
11381 man and that is where it stood on this problem at that time. "Stretch" Johnson to my surprise, we were discussing it and already building it and in the middle of 1949 the state educational director didn't even know what the Party was contemplating in the way of building a structure within the Party in preparation for going underground.

Q. What was done below the lower level? How far did you go down? A. By the time December 1949 came around it was built all the day down to the seventh level. In that meeting that I had with Hal Simon this was made known to me. Dave Ameriglio was doing the testing at that time

and the structure was completed. I am discussing only the working aspects of this structure, the integration of the threes based on certain security principles all the way down to the Seventh level. There were horizontal aspects of this structure going on simultaneously and I was more concerned because of personal responsibilities in that respect.

Q. Before we go into the horizontal aspect of it as I understand it the initiative was always from the top, is that right? A. That is right.

Q. With whom would a man on the seventh level, for instance, communicate? A. Only with the three
11382 people the additional two people around him in his or her particular triangle, and by initiative from above from the person who was on the sixth level.

Miss McHale: May I ask a question along that line, Mr. Paisley: How wide-spread was this known among the membership, the rank and file, or was it a top secret with the higher officers of the Party?

The Witness: It was known to those who were integrated. There was this problem: Some people were already integrated into a structure on some level when they were approved again by somebody else on a lower level. These people when they were integrated already were told to leave me alone, I am not interested. Cases like that were brought to my attention.

By Mr. Paisley:

Q. This vertical arrangement contemplated some 3000 members, you say? A. Yes; this is a mistake here. 81, 243, 729, and three times 729, and then three times 729 three times. It would be 3,000-some-odd members integrated into this structure, which corresponds to about 10 per cent of the integrated membership numbers that we had in 1948. We thought we had on paper about 30,000 members in New York State. Actually I don't think we had more than
about 23 or 20-some-odd thousand members who
11383 were actual dues-paying members at that time.

Q. Do you know whether or not that system was put into effect in any other region than New York State? A. Yes.

Q. How do you know that? A. I know about that because in the horizontal aspects we introduced certain features pertaining the printing, for instance that were available. We took the initiative in New York State, and in 1949 there was a plenum held and Jack Kling sent some of these people down to give them samples of hand mimeograph machines that were to be integrated into these three so as far as printing was concerned they would be self-sufficient. We gave them a sample of these machines to take over to their respective states.

Q. We will get into that just a little later, Mr. Lautner. I probably misled you there. Let me ask you this question: Taking the second level where you have three triangles, how many men would the organizational man know in this vertical setup? A. Take for instance, these three over here. These three would know each other. As far as the individuals are concerned, this individual would be known by these two, by this person up on the higher level and he would know those three that he appointed on the next lower level.

Q. So the political man in the second tier— A. Would know six persons. That would be the extent of his knowledge about who are Party members.

Q. Would that be true of a man on the third level in the same position? A. The same principle prevails all the way down except the last level, the seventh level, where he or she would know only the two additional people in that triangle and the contact above who from time to time contacted that person on the seventh level.

Q. You told us about the vertical aspect of the underground system. Will you relate to the Panel the horizontal aspect? A. Simultaneously as this structure was under development, and as it was built we had the following problem on the horizontal level. First, reserve leadership on the top level, reserve leadership in case this cadre was

cut up, that there is a second and third string of leadership that would step right in and assume leadership and responsibility to carry out and to give leadership to that party.

Q. That was your problem— A. This was the responsibility of the top three, to establish one or two or, if necessary, more threes on a horizontal level as reserve leadership. They were to be isolated completely. They were to be informed from time to time what the organizational problem was. That was their assignment, to be in reserve as a reserve leadership. In the meantime they could function in the legal organization or they could function in the trade union or wherever they were functioning, but they were designated as reserve leaders in case something happened to the top three.

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Also, the following aspect of the horizontal leadership was considered. First, printing. We agreed that we would stash away two complete sets of hy-power photo offset printing equipment, beginning from plate manufacturing or plate developing, chemical processing, and the printing machine itself. It was my responsibility to establish these two sets. At the time I was there one such complete unit was put into effect, was established. This unit was placed out on White Plains Road in the Bronx in a small plant where a complete unit, a complete hy-speed photo offset equipment, printing machine and all the chemicals and plate-making paraphernalia was put into effect there. It was there, and it was used from time to time. It was used for the following reason: We could have that machine and wrap it up in cellophane. If nobody touches it the dust would get around it and it would get rusty. In order that it might be in working operation on a minute's notice it had to be tested and had to be worked from time to time. That is the kind of machine it was. It was used for various reasons which I will come to later.

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Q. Before you get into the details of such matters as you have been discussing, Mr. Lautner, will you tell us generally what the groupings were in this horizontal

structure? A. We had reserve leadership, we had printing, we had communications, we had contact places, meeting places, a person in charge of that.

Q. How about finances? A. Finances, and persons to secure paper for printing, and the distribution of printed matter or printed material, a whole apparatus for that function.

Q. What did you do about providing for the need for money, for instance? Take that aspect of it. A. At the meeting where we discussed and oriented the county leaders about what the Party was contemplating doing there were two points on the agenda, a report on the fund drive on finances, and my report, a general report on preparations for going underground or preparations in the struggle for the legality of the party. In the report on finances at that particular meeting Bill Norman, who gave the report, projected a budget for 1949, $650,000, which was to be broken down into county quotas, section quotas, and branch quotas, but the over-all state budget
11387 was $650,000 for the whole state organization. In his report Bill Norman also emphasized that a part of the budget must be allocated for this type of work, preparations for going underground. Here is what we did on the state level. One day I was approached by Bill Norman to work up a list, to make up a list of about 20 people who in my opinion were loyal and devoted enough to the Party that they wouldn't change their loyalty for, let's say, $20,000 or $15,000 or that amount of money. After a week or so I prepared such a list, giving due consideration to each individual that I put on that list, and I gave him 20 names. To my surprise he called in two additional people the next day, and the two additional people were Bernie Chester, who was the treasurer of the state organization, and May Miller, who were similarly coming into this meeting with their lists which Bill Norman told them to prepare. So we had three times 20 names, out of which 60 names were exchanged. We had

60 names and we came to the conclusion, let Bill Norman have all the 60 names and let him select his own 20 names that he wants. If he wants to trust these people, each individual, with the amounts of money that he thinks they are trustworthy of, that would be his problem. We gave the list over to Bill Norman, and that is the last that I have heard of that problem.

At this finance meeting Bill in his report also
11388 indicated that it was necessary to put money away, and I know as a fact that New York County had such money because when we gave them 120 adding machines they paid with cash, and Kings County, out of the reserve money that already was laid away from the budget for preparations for going underground.

Q. What was the principal function of this underground organization to be? In other words, what were they going to do? A. The feeling was that if the Party was declared illegal there was an organized force that was supposed to fight in an organized fashion, to fight back into legality. That was the version that we gave to the county leaders. We had in mind that by projecting this organization into the Party at that time might create a situation where the Party members would feel that the Party was going underground and that the legal organization was done away with. In order to avert, in order to avoid that possibility we stressed that only in this way can we guarantee any success of a fight back into legality. Beyond that, what this organization was supposed to do once the Party was illegal, the main work that the Party under those conditions could do would be propaganda work, leaflet production, and stuff like that.

That is why on all these levels we tried to supply various
forms of reproducing machinery, printing machin-
11389 ery, and each three should be supplied with that.

Besides whatever abilities that this organization could do, what it can not do as a Communist organization, members of this organization could function in the trade

unions and mass organizations in individual capacities based on their knowledge and association within the organization and with instructions from this organization as members of that organization, not as open Communists.

Q. Did you decide on what equipment you would need and did you take any steps to acquire any of this equipment? A. Yes, sir.

Q. Will you relate that to us? A. I spoke before that we had this full set of high-speed photo offset equipment, printing equipment on the state level. The New York State organization gave the upstate area another photo offset printing machine because they were poor relations upstate. They didn't have the finance means for it. New York County area 1, New York County and the cultural division and the trade union section were supposed to set up their photo offset equipment, and in Kings County they had one already, and it was stashed away in a small cabinet shop around Williamsburg Bridge. The name of the cabinet maker who runs that shop is Harry. I don't know his other name. We had a complete unit in his establishment there.

The state unit, as I said before, was up in the 11390 Bronx on White Plains Road in a little factory.

Q. Did you yourself have occasion to see to the establishment of another one some other place? A. By 1949 I had one complete. Here was my problem. If you buy a new machine, these machines are registered. These machines rest on cement foundations. So the manufacturer has a registered number of that machine and the purchaser is known. So I had to buy the first machine, a second-hand machine in very good condition. That machine has been purchased from Bill Stencil, who was a mimeograph shop on Union Square. He does not know that the Party bought that machine from him because the person who went to purchase the machine bought it for himself, paid cash, and a truck came and the machine was hoisted on that truck and it was taken away. This person who purchased the machine was an expert on building up this unit so that it became a self-sufficient, complete printing unit.

Q. Do you know a man named Frank Shore? A. Frank Shore was the owner of that little shop out on White Plains Road where this photo offset equipment was established, and Frank Shore in his little factory also manufactured those little hand flat mimeograph machines that were purchased by the various areas so that they were distributed in the structure to each of the threes. At the time I was still there Area 2, Kings County and the
11391 related counties to that area, bought and paid for 120 machines, and they ordered an additional 1020 machines. New York County bought and paid for 120 machines, and I delivered those machines on a Saturday morning in the Jewish Labor Bazaar, Morning Freheit-Daily Worker Truck to a place, a little laundry on the lower East Side a block off the street, where they placed these 120 machines. The person who was with me taking these machines was Bernie Taylor, the treasurer of the New York State organization, who drove the car.

Q. How do you spell that name? A. That was his party name. He is also known as Schuster.

Q. Would you describe these little machines you are speaking about to the Panel and tell us something about the cost of them, where they were made, and so forth? A. Already in 1947-48 there was a consciousness in the Party to get as many mimeograph machines and to supply Party branches and Party sections with mimeograph machines. New York County, whenever the occasion arose, gave mimeograph machines as prizes. The Bronx County did the same thing. These machines finally were stashed up in section headquarters and county offices, because they were cumbersome big things. They had the rotating drums.

Nobody wanted to keep a machine like that in his
11392 house. New York apartments are small. The clothes closets are packed. Our problem was to devise a type of mimeograph machine that could be taken apart, which could be disassembled, spread around the apartment so it doesn't look like a mimeograph machine. Such a machine was secured, a sample of one was secured,

and such machine was manufactured on White Plains Road in this little factory where I paid money for the manufacture of these machines as I got these machines from these individuals.

Q. Who made them, do you know? A. Frank Shore made these machines.

Q. How much did he charge you for them? A. I think it cost the state about $9 per machine.

Q. Was he a Party member? A. He was a member at large. We sold these machines to the counties for $12 apiece.

Q. Did you ever have occasion to pay him any money? A. Oh, yes.

Q. For these machines? A. Yes.

Q. I show you these three papers right here, Mr. Lautner. Will you tell the Panel just what they are? A. These are receipts for the money that I paid to him on these hand machines.

Q. Is that in his handwriting? A. That is his
11393 handwriting, and that is his signature. This first one is my handwriting but his signature, where on the purchase of the high-speed photo offset equipment I gave him $1500 to go ahead and buy it, and I made that look like a loan to him. I signed that.

* * * * * * * * * * *

Q. That was Party funds, I presume, that you used? A. That was money I got from Bill Norman and from Bernie Chester upon the instructions of Bill Norman and Hal Simon, who were members of the New York State Secretariat.

Q. Does that represent all the receipts that you obtained? A. No. These are some of the receipts. I don't have all the receipts.

Q. Approximately how much money was invested in the machines? A. We had plans to make 1000 of these hand machines and pay Frank Shore $9 per machine, to pay him about $9,000.

11394 Q. Were you going to use that many machines?

A. At the time I left the Party we had about 600 manufactured, an additional 100 was in process of being manufactured, and 300 additional were to be manufactured later on as the requirements of the organization demanded.

Q. You were going to need that many in the New York organization? A. Yes. You can figure out that there are approximately 3000 integrated, three to a triangle, approximately a machine for each triangle. About a thousand machines were to be manufactured. Also I was instructed by Jack Kling, who was the national treasurer, and to my understanding he was involved in similar type of work on a national scale—that is why he sent me down in Cleveland—he told me to safeguard and save the dies with which this hand machine was made. This hand machine was composed of the following: There was a flat board made with a wooden frame, and on this wooden frame there was a metal plate. To this metal plate there was a little metal guide against which you could put leaves of paper, 20, 30 or as much as 50 leaves of paper. At the end of this wooden structure and this metal plate there was a metal structure, two rods with two springs on the bottom so that the inside part where one would put the padding and the stencil was flexible. If that metal part

11395 was folded down on the plate, going over it with a roller, that inside part where the padding and the stencil was would touch the paper and whatever marking was there on the stencil, whatever text was on the stencil, would be printed right onto the paper below. All you had to do was put in about 50 or so leaves of paper and then fold that thing and roll it over, take it out, and make another leaflet. It was a very neat little thing and did a very clean job.

The instructions that we gave with each machine: Each machine was packed in a cardboard box with a whole ream of stencils and with the following instructions, that this machine shall be assembled only at the time when it

is in production. Otherwise, take the wooden structure with the metal plate and make a picture frame out of it. You can use it as a picture frame or you can use it as a water plate or a plate of some kind. As far as the other part is concerned you can use the metal structure as a crocheting square. Even that could have been taken apart. You could completely disassemble this machine so that it disappeared in the apartment. Only one who would know what to look for would find that machine. This answered the problem how to have mimeograph machines in small little apartments where every inch of space counts.

11396 Q. Did I understand you to say that when Mr. Kling told you to go out to Cleveland you understood you were to go on this same kind of work? A. That is what Jack Kling told me, that he felt that in New York these preparations were quite well advanced and I was to go to Cleveland to help out in the Midwest, to accelerate and speed up preparations to come on a par with the New York organization and the New York work.

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11397 Q. Mr. Lautner, was paper a problem in that plan? A. Yes. We had the following problem to contend with: Each paper has its own chemical mark at the point of production where paper is produced. Each manufacturer has his own peculiar chemical mark. Our problem was to integrate paper from various sources, from various manufacturers if it went into the production of pamphlets, particularly on a state level, with the machines we had. The person who was put in charge of securing paper was a leading Party member in the printing industry. I think his name was Al Ross who works out in Long Island on a paper there. He was to get acquainted with a number of paper salesmen and to get accounts for these paper salesmen with unions where we had influence, like the distributive trades, if possible with UE and other similar trade unions where paper accounts could be opened with trade unions that use a lot of paper in their office work.

Also, we established with a number of printers, small printing establishments who use paper in volume, to get an additional amount of paper, $500 worth more of paper in their stock, in their running stock, so that in case we called upon them to supply us with paper, that
11398 paper would be available for us. It was made clear that we didn't want any paper in stock to just lie dormant because paper has the peculiarity that it gathers moister and swells up, and for printing purposes it is not good later on. You have running stocks in a printing establishment. At two places I gave $500 to a person who had contact—this was a different phase of the same problem—who placed this money with small printers, jobbers, that they should increase their stock by that much. So that was how we met this problem of paper. It was also made clear that the only time we would use that paper and the only time we would use the high-speed photo offset equipment was where there are no possibilities whatever to do any printing for the Communist Party or under the label of the Communist Party at all. The last resort was this resort, our own resources which we had prepared.

Q. I would like to digress just a moment from the subject of the machines and paper to a couple of matters that have occurred to me in connection with your expulsion. You have told us about Kling's position at the time you were expelled. Do you know what his position in the Party now is?

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The Witness: At the time we went to Cleveland
11399 he told me he was to become the state chairman of the Wisconsin Party. In fact, he told me that the reason we didn't come together to Cleveland was that he was coming in from Milwaukee where he had a meeting on Friday night with the state committee there. So he was coming from Milwaukee and I was coming from New York, and we met in Cleveland.

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11402 Q. Do you know whether or not any steps were taken toward providing these hand mimeograph machines to Communists in other parts of the coun-
11403 try? A. Yes.

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Q. I direct your attention to 1949. Was there a National Committee plenary session held? A. Yes.

Q. Where? A. It was held at 35 East 12th Street in the Hank Forbes Auditorium on the third floor.

Q. And was Kling still the National Treasurer at that time? A. Mr. Kling in 1949 was the National Treasurer of the Communist Party.

Q. Did he give you any instructions in connection with this matter? A. Yes. When the plenum was over, the following day he called me up on the telephone from the ninth floor to the fifth floor, and he told me he was going to send some people down that I should demonstrate how this hand machine worked. One district organizer after another came down. I recall Ed Starr came down and I demonstrated the machine to him, and I demonstrated the
11404 machine to the district organizer who was at that time in North Carolina, Bernie Friedlander. I demonstrated that machine to Comrade Healy, who was up to the plenum from Southern California. I demonstrated that machine to a number of district organizers. Jack Kling told me to give a machine to Illinois and to Southern California, to give samples to them. I told them they were $9 and we had an argument over that. Anyway, I gave Miss Healy and I gave Ed Starr these sample machines. To my understanding, they were to reproduce—

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Q. They want to know how you knew it. A. They were to reproduce these machines in their respective organizations because it had this advantage: You would have dies made in other different places with the aid of which you could manufacture these machines, one. Two, the transportation was a little bit cumbersome. The transportation

problem, transporting machines from New York to California or from New York to Illinois. It was more
11405 advisable to build these machines in Illinois and in Southern California.

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The Witness: As far as the New York dies were concerned, Jack Kling, as I said before, told me to preserve these dies in case the national office should decide on its own to make machines. We would have these dies ready and it wouldn't cost additional money.

By Mr. Paisley:

Q. Did you preserve them? A. Yes.

Q. Where were they when you left the Party? A. When I left the Party they were out at the White Plains Road factory.

Q. Were any of these machines sent to any other part of the country? A. Brooklyn purchased ten machines for Texas, and five machines were purchased by the national office and given to Bernie Friedlander, who was district organizer in North Carolina. These machines were given to him. Upstate, which was part of the New York State organization and the upstate area, I know I gave them once 36 machines and once 15 machines. About 41 machines were given to the upstate area, for which
11406 they didn't pay. I raised this question with Bill Norman that upstate did not pay for these machines, and Bill Norman said he would straighten it out with Johnny Noto, who was the Party leader and district organizer in Buffalo.

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11407 Q. Go ahead and tell us what plans you people made for the distribution of these pamphlets that would be made on the machines. A. This was the printing apparatus, the people involved in this phase of the work. We had one person who was in charge of soliciting at the various places where printing material could be placed

manufactured on these machines. Such places were solicited. The person who was in charge of this phase of the work was Burl Mikelson.

Q. What was his position in the Party? A. He was section organizer of the distributive trades section, the industrial section of the Communist Party. He concentrated on drugstores and small stores, particularly drugstores where packages could be dropped, where a drug clerk was a Party member, and these packages could be picked up by Party members. These drop places
11408 were in readiness. I saw the list of names that he gave me. He gave me about 25 places. I turned these names over to Hal Simon, who was a member of the state secretariat.

By Mr. Paisley:

Q. Were there any measures taken or plans made for actually hiding out Party members and leaders?

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The Witness: Yes, there were measures taken both on the national level and on the state level simultaneously, and at the same time.

By Mr. Paisley:

Q. How do you know this? A. How? Because the person who was in charge for the national leadership for this phase of the work was Andrew Remes, former state chairman of Wisconsin, who was brought in by the national office to solicit places and evaluate these places for various purposes for the national leadership, and the person who was in charge on the state level was given to me by Carl Reinstein, who at that time was Dennis' secretary, later on treasurer of the Party. Carl Reinstein introduced a fellow to me by the name of Mitch, who made a survey along similar lines soliciting addresses of available places for various purposes, hiding out for an indefinite period of time, for a definite period, and for meeting places.

11409 This person, Mitch, was soliciting these places in New York County, in Kings County, and in the Bronx through the Party organizations. In the course of 1949 I got at least 60 such places already solicited and checked and turned over to Hal Simon, a member of the state secretariat. So, simultaneously with the national office this work was being done.

Q. Under whose supervision did this Mitch work? A. He worked under my supervision. He reported to me, and he gave me the addresses. I made it possible for him to contact various county organizers or section organizers, that he should get their cooperation.

Q. Did you arrange for different types of places of hiding? A. Yes, I spoke about that, places where one could stay for an indefinite period of time, places where one could stay for a specific period of time, weeks or a month, places where you could not stay but you could have a meeting in the morning or the afternoon, where there was a housewife at home and the wife could go out and play for an hour or two and a meeting could take place. Places where there are telephones and there is always a person available to answer a telephone, as a telephone contact place. These types of places were solicited throughout the year 1949.

Q. What did you do with this list? A. This list
11410 was given over to Hal Simon, and it was to become integrated into this structure.

Q. Was this confined only to the state leadership? A. No. As I stated before, simultaneously Andy Remes was doing it for the national office, and he told me to help him and to introduce him because he was not too well known among second and third layer party leaders in New York, and when "John" comes around that they should give their full cooperation. He went under the name of John.

Q. What did you do about it? A. I informed the county organizers that if John comes around, let's give him your full cooperation because it is an important task that he is trying to carry out.

Q. Do you know how long he was around the New York area? A. He was around for three or four months in New York. That was during the summer time of 1949.

Q. Were any other steps taken for the hiding of Party leaders? Did you ever have any discussion with Bill Norman on the subject? A. That was a different phase. That was a phase of personal security, the question of identity, the question of establishing new identities. I had a number of discussions with Bill Norman and how to safeguard those Party leaders who would be in illegality and in what best way could their personal security
11411 be kept that they not be detected and that they will not be arrested. That was the discussion, about personal security. It was not hiding places.

Q. What did you agree upon? A. We agreed upon this thing, that papers don't mean a thing, paper identification. Identification papers don't mean a thing.

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The Witness: I told Bill Norman that you can have all kinds of papers on you over here. Once they tap you on the back, they know who you are. So the problem is a different one. The problem is to go into a small community where police surveillance is not as sharp as in a big city, establish yourself an identity over there in the course of months, and in case the Party leader will go under-
11412 ground he just goes to this little community under a new name where he has already established friends and he will try to live there; if possible, to establish a little business. So that was the approach he agreed upon, not forged documents and stuff of that sort.

By Mr. Paisley:

Q. What steps were taken, if any, to safeguard the open operating leaders of the Party? In other words, you had an organization in New York which was open, I presume. You had a Party headquarters. A. Yes.

Q. You had people who were known to the authorities as the leaders of the Party. What steps were taken, if any, to safeguard the open activity of the Party. A. To safeguard the open activity of the Party office, for instance at 35 East 12th Street?

Q. That is right. A. In the course of 1949 new iron gates were put inside, a new clock system was put into the building and into operation, certain individuals were given bodyguards. I don't know if this is the thing you have in mind. In order to enable these people to function, in order to enable the offices in the building to function so that you could not break in. Are these the safeguards you
11413 have in mind?

Q. I was wondering, for instance, did you ever have any rotating system so far as personnel was concerned. A. That was a training system, a training system.

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The Witness: This was put into effect in early 1949 while the trial was going on. The rotating system was as follows, that only a part of the operative leadership of the Party was in the building at one time. The other part of the party leadership were told that they should stay away from all contact with the Party. They had only a telephone number to contact once a day or once a week and only to ask if there is any message for this particular individual who was out on this rotating system. By the middle of 1949 this rotating system was practiced because the trial was coming towards an end and we didn't know what would happen in case they would be sentenced, whether there would be also a raid on the Party building. So it was already in practice that part of the leadership, operative leadership, of the Party on the national level, on the state level, and even section organizers were told to stay
11414 away, some of them, for a week and some of them for two weeks. I was out on the rotating system in 1949 on four different occasions. All my personal expenses

while out were paid by the Party. I was instructed by Hal Simon not to get in touch with anybody, but once a week to meet him personally because of some of the problems I had at that time in relation to this work. But others were staying away completely, just calling once a week a given number to see whether there was any message for them. If there was none, when their rotating period was over they came back into their party functions.

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11422 Q. Mr. Lautner, did there come a time when you received any instructions from the national leadership of the Party regarding the establishment of radio communications for this underground apparatus which you described?

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The Witness: Yes.

By Mr. Paisley:

Q. What instructions, and who gave them to you? A. During the early summer of 1949 I received a buzz in my office room that a person by the name of John
11423 wanted to see me. I told the receptionist, the switchboard operator, to let the person in. To my surprise, this John turned out to be Andrew Remes, who at that time was the state chairman of the Communist Party in Wisconsin. He told me that he would like to have a discussion with me outside of the building. We walked on to Washington Square and sat down on a bench over there, and he told me he had a number of tasks, and among others one of them was to see to it that steps will be taken in the New York State organization pertaining to radio communication in case the Party is driven underground. He suggested that the state organization should get at least two sets of high frequency radio receiving sets, and he specifically said that SX-43 Hallicrafter receiving set is the most favorable, the best and would suit our purpose

and that I should get such sets for the New York State organization.

Q. Did he tell you where he got his instructions?

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The Witness: He told me that his instructions came from John Williamson. I checked with John Williamson when we got back to the building, and John Williamson said "It is all right." On the basis of that instruction I looked around and in a short time I purchased one such set.

That set was delivered to the Party building, and
11424 the set was purchased at a surplus war material and appliance place owned-managed by Lefkowitz.

By Mr. Paisley:

Q. How much did you have to pay for it? A. I paid the wholesale price for that set. That set was turned over to Hal Simon. Hal Simon then installed this set in his own home, where he was to acquaint himself with the operations of this receiving set.

Q. Where did the money come from? A. From Hal Simon.

Q. What was his position in the Party at that time? A. He was a member of the State Secretariat of the Party, labor secretary of the Party.

Q. Were there any further instructions from this man Remes? A. Yes. When I informed Bill Norman of our discussion with Andy Remes, he took me out of the building and we had a long walk where he raised other problems pertaining to communications in general.

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11425 Q. Go ahead and tell what Mr. Remes and you did and what he told you. A. With Bill Norman, I told Bill Norman what we did so far. We discussed the merits and efficiencies of various methods of communication, such as letters sent through the mail, telephone communication, Western Union. Then Bill Norman raised the question about establishing a radio sending apparatus.

At this shop at Lefkowitz place, there were a lot of surplus radio sending sets that were used during the war on ships, and Hal Simon looked these sets over, and he was satisfied that there was an ample supply of these sets around there. Bill Norman said, "If necessary, we will buy a truck and set up such sending apparatus on a truck and then supply it with batteries or whatever is necessary to increase its power." Bill Norman told me to look around in that direction to get qualified help to establish such a set.

Also Bill Norman told me, "Let's make a survey in the Party to find out if we have any ham operators, radio operators, in the Party." Such survey was made, and we found up to the point that I was expelled three such people who had ham licenses from the Federal Communications Commission and were operating such sets.

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11431 Q. Did you give any consideration while you were discussing this matter and considering it to
11432 regulations of the Federal Communications Commission?

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The Witness: The Federal Communications Commission in our discussions at this stage were not considered.

By Mr. Paisley:

Q. What was John Williamson's position in the Party at that time? A. Labor Secretary of the National Committee and a member of the National Board and a member of the National Secretariat.

Q. Do I understand this was in the late fall of 1949, is that right? A. This was while the trial was going on in 1949, the summer of 1949.

Q. Did you have any discussions with John Williamson about this? A. Yes.

Q. Will you relate that in detail? A. I gave a report to John. One day after his trial sessions we got into
11433 his car. We went down to Eighth Avenue, around

the Twenties. We got out of the car and we walked up and down about ten blocks up and down, where I gave a report of what we had in mind about radio communications to reach outlying sections and regions of the Party in New York State. I told him what Bill Norman had in mind, and he said, "Well, the problem is a much greater one. The problem is to establish a chain of sending apparatuses so that we can reach as far as the West Coast." That was the problem that he raised with me. Also he said that in New York City proper it is not a problem. The problem is a mobile set whose power could be increased to a point so that it could reach, for instance, Albany or around Albany a similar set that could reach to Buffalo or further down and so out to the West Coast. He said, "Let's get competent advice from Party members who know about this problem and see what organizational steps can be taken after we have a plan in this direction." That was about the gist of our discussion with John Williamson at that time.

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11434 Q. Mr. Lautner, what steps, if any, did you take to recruit radio operators?

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The Witness: As I said before, a survey was made, and to my knowledge we found three people in the Party who were authorized to operate so-called ham radio sending sets. These people were not approached, but we knew about them. Hal Simon knew them.

Q. Did you tell Williamson that?

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The Witness: I told Williamson that, and I
11435 would like to say that Williamson made a remark that while these sets are useful for a short distance, they are not reliable for the purposes that the Party would need a radio communications system. Williamson also pointed out that radio communication is used if it is

properly handled, if people are properly trained—and here is where the FCC role came in—it takes anywhere from a minute and a half to two and a half minutes to police and detect the possible location of an underground radio sending apparatus. So any communications that would go to such system, such radio system, must be done within a minute and a half, and that these sets should be mobile, they should not be stationary.

11436 By Mr. Paisley:

Q. Did you, Mr. Lautner, ever participate in any discussions concerning the budget for the Communist Party activities in New York State for the years 1948 and 1949? A. Yes.

The Witness: The budget reports of the New York State organization were brought into the Party Committee meetings, where it was projected, usually for the early spring fund drives. The budget reports came in at the beginning of the year, in 1948 and the beginning of the year 1949. To my best recollection the budget for 1948 was about a half million dollars for New York State—

11437 Q. Mr. Lautner, was any part of these budgets allocated for this underground apparatus which you described?

The Witness: Yes.

11481 Q. What position did the writer of that article have in the Communist Party of the Soviet Union at the time?

The Witness: Malenkov was a member of the Central Committee of the Communist Party of the Soviet Union and the Secretary of the Communist Party in the Soviet Union.

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Q. How did you know that he held that position?

11482 A. He was at this conference at Warsaw where the Communist Information Bureau was formed as a representative of the Central Committee of the Soviet Party.

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The Witness: So was Zhdanov, as representatives of the Soviet Communist Party.

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Q. How did you learn this, Mr. Lautner? A. The State Educational Department called a round table conference on this question that was held in the Hank Forbes Auditorium and the reporter at this round table conference was Jack Stachel, who was a member of the National Board of the Communist Party of the United States, where he gave a report of the National Board's estimate of what it means, of what is the implication, what does it mean for such formation whether it is the reformation of the Communist International—

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11483 Q. As I understand it, this is Stachel talking.

A. Jack Stachel.

Q. What did he say about it? A. He pointed out who were the Parties that sent representatives to this Warsaw conference, what were the Parties that were represented at this conference aiming to achieve. Were they to achieve the reconstitution of the Communist International, or was this just an organization where representatives of the various Communist Parties who will affiliate to this organization, will they exchange experiences, and opinions that will benefit all those parties represented there. Stachel

pointed out that we should not read anything else into the reports about this formation of the Communist Information Bureau and as far as affiliation is concerned Stachel pointed out that formal affiliation was not necessary for the American Party at this time. He told us that the National Board already had a position and eventually that position was published in the Daily Worker and Political Affairs, that the American Party greeted the formation of the Communist Information Bureau and that same
11484 statement signed by Dennis and Foster made it clear that the American Party will not affiliate to the Communist Information Bureau.

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Q. Did Stachel in this meeting refer to Malenkov? A. He referred to Malenkov, he referred to Zhdanov, and he referred to the leaders of the other Parties that were present at this conference.

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11486 Q. Are you familiar with New Century Publishers? A: Yes.

Q. When you left the Party, what if any was the relationship between the Party and New Century Publishers? A. The New Century Publishers published the official theoretical organ of the Communist Party, Political Affairs, New Century publishers published practically all the Party pamphlets and other publications, small publications.

Q. Where was it published? A. New Century Publishers did the printing at Prompt Press.

11487 Q. Did New Century Publishers have an office? A. Yes. They had an office around 12th Street and Broadway.

Q. Do you know when the publication "The Communist" was changed to Political Affairs? A. It was around 1945.

Q. Who published Political Affairs? A. Political Affairs was published by New Century Publishers and "The Communist" was published by Worker's Library Publishers, the predecessor of New Century Publishers.

Q. Do you know who was in charge of New Century Publishers? A. The person in charge of New Century Publishers was William Weiner and the production manager was Joe Field, Joe Felschen.

Q. Did Weiner have a position in the Communist Party? A. He has his offices at New Century Publishers. In the early thirties, he was the national treasurer of the Communist Party.

Q. Was Felschen a Communist Party member? A. He came in the Party in 1933 in Section 18 when I was section organizer.

Q. What about the other employees of New Cen-
11488 tury Publishers? A. The employees? Some of them I know personally were members of the Party.

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Q. Who was the editor? A. The editor of what?

Q. Of Political Affairs. A. Political Affairs? Jerome: V. J. Jerome.

Q. Did he have any position in the Party? A. Jerome was the head of the Cultural Commission of the Party's National Committee.

Q. Did the Party use New Century Publishers for any other purpose than publishing Political Affairs? A. Yes. Pamphlets and small books, pamphlets of that sort.

Q. Do you know the manager of the Prompt Press? A. Yes. The manager of Prompt Press was known to me as Red Cohn.

11489 How long did you know him? A. Cohn was a member in Section 18 when I was section organizer there. He lived on the Upper West Side there.

Q. Did you know him after you came back from the war? A. Before.

Q. After you came back from the war? A. Yes. He was manager of Prompt Press. Before the war, Prompt Press was there in the Party Building at 35 East Twelfth Street. When I came back after the war, they had their own establishment on Fourth Avenue near 12th or 13th Street, 12th Street, and Red Cohn was still the manager.

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11490 Q. With reference to International Publishers, when you left the Party, was there any relationship between International Publishers and the Communist Party? A. The International Publishers on Fourth Avenue, headed by Trachtenberg, printed all the books and classics for the Party.

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Q. What position did Trachtenberg hold in the Party, if any? A. Trachtenberg at the time I left the Party was head of the National Review Commission. For many years prior to that he was a member of the Central Com-
11491 mittee of the Party.

Q. After you came back from the war, you were in the Party about four or five years, is that right? You were in the Party about four or five years? A. Yes.

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11492 Q. Will you please state, Mr. Lautner, what, if anything, was the relationship between the Communist Party and the Daily Worker in the last four or five years of your membership in the Party?

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The Witness: The relationship between the Party and the Daily Worker was as follows: In the course of these five years, the Party was responsible to raise the necessary funds to cover the operations of that paper. At any and all meetings whenever there were references made
11493 to the Daily Worker, they were made in the form of "our press." As far as financing it and increasing its circulation is concerned, drives were planned in the Party, in the Party structure as such, from the lowest level, from the branch level up. There were Daily Worker and Worker Press directors. The Daily Worker was published and printed in the Party building at 35 East 12th Street where the Party headquarters were. The editor in chief, John Gates, was appointed editor in chief by the

National Committee of the Party and it was made so in a statement by Bob Thompson in 1947.

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11494 Q. Do you know the name of the corporation or organization that was publishing the Daily Worker when you left the Party? A. The corporation. Freedom of the Press, Ben Davis was president of Freedom of the Press. Ben Davis was a member of the National Board of the Communist Party.

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11496 Q. Do you know to what extent the ninth floor supervised the Daily Worker personnel?

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11497 The Witness: The supervision is of various kinds, political and security supervision. John Gates gave me a list of all the employees of the Daily Worker in early 1949 to have a check on each individual. About a month before I went to Cleveland, he asked me to get that list back to him. The list included not only the editorial workers but also the technical staff that worked in the circulation department on the second floor. It did not include printers, linotypists or this category, just the business office and the editorial offices. The political supervision is done through Daily conferences in the morning. There is a conference room. I was in there a number of times. Exchange of opinions, and representative in this instance John Gates as chief editor and member of the National Board was one way to control political supervision of the contents or quality of the Daily Worker as such. Other supervision I don't know. At national plenums in the thirties I remember where reports were given about the political quality or newspaper stature of the Daily Worker, that type of evaluation. An evaluation on the part of the National Committee.

By Mr. Paisley:

11498 Q. Now, throughout your life in the Party, to what extent did you yourself use the Daily Worker? A. The Daily Worker to me served as a daily guide. Out of the editorials I got the Party line. This was urged upon every Party functionary and every Party member, to read the Daily Worker to know what the Party is doing and what the Party is thinking.

Q. Were you familiar with this publication known as "For a Lasting Peace, For a People's Democracy"? A. Yes.

Q. To what extent did you yourself in your Party work use that paper? A. For a Lasting Peace, et cetera, was the official organ of the Communist Information Bureau and as Party functionaries on the Fifth Floor, it was supplied to us. It was put in our boxes. It was at our disposal to read it and study it. It was supplied to us by the Party itself.

Q. Throughout your life in the Party, were there any occasions to your knowledge that when the position taken by the Daily Worker as expressed in its editorials were in opposition to the positions taken by the Soviet Union—

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11499 The Witness: To my understanding the question was not the Communist Party, but whether the Daily Worker in its writings ever deviated from the position, whatever the position of the Soviet Union 11500 was. It would have been odd if that would happen. It did not happen. However, during the Browder period, when I came out of the Army, still there was a policy of Browder's policies as reflected in the Daily Worker that were later on repudiated by the Communist Party and were not in line with the position of the Soviet Union as to what was their position in the post-war period.

The Daily Worker reflected Browder's attitudes and that attitude was repudiated and the Daily Worker changed its policy to conform with the policy laid down at the reconstitution convention. Outside of that excep-

tion, I don't think ever the Daily Worker, as long as I was in the Party, took issues with any position that the Soviet Union had.

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11501 Q. Did you ever see any criticism in the pages of the Daily Worker of the Soviet Union or any of the so-called people's democracies?

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The Witness: No, no criticism.

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Q. Would the same thing be true as to the publication known as The Communist and the publication known as Political Affairs?

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The Witness: Yes.

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11506 Q. I direct your attention, Mr. Lautner, to that part of your testimony dealing with your attendance at the National Training School in the early part of 1941. I believe you said that was a fulltime school. A. Yes.

Q. And you had courses on Marxism-Leninism taught by George Siskind? A. Yes.

Q. What problems in Marxism-Leninism did you study in this school? A. In the courses of Marxism-Leninism?

Q. Yes. A. It was a subject matter on which we had about ten sessions, ten full day sessions. The problems that we tackled in this course was, one, to show the effectiveness of social democracy as a leader of the working class struggles. Two, to show the thinking and writing of Lenin based on his understanding of Marxism and how he had applied Marxism to the epoch of imperialism which began about the turn of the Century. Three, how on the basis of Lenin's understanding of Marxism, Lenin fought
11507 and labored for the establishment of a Party of a new type. The problem was how capitalism in the

epoch of imperialism developed. How monopoly capitalism was growing. To show the ultimate downfall of monopoly capitalism, that it is full of inherent contradictions. We tackled as a problem in Marxism-Leninism the general crisis of capitalism in the epoch of imperialism. We studied under Marxism-Leninism the writings of Stalin, his interpretation as a student, the foremost student of Leninism. We studied his writings and Foundations of Leninism, we studies his Problems of Leninism. We studied his National Question. We studied his statements, reports and speeches on the role of the Party as a force, as a leading political party, the party of the working class. In the main these were the problems that we tackled under this heading of Marxism-Leninism.

Q. How long did this particular course in Marxism-Leninism last? A. About two weeks. It was every-day full day for about ten sessions. These sessions were organized sessions, a class session in the morning, then they broke up into study groups, it had study group problems to solve, problems were posed, and then research in the evening to carry out assignments for next day to write papers. As we know it in the schools, home work,
11508 to bring in prepared papers, assignments that were given to each student on some of these problems. I recall a number of problems that I had to work on. One was to show the fallacy of Kautsky, his fallacy about the United States of Europe. I did research on all the arguments that Lenin used against this Kautsky fallacy, so called, that the United States of Europe is not possible, that it is not progressive, it is reactionary. So research had to be done. We had at our disposal, all the writings, collected works of Lenin, all the writings of Stalin. We had at our disposal the "United Front," all the so-called classics that pertained to this subject matter, Marxism-Leninism. By the way, I want to also say that among the major problems at that time that we tackled under the heading of Marxism-Leninism was "Strategy and Tactics" and the United Front.

Q. Did the role of the Communist Party of the United States come up for discussion in this connection? A. Yes.

Q. What were you taught to be the role of the Communist Party of the United States? A. On the basis of Marxism-Leninism, that was our primary objective in that school to establish what role has this Party to play on the basis of our understanding of Marxism-Leninism and its application to given conditions here because
11509 Marxism-Leninism was told us time and time again is not a dogma. Marxism-Leninism as a theory is a guide to action. And on the basis of our understanding of Marxism and Leninism—here again I should go a step further—the history of the Communist Party of the Soviet Union was also a problem in this Marxism-Leninism course. We saw how from its very beginning that the Russian Party, the working class party developed, up until the stage that it takes power in 1917 and what are the problems once the Party is in power to cope with a whole series of economic problems, political problems, a party in power, a victorious party. So in the light of all these, we had to draw our own conclusions on the basis of our studies, what the problems of the Party of the United States are in order to achieve socialism, based on our knowledge and study of Marxism-Leninism from these classes. All the stages of development, the strategy and tactics of the Party from time to time in given times and in given circumstances, what will be the conditions that will influence tactical steps in the development of a Party line that will bring us closer to the strategic aims by—

By Mr. Paisley:

Q. What do you mean by Socialism? A. Socialism is the aim of a Party not in power to gain power through the proletarian revolution and through the dictator-
11510 ship of the proletariat and to establish socialism.

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11512 Q. Did you also study in this course on Marxism-Leninism, taught by George Siskind, "The Communist Manifesto"?

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The Witness: Yes.

By Mr. Paisley:

Q. Did you study "Foundations of Lenism"? A. Yes.
Q. "Problems of Leninism"? A. Yes.
Q. "The National Question"? A. Yes.
Q. "Strategy and Tactics"? A. Yes.

. . . . . .

11513 Q. You said you also studied the selected writings of Lenin? A. We had volumes of the Collected Works. We had them at our disposal for research work. We also had the popular editions, so-called Workers Library editions of the writings of Lenin and Stalin and "The Communist Manifesto."

Q. Did they include "State and Revolution"? A. Yes, pamphlets.

Q. Did it include "Imperialism, the Highest State of Capitalism"? A. Yes.

Q. Were these works used in their entirety or just parts? A. All these works in their entirety were at our disposal, and in seeking the solutions to our problems given to us as home work to prepare papers we had to do our research out of these classics, out of these books in their entirety.

Mr. Paisley: Mr. Turner, will you give me Petitioner's Exhibit 149, please?

11514 (Document placed before the witness)

By Mr. Paisley:

Q. I call your attention to pages 142 to 147 inclusive in that book which has just been handed you. By the way, what is the name of the book? Does it have a title? A. "The United Front," by Georgi Dimitrov.

Q. Did you study that book in this course? A. Yes.

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11516 Q. What, if anything, Mr. Lautner, were you taught concerning the world Communist movement?

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The Witness: Marxism-Leninism taught us that monopoly capitalism or imperialism was a world-wide phenomenon, therefore there is need of a world-wide organization, an organization that has ties to successfully cope with this problem and eventually bring about the downfall of monopoly capitalism and imperialism.

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11517 Q. What were you taught, if anything, as to the basic objective of the world Communist movement? A. To bring about the downfall of monopoly capitalism or imperialism, and the United States was looked
11518 upon as the leading imperialist country.

Q. What was to be substituted for monopoly capitalism throughout the world? A. For monopoly capitalism—

Q. What was to be substituted for it? A. A substitute for monopoly capitalism was the establishment of socialism, a socialist economy, based on the strength of the Communist Party, that strength being hegemony over the working class, the Communist Party having allies, such as farmers, having allies among national minorities such as Negroes, the Communist Party neutralizing a large section of the middle class, and the Communist Party succeeded in forcing the government, the United States Government, which government was considered a government of monopoly capitalism, to be a type of government that can not rule with the accepted democratic methods, that it has to resort to extra-legal measures to bring about that kind of situation when the Communist Party could take over, that the head of the working class could take over the political structure in the United States and take over the whole economy of the United States.

Q. In what category was the United States Government placed in these teachings? A. As the Government of the leading imperialist country.

11519 Q. Up to the time you left the Party were any of those doctrines or teachings repudiated in the Party, to your knowledge?

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The Witness: Marxism-Leninism as such was never repudiated in the Party. During the Browder period what happened, the deviations from true Marxism-Leninism, the effort on the part of Browder to revise Marxism-Leninism was condemned, and Browder was expelled because of these efforts on his part.

By Mr. Paisley:

Q. I mean after the reconstitution of the Party on a Marxism-Leninism basis, were these objectives ever repudiated to your knowledge? A. No.

Q. Were you taught what role the Communist Party of the United States would play in the event of an armed conflict between the Soviet Union and the United States?

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The Witness: In the study of Marxism-Leninism on the problem of imperialism this question came up, and we studied the question of just wars and unjust wars, we studied strategy and tactics.

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11520 The Witness: In the school I came there to study and work. That was my assignment. On the basis of the material that was given to me, on the basis of the instructions in the form of lectures that were given to me, I had to come to certain conclusions. These conclusions were put in the form of papers. I had to report, and my report was accepted. No exception was taken by the instructor to it.

* * * * * * * * * * *

The Witness: On this particular question my conclusion was that in the case of a war between an imperialist country and the socialist country, as Communist leaders and as Communists we would support the socialist country against the imperialist country. Specifically, in case of a war between imperialist and socialist countries, between the United States and the Soviet Union, I would support the Soviet Union against the United States. That was my conclusion and it was not repudiated or rejected,
11521 on the basis of my knowledge and study of Marxism-Leninism.

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11524 Q. Let me ask you, Mr. Lautner, were those pages, the 167 and 168, from the "History of the Communist Party of the Soviet Union," referred to in this course that you took? A. Yes.

Q. By your instructor? A. Yes.

Q. I show you from Petitioner's Exhibit 343, being "Strategy and Tactics of the Proletarian Revolution," put out by the International Publishers. I direct your attention to pages 94 and 95 a. 1 96, and I will ask you if
11525 that portion of this document was used as a textbook in this course. A. Yes.

Q. In taking the course taught in that class by Sam Carr, how long did that course take? A. We studied The History of the CPSU. The instructor of that subject matter was Sam Carr. We had five sessions, one week.

Q. Did you use the entire book or only parts of it? A. The entire book.

Q. Did you have any supplementary material? A. Supplementary material, we went back to the Collected Works of Lenin, we went back to Stalin's "Foundations of Leninism," to "Problems of Leninism," "The National Question," to "Communist Manifesto," and all materials pertaining to Marxism-Leninism, because, as we learned, the history of the CPSU was the application of Marxism-Leninism from the birth of that Russian working class

party to the point of taking power, the practical application of Marxist-Leninist policies by the Russian Communist Party, how it achieved its aims and its objectives. Therefore, as we studied the chronological history of that growth and development of that Party, we always used as source material the classics, the collected works and writings by Stalin, the Communist Manifesto and all the other material that we had.

11526 Q. Mr. Lautner, during the period from the reconstitution of the Party until your explusion in January 1950, did you do any teaching yourself? A. Yes.

Q. Will you relate to the Panel the extent of your teaching? A. In 1947 I was teaching in about four or five classes, full time classes organized by the Communist Party organized by New York County and the New York State Educational Department. At that particular time these classes were organized to accelerate the struggle for improving the ideology of the membership of the Communist Party, to enable a larger section of the Communist Party, lower functionaries, to be equipped in the struggle against revisionism, and to better acquaint them with Marxism-Leninism. Such classes were organized, and I taught in about three or four of these classes in the year 1947.

Q. Where were the classes held? A. These were party classes, party functionaries, but the classes were held in Jefferson School. One class was held in the Roosevelt Building on 14th Street and Broadway, on Union Square.

Q. Did you ever have a class on 35th East Twelfth Street? A. One class at 35th East Twelfth Street,

11527 which was an evening class. Yes, another class I was teaching in was at 350 East 81st Street, composed of Bakers, members of the Party.

Q. In 1947 where did you hold classes? A. In Jefferson School and in the Roosevelt Building on Union Square and also in the Party Building at 35th East Twelfth Street.

Q. Approximately how many students did you teach?

A. The average number of students in these classes was around 25, 20 or 25.

Q. What was your teaching experience in 1948? A. I had a class out in Brooklyn. I don't know whether it was in 1948 or 1949. In 1948 it could be in the spring that I taught one or two classes.

Q. What subjects did you teach? A. My subjects were Party organization, Marxism-Leninism, and political economy.

Q. What textbooks, if any, did you use?

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11528 THE WITNESS: What texts did we use in these classes? As far as the instructor is concerned, I had all my previous knowledge about source material out of the classics. I want to say this in relation to these classes: these classes were short-term, full-time classes lasting anywhere from a week to two weeks and no longer, if they were full daytime schools. If they were evening classes—some of them were—then once a week for nine weeks. So as far as my subject matters were concerned on each subject matter I didn't have more than two sessions. What can you give in two sessions to a class on a subject matter?

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THE WITNESS: So my problem was to give as many keys as possible to the student, where to look for, where to find material pertaining to that subject matter. After I gave a general picture of the subject matter, after I acquainted them with one subject matter, then we gave reading material and urged these students to do further study. Now that we had equipped them with the general picture on the subject and told them where the source material was, we
11529 urged them from then on that either they should study individually or they should form groups around themselves or they should try to establish classes once a week on a branch level. The time limit didn't allow us to go into a thorough study of each of these subject mat-

ters. However, the source material, all the classics in form of pamphlets were given to them and was available to them. We had it there at the classes. We gave them home work on it. We had maybe two sessions on the subject matter. It was a short term school and not as thorough as a national training school would be.

By Mr. Paisley:

Q. Were there other teachers besides yourself? A. Yes. There were six or seven subject matters handled with each class, and as I said, I taught political economy in some and Party organization, democratic centralism, with special emphasis on imperialism and the general classes of capitalism.

Q. Did you teach in substance what had been taught you in the national training school? A. In substance, yes.

Q. Where did you receive these various assignments to teach or lecture? A. From the New York County school commission and from the New York State School Commission.

11530 Q. Who assigned you the subject matter that you were to deal with? A. The curriculum for these classes was worked out by the school commissions, and I want to say that the instructors had at their disposal a library on the fifth floor at the offices of the New York State Educational Department of the Communist Party.

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Q. I show you a document which has been marked for identification Petitioner's Exhibit 369. Do you recognize that? A. Yes.

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11531 A. This is a curriculum for the six-day summer school. It indicates here that in 1947 seven classes were organized by New York County. There is a bibliography of pamphlets here.

Q. Were the students in these classes— A. These were given to the students.

Q. Were the students in the classes which you taught given this sort of document? A. Yes.

Q. Would you say this is representative or otherwise? A. This is the material that was worked up by the New York County Educational Department, and Ben Seminowsky was then in charge of the schools that summer. He was school director of all these classes.

Q. Is this the type of course which you taught? Did you teach in this type of summer training school? A. Yes. Imperialism, the Party theory and organization, strategy and tactics, general crisis, impending crisis.

MR. PAISLEY: We offer the document in evidence minus the marks on there.

THE WITNESS: All these subject matters, from the "Introduction" down to "Economic Outlook and Tasks of the Party based on Plenary Reports," comes under the
11532 heading of Marxism-Leninism.

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Q. I now hand you what has been marked Petitioner's Exhibit No. 370 for identification, Mr. Lautner. Have you ever seen that document? A. Yes.

(Document produced and marked for identification Petitioner's Exhibit 370.)

By MR. PAISLEY:

Q. Was any use made of it made in the party? A. Yes.

Q. Tell the Panel what use was made of it? A. This outline helped the instructors at Party classes in preparing the subject matter in the course that they taught. The out-
line was prepared by the National Education Com-
11533 mission. The New York Education Department reproduced this outline and it was available for all Party functionaries and instructors in classes. We had it in New York State education department, the office of the school commission.

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Q. Isn't there a document known as the "Program of the Communist International"?

. . . . . .

THE WITNESS: Yes.

By MR. PAISLEY:

11534 Q. Also a document known as the Zhdanov Report?

A. The Zhdanov Report, yes.

Q. They are documents contained in the Communist literature, right? A. Yes.

. . . . . .

Q. The point I am asking you, Mr. Lautner, to your knowledge was the "Program of the Communist International" used in the classes in 1947, '48, and '49.

11535 A. In these classes?

Q. Yes. A. It was referred to. It was not used. It was referred to as reference material.

Q. Why would you be referring to that as late as '47, '48, and '49?

. . . . . .

THE WITNESS: Because the program of the C. I. lays down the strategic aims of the Communist Parties.

By MR. PAISLEY:

Q. Did the Communist Party maintain any library facilities, or any headquarters where the students could get this Marxist-Leninist material? A. Marxist-Leninist material was available in the Jefferson library. It was available in book stories, where it was purchasable at 15 or 20 cents a pamphlet, at 35 East Twelfth Street or at the Jefferson School bookstore. To these classes the school commissions brought these pamphlets to them.

Q. What was that 35 East Twelfth Street? A. That was the headquarters of the Communist Party.

Q. Who was the head of the Communist Party School Commission? A. The person in charge of training national

cadres was Pop Mindell and later on George Siskind.

11536 Q. Who was in charge of the offices there at 35th Twelfth Street? A. The offices at 35 East Twelfth Street? What offices were at 35th East Twelfth Street?

Q. Do I understand that the Communist Party School Commission had space in that building? A. Yes. In the New York State organization the head of the school commission was Alberto Morrow. During 1947-48 in New York County the educational director was Theodore Bassett, and then Monsieur Seminowsky was the school director of these classes.

Q. Were you ever in this headquarters building at 35th East Twelfth Street? A. My office was right next to the Educational Department where the school commission had its library, right next door to me?

Q. Was that where Alberto Morrow had its office? A. Yes.

Q. What was available to the students there? A. That library was for the use of instructors and those functionaries who were doing educational work.

Q. What was available to you instructors there in that place? A. All the classics, all the material, all ma-

11537 terial pertaining to any of the subject matters that were taught in these schools. This school commission supplied all these materials and texts for the instructors to enable them to carry out their functions as instructors.

Q. Is that where the outlines such as you have before you there were prepared? A. Yes. This outline was remimeographed by the New York State organization. The outline that you have there was prepared by the National Educational Commission, the National School Commission.

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Q. I show you Government's Exhibit 142, being a document called "Why Communism?" by M. J. Olgin. Are you familiar with that work? A. Yes.

Q. What is the extent of your familiarity with it? A. Away back in 1934-35, while I was section organizer—

I am not exact about the year—we already had "Why Communism?" in West Virginia. It was a pamphlet to popularize the aims and objectives of the Communist Party in plain, popular language.

Q. To what extent was it distributed throughout the Party? A. We were selling it in the Party. We had
11538 it in our literature departments in the Party organization.

Q. Who was M. J. Olgin, if you know? A. M. J. Olgin was the editor of the Morning Freheit.

MR. PAISLEY: Give me Exhibit 335, please.

By MR. PAISLEY:

Q. I show you a pamphlet marked Petitioner's Exhibit 335, being a document entitled "Mastering Bolshevism," by Joseph Stalin, published by the New Century Publishers. Are you familiar with that? A. Yes. We were selling it in the Party organization. I sold myself a lot of these in West Virginia.

MR. ABT: What exhibit number is that?

MR. PAISLEY: 335.

MR. MARCANTONIO: When and where did he say he was selling these?

THE WITNESS: West Virginia.

MR. MARCANTONIO: When?

THE WITNESS: 1939, '40, '38.

By MR. PAISLEY:

Q. Have you yourself read it? A. Yes, and in my capacity as a Party functionary I urged others to read it.

Q. Did you study it in the national training school? A. Yes.

Q. Was it still in use in the teaching of Marxism-
11539 Leninism when you left the Party? A. I don't know. I wouldn't know.

Q. Did you ever hear it— A. I saw it around. It was available. It was in the library. It could have been sold in

the bookstore. I have no recollection of its being in use in 1949. I have no recollection of that.

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11547 Q. Do you know, Mr. Lautner, the extent to which this outline was used? A. After the reconstitution of the Communist Party in 1945 an educational campaign began in the Party to re-educate the Party membership on the true, Marxist-Leninist line and to expose and ferret out revisionism and the National Education Commission, a subcommittee of the National Education Department of the Communist Party, prepared this outline to serve as a guide in this re-education program. This guide was re-mimeographed, reprinted in the bigger districts, and to the smaller districts, the National Education Department supplied these outlines to the instructors. So it was widely used throughout the country wherever the Party was functioning.

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11548 Q. Mr. Lautner, did you use "The United Front" material, that is, Dimitrov's "The United Front" in any of the courses which you taught as late as 1948? A Yes.

. . . . . .

Q. I am referring, Mr. Lautner, to Exhibit 149, "The United Front," by Georgi Dimitrov, which you had before you yesterday. Did you use that as late as 1948? A. Yes.

Q. For the most part these were speeches made back in 1935, weren't they, approximately? A. At the Seventh World Congress of the Communist International.

11549 Q. Why would you be using that material as late as 1948?

. . . . . .

THE WITNESS: The United Front tactics of the Communist Party were part of the subject matter of Marxism-Leninism, and in class we tried to convey the idea that the Seventh World Congress decisions pertaining to the United Front tactics and Dimitrov's report in no way eliminated or

negated the decisions of the Sixth World Congress but implemented the decisions of the Sixth World Congress in a way to enable the Party to develop a wider base on specific issues. Before the Seventh World Congress we had United Fronts that were based on a narrow concept popularly known as United Front from Below, United Fronts on specific issues, but were elements that were ready and willing to work on specific issues with the Communist movement. In the main it was an effort to increase and to advance the influence of the Communist Parties. This policy, based on the strategy and tactics of the Sixth World Congress, was a failure of the Party in Germany to make headway, the defeat suffered by the German Party, based on the strategy and tactics and the program of the Sixth World
11550 Congress, the failure in China, the failure to build the Red International Trade Union movement, the failure to gain a way or win a way to working classes, the organized section of the working classes from the influence of social democracy, with the result that reaction gained power in a number of countries. Hitler came to power in Germany. The Seventh World Congress devised a new tactical approach in order to achieve the main strategic objectives by developing a program of United Front from below and from above, and also the program of people's fronts and coalitions around a specific issue in the struggle against fascism and in the struggle against war, because fascism was the main danger of war at that time.

This policy of the Seventh World Congress was already in the making at the time Litvinov was in the League of Nations as a representative of the Soviet Union. He labored to develop that kind of United Front, first on relations between countries, the non-aggression pacts. On this specific issue in the struggle against fascism and the danger of war Litvinov tried to get a definition, what is an aggressor, who is an aggressor in the League of Nations, and once that kind of definition was accepted there, on the question of having a definition of who is an aggressor, on that question

to sign non-aggression pacts and mutual aid pacts against fascism and war.

11551 The Seventh World Congress, Dimitrov's report there is that link in the whole chain of problems, with which link you can bring that chain and advance the strategic aims of the World-wide Communist movement.

So The United Front is not a repudiation of the basic strategic aims of the Communist movement, but as step that will bring closer the realization of that strategic aim. That is my understanding of The United Front, and that is the way we tried to apply The United Front in this country over here.

. . . . . .

Q. Did you teach how this tactical approach which you have described was to be applied to the Communist movement in this country? A. Yes. We showed in our class that the United Front in the thirties was around the question of war and fascism. It was a limited program and not the full program of the Communist Party. After 1945 there came a re-evaluation of the world situation. Now

11552 the problem was to find that link in the chain again with which a new coalition could be developed on a united front basis, on a minimum program, on a partial program of the Communist International, with which coalition we could go forward to a new milestone, to a new point and gain new adherents to the Communist movement, and when we reached that milestone there would be a new situation, a new realinement of forces, and we would find that new link with which we could go forward again. This link after the second world war was the struggle for peace. The question of peace was the new link. At the reconstitution convention Foster in his report already indicated the direction in which the Party will travel in this postwar period, and Zhdanov's report later on precisely sets the two world camps and the main issue in the coming period, the issue of peace. That is the new link today around which the Party develops its activities to broaden out and to bring about an alinement

on the basis on which it can extend its influence and exert its influence among a broader section of the population of this country.

11553 Q. Does Marxism-Leninism as you in turn taught it admit strategic changes in Party policy from time to time?

THE WITNESS: No strategic changes. Those are basic Marxist-Leninist principles. Only tactical applications, tactical changes in order to further, to bring closer the realization of the strategic aims. Those tactical changes did occur and will take place.

Q. Is this Dimitrov? The United Front program an example of tactical change? A. That is right.

11555 Q. To what extent, Mr. Lautner, are you familiar with a document that is in evidence here as Exhibit 145 entitled "The Communist Party, a Manual of Organization," by J. Peters? I show you the photostat which is in evidence.

(Document placed before the witness.)

THE WITNESS: In the early thirties we sold this pamphlet in the Party. We had a literature department in New York in my section and we sold it to Party members to acquaint them with Party organization. At that time it was a very useful and a very handy little pamphlet. Later on this document was withdrawn from circulation.

Q. About when? A. It was about 1940.

Q. Do you know why it was withdrawn?

11556 THE WITNESS: It was thrown out of circulation.

Q. Did you ever have occasion to refer to this book in connection with the courses that you taught? A. Yes. As

I said before, it was a handy book on Party organization particularly, and on Party structure, Party organization, and it was good reference material even in 1949.

Q. Did you know J. Peters personally? A. Yes.

Q. He is the man you succeeded when you took over the review commission in New York? A. Yes.

Q. Do you know when he went back to Hungary?

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THE WITNESS: In 1949 the latter part of May or the early part of June—I don't know the exact date.

11557 By MR. PAISLEY:

Q. Did the Party show him any recognition when he left this country?

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A. The National Secretariat gave a small intimate banquet for him on Fourth Street and Second Avenue in a restaurant that has little side dining rooms. There were about 20 people present.

Q. Were you present? A. Yes.

Q. Can you tell the Panel who else was present? A. John Williamson was there. Gus Hall was there. Jack Stachel was there. Stretch Johnson was there. Betty Gannett was there. May Miller was there. That is about it.

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11558 Q. Mr. Lautner, will you give the Panel briefly a synopsis of the activities of J. Peters as you knew them in the Communist Party from the time you first met him until the time he left and went back to Hungary?

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11559 THE WITNESS: I knew Joe Peters or Steve Miller or Alexander or Goldberg even before I joined the Party. I knew him personally. I met Peters at 258 East 81st Street. At that time he was the National Secretary of the Hungarian Bureau.

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11560 Q. Give Mr. Abt the time. You gave him the place. You are at the beginning now. Give him the time and place. A. In 1927 and 1928 in New York. He was a member of the Editorial Board of the Hungarian Daily Communist Paper at that time. My first work with Peters was in 1930, when I went to the National Training School organized by the National Hungarian Bureau of the Communist Party. In this school he taught political economy; and he was my instructor there.

Q. Did he have any official position in the Party? A. He did. He was business manager of the Daily Worker. That was printed at Union Square at that time. He was a member of the Hungarian National Bureau.

When I became section organizer in New York, at that time Peters was already a member of the National Committee of the Organization Department. In that capacity he came to my section, section 18, on a number of times and he lectured there to Party members. In 1936 when I went to West Virginia—

. . . . . .

11561 THE WITNESS: In 1935 and 1934 J. Peters approached me a number of times and spoke to me that wherever possible I should try to get for him American citizenship papers, or birth certificates. On two occasions I did. I asked him what it was for. He told me that it was easy to obtain American passports on the basis of such papers.

. . . . . .

11562 Q. Do you recall any other activity that he had or was engaged in when he was in the National Organization Department? A. When he was in the National Organization Department at that time I did not know what he was engaged in, but in 1949 in a conversation with him I found out what he was involved in the 1930's.

Q. You can tell what he said?

. . . . . .

11564 THE WITNESS: Peters did say that he was in charge in the thirties of the Washington underground party. There were two parties in Washington, D. C., one functioning openly, legally as the Communist
11565 Party in any other city would, and one party that was in the government apparatus, and he as a member of the National Organization Commission had charge of this apparatus in Washington.

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THE WITNESS: This discussion took place on a little farm near Rieglesville, Pennsylvania, in 1949, where I had Peters there on instructions of the Party to keep him out of sight when the authorities were looking for him.

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11566 Q. Do you recall whether or not John Williamson made a speech at that farewell banquet for Peters? A. Yes.

Q. Did he at that time say anything about Peters? A. Yes. John Williamson spoke in the name of the National Committee at this little gathering. It was a farewell speech from the National Committee to J. Peters. In his speech Mr. Williamson said that J. Peters was one of the most valuable organizers that the National Committee of the Party had, and in a way we are sorry to see him leave the country, but John said that they felt sure that J. Peters will make his contribution no matter where he will work as a Party leader.

Q. Did Peters have anything to do with the conventions?

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THE WITNESS: I think I brought out in my testimony that in the thirties Peters was security officer at conventions, checking in delegates and seeing that security measures were maintained at national conventions and na-
11567 tional plenums of the Party.

By Mr. Paisley:

Q. When you came back from the war what was Peters' position in the Party? A. When he came back from the war I found Peters in New York County in the capacity of executive secretary.

Q. Did he have any part in the Party after it was reorganized? A. After the reorganization in 1945 he became a functionary for New York State and was head of the State Review Commission at the time I came and took his place.

Q. You relieved him approximately when? A. The summer of 1947.

. . . . . .

11568 Q. Will you tell us what he did? A. He didn't appear at the Party offices any more. He stayed in my apartment for about a month and a half. Then he left my apartment. He went upstate, where about a week or ten days later in Peekskill he was picked up by the Federal authorities. He was released on bail, on bond, and he didn't come around the Party offices.

. . . . . .

The Witness: In the spring of 1948 John Williamson told me to find places where Peters can stay and to take care of Peters' security. I found a place for Peters through an intermediary, through another person, out in the Bronx. Peters stayed in this place for about six or seven weeks. The place belonged to Paul A. Hirsch. He was in communication only with myself, and in the following way:

11569 He sent me a telephone number. This telephone number was in the neighborhood in a candy store where he stayed. It was a pay station, a public pay telephone. I was supposed to call him once a week every Thursday afternoon, sharp at 4:30, at this telephone number. I didn't know where the place was, I didn't know where the telephone number was until later. I was supposed to ring that phone number and when it rang twice, to hang up. Then dial the number again and in this way warn him that the

call was for him and he was sitting there waiting for that call once a week. In our conversation at this particular time he had messages for his wife, and if I had some messages from his wife I gave these messages to him. There was no party discussion or no party business discussed between us.

He was in this place up to the day of the national convention, the second day of the national convention, which was held at Riverside Plaza. John Williamson came to me again with Peters' wife, that Peters wants to move again, to find him another place.

. . . . . .

11585 Q. Have you taught and been taught the meaning of democratic centralism? A. Yes.

Q. Will you tell briefly just what you were taught and what you taught that it meant?

THE WITNESS: Democratic centralism as a concept in the organization is clearly defined in a number of Party documents, Party classics. It pertains to rules and regulations by which the Communist Party governs itself. It is based on a democratic form of organization with a centralized organizational form, a monolithic organization with democratic processes within the organization. Democratic centralism calls for elective bodies from the highest committees all the way down to the lowest organization in which committees are elected. Democratic centralism allows discussion and debate before elections when issues and policies are opened up for debate and discussion. Democratic centralism allows that these discussions culminate in decisions.

11586 The decisions made by the majority are binding on the minority in the organization, whether they agree or disagree with it. Once debate is closed and voted upon, the minority must carry out the will of the majority, whether it agrees or disagrees with it. If the minority insists, or if those who disagree with the policies insist on carrying on further debate, under the rules of democratic centralism that is a disruptive activity subject to Party decisions. Democratic centralism also embodies the nature

of the structure of the Communist Party organization. As I said before, democratic centralism is defined in a number of the classics, like the "History of the CPSU," the Program of the C. I., and even elaborated on in articles by Party leaders. I recall John Williamson had an article on Party organization and democratic centralism was also touched on in that article, somewhere around 1946, I think.

Q. To what extent, according to your observation, were these principles followed after the reconstitution of the Party? A. These principles in general were adhered to.

Q. Were they in effect when you left the Party? A. Yes.

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11587 Miss McHale: If the minority, hypothetically, persists in their point of view in the democratic settlement of problems, what happened?

The Witness: They will be branded as factionalists and anti-Party elements who do not abide to the principles of democratic centralism of the Party and to be against the principles of democratic centralism.

Q. And would that result in disciplinary action? A. Definitely. There are ample examples in the 1930's in the Russian Party and in the American Party, too, who disagreed with the Party policies, aired their opinions and they found themselves outside the ranks of the Party. I think I mentioned in my testimony, for instance, Wischnak, who was business manager of the Daily Worker, during the Hitler-Stalin Pact period. He disagreed with the Party policies at that time. He was expelled from the Party. There was Casey, who was city editor of the Daily Worker at that time and he was also expelled from the Party. Max Bedacht, who had political differences with the Party, was also expelled, a former member of the Central Committee, and general secretary of the International Workers Order. He was removed from that organization and he was expelled. Francis Franklin, who after the reconstitution of the Party disagreed with certain policies, was expelled as a disruptive

element, violating the principles of democratic centralism. There are numerous examples like that.

11588 By Mr. Paisley:

Q. Would Browder be an example of it? A. Browder is also an example, because Browder had his own political line and he didn't agree with the policies of the reconstituted Communist Party and eventually about a year later after the reconstitution of the Communist Party in 1945 he was expelled from the Communist Party.

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11589 Q. I read from page 198 of the "History of the Communist Party of the Soviet Union," and I want to ask you a question:

"The Sixth Congress adopted new Party rules. These rules provided that all Party organizations shall be built on the principle of democratic centralism. This meant (1) that all directing bodies of the Party from top to bottom shall be elective."

How did that work in practice in selection? A. In a convention of the Communist Party a presiding committee is elected that rules the convention before the new incoming national committee is elected. As far as my experience is concerned, I was on this presiding committee of the 1940 National Convention. This convention took place at St. Nicholas Palace, and the presiding committee met in a small room in the back of the balcony. At the first session of this presiding committee Browder came in with a preferred list of who will be on the new National Committee, who will be proposed by the presiding committee for the incoming National Committee. He left one name off. The person whose name was left off was Clarence Hathaway, who was at that time the editor-in-chief of the Daily Worker. He explained to the presiding committee that there are well-founded reasons why Hathaway shall not be
11590 elected to the Central Committee or the National Committee. He didn't elaborate. That list was pre-

sented to the convention. Prior to presentation to the convention, various delegations, big states by themselves, smaller states grouped together, assembled and went over this list which was supposed to be presented to the whole convention by the presiding committee, and delegations that way first voted on that list. When the presiding committee brought this list of nominees to the full convention they already came in with the comment that most or all of the state delegations had already voted upon these, therefore this is practically the unanimous wish and will of the convention delegation as a whole, this list of proposals that the presiding committee was bringing in. However, the floor is open for additional nominations.

Before the whole convention would vote on the candidates, state delegations or groups of state delegations vote again on the proposals, and then it is brought back into the convention and finally the convention puts its approval on the incoming National or Central Committee.

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11591 Q. Did you ever know of an instance when a full slate was rejected? A. Oh, no.

Q. Now I call your attention to the third paragraph on that same page, quote: "That there shall be strict Party discipline and subordination of the minority to the
11592 majority."

You have already explained what that meant to the Panel, and you have given certain instances where this discipline was applied.

The fourth paragraph reads: "That all decisions of higher bodies shall be absolutely binding on lower bodies and on all Party members."

I believe you said that up to the point of decision there can be discussion, but after that no discussion, is that right? A. That is right, on policy questions. All policy questions emanate from the governing body of the Party, and if the Governing body, the National Committee, initiates further

discussion on any policy, then discussion is allowed. Otherwise, not.

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11594 Q. Did you know Gerhard Eisler as a Communist International representative?

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11595 MR. PAISLEY: It is already in evidence not only through this witness but through others what this man Eisler was.

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11597 Q. Did you observe any activities on the part of Gerhard Eisler after 1945 in Communist Party Affairs and if so, what did you observe? A. The New York State Party organization organized a meeting under the auspices of the New York State Educational Department. This meeting was held in the Hotel Diplomat. The
11598 hall was rented by the organization, May Miller, the Assistant Secretary for this meeting. At this meeting, Bob Thompson, the State Chairman of the New York Party, spoke; and Eisler also was one of the speakers at this meeting, where he spoke about the situation in Germany and the problems of the German Communist Party in East Germany and the problems of the Communist Party in West Germany. That was the topic of his discussion, and this was definitely a party affair.

There was another occasion. I mentioned the fact that an affair was given in a smorgasbord place on Broadway and 55th Street, a sub-basement like hall where Eisler was one of the speakers, with Eugene Dennis and other speakers there. This affair was under the auspices of the Civil Rights Congress with which the Party worked in very close relationship.

I saw him in the Party building once. I don't know what business he was transacting there. Outside of that, I didn't observe anything about Eisler.

. . . . . .

11601 Q. Mr. Lautner, based upon your experiences in the Party, what you taught and what you in turn taught, and your conversations and contacts with the leaders of the Party in the United States, how did you yourself regard Eisler in so far as authority in the Party is concerned after 1945?

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11602 THE WITNESS: Eisler was a leading Communist functionary whose opinions were highly authorized opinions. Whether he was the representative of the CI after 1945 or representing anybody outside of the U. S. Party, I don't know, but his opinions and his authority was respected by everyone. The fact that meetings were held for him, the fact that among high Party leaders I never heard anything against Eisler's statute as an international leader of the Communist movement.

By MR. PAISLEY:

Q. Who did you regard as the leaders of the World Communist movement?

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THE WITNESS: The leader of the World Communist movement is the General Secretary of the Communist Party of the Soviet Union, Joseph Stalin.

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11603 Q. Did you have any conversation with Jack Stachel or were you present when Jack Stachel discussed the Zhdanov report?

MR. ABT: I object, leading.

11604 MR. BROWN: Overruled.

THE WITNESS: I think I have already testified that we had a round table conference where the report was given by Jack Stachel on the board's evaluation and opinions and possible decisions pertaining to the formation of the Communist Information Bureau and the Political estimate of Zhdanov in his report. In his report he indicated the political tasks.

By Mr. Paisley:

Q. Where was this meeting, Mr. Lautner?

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11605 The Witness: It was held in the Hank-Forbes Auditorium.

Q. In the Hank-Forbes Auditorium, 35 East 12th Street, New York City? A. Yes.

Q. When? A. When the Communist Information Bureau was formed in 1947.

Q. What did Stachel say about this report in so far as it might affect the American Party?

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Q. What did he say? A. He agreed with Zhdanov's report, and he warned the Party functionaries not to read into the report that which is not there, not to misinterpret that report and not to misinterpret the proposals that Zhdanov had in his report based on his political evaluation at that time, because in the discussion there were questions raised, is this is a reformation of the Communist Interna-

11606 tional again, when will we affiliate, when will the American Party affiliate, and similar questions. I remember the section organizer of the fur industry, Abe Staub, in his remarks very enthusiastically stated, "Well, it is about time that such an international organization is formed again." In his report while Stachel tried to eliminate all this speculation about the information Bureau, he pointed out that Zhdanov's report only reaffirms the line and the policy of the American Party when the Communist Party was reconstituted in 1945, that the American Party under Foster's leadership already in 1945 foresaw the changed political situation after the second world war and adopted its policies already away back in 1945 that conformed the report of Zhdanov.

Mr. Marcantonio: Do you mean "conformed" or "confirmed"?

The Witness: Confirmed by.

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Q. Did anybody else speak about it at that meeting? A. The meeting was held under the auspices of the New York State Educational Department, and Alberto Morrow was the Chairman of that meeting.

Q. What did he say? A. He proposed as Chair-
11607 man of the meeting, after the discussion, a plan, an educational plan to acquaint the Party membership as a whole with the Zhdanov report. He proposed an educational outline on the basis of which discussions would be held in all sections and branches of the Party on the Zhdanov report.

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Q. I show you Petitioner's Exhibit 344, being an exhibit from Political Affairs entitled "The Resolution of the Information Bureau Concerning the Situation in the C.P. of Yugoslavia." Did you ever read that article? A. Yes.

Q. Did you ever conduct any lectures on the dispute between the Communist Party of the Soviet Union
11608 and the Communist Party of Yugoslavia? A. Yes, I lectured in the Hungarian Workers Hall on Westchester Avenue in the Bronx, the IWO Hungarian Hall.

Q. How did you happen to do that? A. I was invited there by a Party organization, by the Party branch to lecture on Titoism.

Q. When was that? A. In 1949, September, and in 1949 either the end of October or the beginning of November I was directed by the State Educational Department about two months before my expulsion to give a lecture to a section membership in the Bronx, Sofia Naciamento's section, on Titoism, just about a month and a half or two months before my expulsion. These were the two occasions where I lectured on Titoism in two meetings.

Q. Did you have occasion to use that document that you have in your hand? A. There were a number of documents, the charges by the Information Bureau against the Yugoslavia Party, there were statements by the Party leaders about the Yugoslav situation, there was an outline on Tito-

ism that was used as a guide, and this outline was prepared by the State Educational Department, and other material.

Q. In substance what did you state in your lecture about this situation over there?

11609 MR. ABT: Objection.

MR. BROWN: Overruled.

THE WITNESS: That the Yugoslav Party broke with the principles of Marxism-Leninism, that the Yugoslav Party didn't adhere to democratic centralism, that the Yugoslav Party had no policies separate and apart from those of the united front in Yugoslavia, therefore the Yugoslav Party was not a vanguard party, that Tito and his leadership was a bureaucratic leadership, that Yugoslavia eventually and the Yugoslav Party and its leadership eventually will find itself as the enemy of the Soviet Union. At that particular time the Yugoslav Party challenged the role of the Soviet Union as the leader or the pro-democratic, anti-imperialist war camp as we understood this camp on the basis of Zhdanov's report and on the basis of Party policies.

By MR. PAISLEY:

Q. To what extent, Mr. Lautner, did the Party leaders publicize this dispute between the Yugoslav Communists and the Russian Communists?

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THE WITNESS: There were articles in Political Affairs, there were articles in the Daily Worker. As I said, there was an outline made. There was a discussion in the Party on Titoism.

11610 By MR. PAISLEY:

Q. Why were the Communist Party members in the United States interested in that subject?

. . . . . .

THE WITNESS: Because anything that affects the leading role that the Soviet Union plays in the anti-imperialist

camp, anything that affects or challenges that leading role is a grave concern of any Communist Party, the U. S. Party and the party is based on the proletarian internationalism. The lessons of the Yugoslav Party, what were the mistakes, what were the problems of the Yugoslav Party were a concern of the U. S. Party. Furthermore, coming closer, the Party as such was concerned very much how it would affect this break between the Soviet Union and Yugoslovia, how it would affect that section of the Party membership that was Yugoslav, how it would affect those party members who are Yugoslav in origin. I remember we had this problem in the Yugoslav Workers Home, how to bring about a policy where a Party member will not fight Party member over that. In spite of that, a number of them sided with Tito. These are the factors that raised a lot of concern in our Party about this dispute between the Soviet Union and Tito.

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11628 Q. Mr. Lautner, based on your experience in the Communist Party, on your study of the program and policy of the Communist Party, both in Party schools you attended and those you taught, on your experience with the practical working of the Communist Party, and on your experience as an official of the Communist Party, will you tell the Panel where primary allegiance of the Communist Party members in the United States
11629 lies, if you know?

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THE WITNESS: As a Party functionary, based on my understanding of Marxism-Leninism, the primary allegiance of a member of the Communist Party lies in the defense of the Soviet Union.

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11633 Q. Could nonmembers of the Party attend a national plenum?

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THE WITNESS: To my way of understanding, at no time can anybody attend the national plenum unless that person is invited by the Party leadership. And I attended national committee plenums from '36 on, up until 1941, and I never knew of a single instance where non-Party people were in the national committee plenums.

. . . . . .

11648 Q. Mr. Lautner, do you have before you there a copy of the Constitution as amended in 1948? A. Yes.

Q. I direct your attention to so much of the preamble as reads as follows: "The Communist Party of the United States is a political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism."

Based upon your experience in the Party as you have detailed it to this Panel, will you state what the phrase "Basing itself upon the principles of scientific socialism, Marxism-Leninism" meant to you?

. . . . . .

THE WITNESS: Marxism-Leninism meant to me the policy and line of the Communist Party, as I testified in this hearing what my understanding of Marxism-Leninism was.

By MR. PAISLEY:

Q. Now I direct your attention to the next paragraph of that preamble, so much of it as reads: "The Communist Party upholds the achievements of American democracy and defends the United States Constitution and its Bill of Rights against its reactionary enemies who would
11649 destroy democracy and popular liberties."

. . . . . .

THE WITNESS: On the basis of my understanding of Marxism-Leninism, this paragraph is in contradiction to the basic principles of Marxism-Leninism.

By Mr. Paisley:

Q. Could you reconcile the two? A. No.

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11666 Q. Mr. Lautner, what significance was attached, if any, to greetings of this type sent to Stalin, General Secretary of the Communist Party of Soviet Russia by the Party membership in the United States?

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11667 The Witness: First, it was a registration of the fact that Stalin, General Secretary of the Russian Communist Party, was 70 years old, that the American Party was aware of that fact, and it was a reaffirmation, such greeting was a reaffirmation of the American Party to the loyalty and the acknowledgment of Stalin's leadership of the World-wide Communist movement. That in my opinion is the significance of this telegram.

By Mr. Paisley:

Q. Did you yourself attach that significance to this telegram? A. Yes.

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11671 Q. Let me ask you some questions now, Mr. Lautner, which deal with that subject. How many party leaders were expelled when Browder was expelled? A. From the immediate national leadership the other person who was expelled was Sam Darcy.

Q. Would you tell us how many members of the Central Committee or the National Committee or the National Board, whatever they called it at the time, who were on the Board when Browder was in the Party, leader of the Party, remained on the committee or Board when he left and Foster took over? A. With the exception of three closest co-workers of Browder, namely, Roy Hudson, James Ford and Bob Minor, all the others remained in the national leadership.

Q. After Foster took over what was the attitude of the membership, as you observed it, toward the leaders who had gone along with Browder and who remained with Foster?

. . . . . .

THE WITNESS: Immediately there was some manifestation of dissatisfaction on the part of members in the Party at the state convention already in 1945, at the New York State Convention, that the leadership, those that did remain around Foster, did not sufficiently evaluate their role,
11672 the role that they played in Browder's revisionist policies. So in the 1945 state convention a number of these leaders had to resort to all kinds of tactics over there not to allow that convention to run out of the hands of the leadership. Gil Green, for instance—

. . . . . .

THE WITNESS: Gil Green refused to accept responsibility for Browder's revisionist policies. Bob Minor refused to accept responsibility; Charlie Krumbein, Roy Hudson. These were the Party leaders who spoke at that state convention. Shortly after that convention, a number of groups appeared in various parts of New York City who attacked the Party leadership as tained with Browderism. These groups had names like the New Committee For Publication, a waterfront group named Fore and Aft, a group in
11673 the Bronx known as the P.R. group, the Paul Robeson group, the Francis Franklin group, various groups in New York City and particularly on the West Coast. The heads of these groups were expelled from the Party. That is what occurred in that particular period, and our problem in the Party was to seek out, ferret out all those elements, the anti-leadership attitude in the Party.

. . . . . .

11713 Q. Will you tell us what was the main Party line which the Party emphasized? A. In 1949 the main line of the Party was based on the postwar evaluation of the world relationship of forces as laid down in the 1945 convention, in the reports and the decisions of the Commu-

nist Information Bureau, and in the decisions of the 1948 convention. That evaluation centered around two propositions: One that there are the forces of peace and democracy under the leadership of the Soviet Union that struggle for peace and democracy and against war, and then there are those forces that are the forces of imperialism and monopoly capitalism, that breed war, and that the United States is at the head of this group in these two camps and the Party line was—

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11714 THE WITNESS: The main line was for the Party to exert all its efforts in the interests of that camp that struggles for peace against monopoly capitalism, for that camp that was headed by the Soviet Union. That was the main line of the Party, and in order to make that line effective, in the meantime to build the Communist Party, to strengthen the membership of the Communist Party and Marxist-Leninist ideology and to recruit new members, to improve the Party as an organization, and in line with this main objective, this main line, this main approach, also to struggle on civil liberties and many other side issues. The main line was the so-called struggle for peace on the side of the camp which was headed by the Soviet Union.

By MR. PAISLEY:

11715 Q. When you were in the Party, at the time you left the Party was that attitude embodied in any slogan or any tactical approach to the problem?

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THE WITNESS: Yes, it was the struggle against imperialist wars and the building of a united front in this struggle.

By MR. PAISLEY:

Q. A struggle for peace? A. A struggle for peace against imperialist war. It was a similar slogan to the slogan in the thirties, the United front against fascism and war. After 1945 it was to unite and struggle against imperialist war.

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11743 THE WITNESS: The preamble was a matter of interpretation based on one's knowledge of Marxism-Leninism, and also the revised 1948 constitution with the insertion of a clause there, a self-serving clause, was also quite evident on the question of force and violence—

. . . . . .

THE WITNESS: There was no such clause in the 1945 constitution. It was placed in there by the Party leadership in 1948. In that sense it was self-serving. It was in no Party constitution in 1945 when the 1945 convention adopted the constitution. It was a question of one's poltical understanding and interpretation of the document, the constitution that was adopted at the convention. There were possibly some who took the document seriously, but in Party ranks, the Party leadership ranks, the constitution was just a by-law. The preamble was contradictory, and it was taken in that sense.

MISS MCHALE: What was its purpose, then? You
11744 went to all this trouble. What was its function?

THE WITNESS: The constitution's function? Every organization adopts a constitution.

MISS MCHALE: Oh, yes. That is basic.

THE WITNESS: That is right. The Communist Party adopted a constitution, but the Communist Party was also a Marxist-Leninist organization, and it had its ideology and outlook, and some clauses of that constitution are in conflict with that outlook. That is the point I was making, particularly in the preamble.

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CROSS EXAMINATION

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By MR. MARCANTONIO:

11815 Q. I now show you CP-55 marked for identification. That is the pamphlet entitled "The New York Herald Tribune's 23 Questions About the Communist Party, answered by William Z. Foster." Have you seen this before? A. I have a vague recollection that I have.

Q. As a matter of fact, it was widely distributed in Communist Party circles, was it not? A. This statement first appeared in the Herald Tribune, and then it was reproduced by the Party.

Q. Yes, and widely distributed? A. Well, yes, it was sold in the bookstores and it was sold in the branch sections literature departments, yes.

Q. It is a document by William Z. Foster, Chairman of the Party? A. Yes.

Q. It was authoritative as far as the Party was concerned, was it not? A. Yes.

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11826 Q. This pamphlet which you now have before you, CP Exhibit 56, was a pamphlet distributed among the membership of the Communist Party, by The Communist Party, was it not? A. Yes.

Q. It being by Eugene Dennis—who was he? He was Secretary of the Communist Party, was he not? A. General Secretary.

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THE WITNESS: In 1947-48 the Party was under attack because the Party took a position against the true Truman Doctrine, the Marshall Plan, the American Foreign Policy and the policy of the Government in general on foreign issues. Under this attack on two occasions the Party issued through the General Secretary and through the Chairman a position about the Party in general and answered
11827 some of the questions that were leveled against the Party at that particular time. In that sense it is a self-serving document.

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A. It was a run-of-the-mill pamphlet. When it came out it was available, and three days later it was forgotten. It was not pushed like other Marxist-Leninist material, week in and week out, day in and day out in the Party. It was that kind of document.

Q. You say the document containing questions and answers, questions put to Eugene Dennis, the Secre-
11828 tary of the Party, and answers given by Eugene Dennis, Secretary of the Party, was just gotten out but then forgotten in two or three days, is that it? A. It was gotten out, it was published, it was sent out to the Party through channels. It was available. But soon after—I don't say three or four days, but soon after it was forgotten. It was not a basic document like the Marxist-Leninist classics. That is what I mean.

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11831 MR. MARCANTONIO: Following Petitioner's custom, I now wish to emphasize and respectfully call the Panel's attention to page 3 and page 5. The question on page 3 is, "The first loyalty of the Communist Party is to the Soviet Union and it is only secondarily concerned with American Welfare." I call the Panel's attention to the answer to that question.

"And the question on page 5: "The Party is part of a 'world-wide fifth column' serving the interests of the USSR." I respectfully call the Panel's attention to the answer to that question contained on page 5.

11832 THE WITNESS: Mr. Chairman, on these documents, this document was to equip the Party membership how to answer these questions that are leveled and these charges that are leveled against the Party, and in that sense it is an authorized answer to equip the Party membership in all organizations to answer specific charges against the Communist Party and to answer it in an authorized way by Dennis and Foster. That is the purpose that these two documents serve. I see an inconsistency—

MR. ABT: Mr. Chairman.

THE WITNESS: —in these answers and Marxism-Leninism as it was taught and was being taught in the Communist Party. There is no consistency between these two positions.

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By Mr. Marcantonio:

11833 Q. Did you ever teach these questions and answers that Mr. Foster and Mr. Dennis gave, that they were inconsistent with Marxist-Leninist theory? Did you ever teach that? A. I never used these pamphlets in the school.

Q. Yes, but you knew they were in existence, didn't you? A. I never referred to them in the school.

Q. But you knew of their existence, didn't you? A. They weren't important enough.

Q. I didn't ask you that. Did you know they were in existence at the time you taught school? A. But they have no validity as far as teaching Marxism-Leninism in schools is concerned. This is a tactical situation where the Party has to answer charges leveled against the Party, and these two pamphlets were published in order to equip the Party membership from top to bottom how to answer these charges. That is the value of these two pamphlets.

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11902 Q. Now, as a matter of fact, when you were teaching in these schools in '47, '48, and '49, did not the Communist Party also teach that the first objective should be neither a Communist Government or a Socialist Government, but the election of a people's front government? Did they not so teach? A. No. Because since 1945 we had this new phenomena. A chain of so-called people's governments were established in Poland, in Hungary, in Czecho-
11903 slovakia, in Rumania, in Bulgaria, where the dictatorship of the proletariat, through the ruling party, the Communist Party was a factor. But as far as the—the content was there. The dictatorship of the proletariat. But as far as form was concerned, it was not the Soviet form. It was not the Soviet form that was taught.

Q. I don't know whether you understood me or not. But did you teach, were you not taught, or was it not stated time and time again by leading Communists in the United States—I am talking about men like Foster, and so on—that the first objective should be in the United States neither a Communist movement, neither a Communist Government

nor a Socialist Government, but the election of the people's front government. A. It wasn't that way, no.

Q. It wasn't that way? A. What was taught, the united fronts are tactics in furthering the strategic objectives of the Communist Party. Dimitroff's Seventh World Congress Report is that tactical approach, the people's fronts, the united fronts of the working class that leads to working achievement of the dictatorship of the proletariat and leads to working achievement of the Communist Party gaining power.

11904 Q. Were you not taught, and did not the leading Communists state, and didn't you teach that a people's front government would be a coalition government of representatives of the workers, working farmers, Negro people, and progressive small businessmen and professional people? Is that not so? A. I didn't see any Party document where, on the basis in the struggle for peace against the imperialism that there was a people's front government feasible in the immediate future. I didn't see that kind of teaching in the Party.

In fact, when Foster came back from Europe, when he wrote this—

Q. The Twilight of World Capitalism? A. I don't know. When he came back. Not Twilight of Capitalism. He wrote a pamphlet about new democracies in which he made certain references of a transition period. And then I am not exact now in what Political Affairs on certain aspects of theory on this question Foster had to reverse himself. I know that it exists, and I will have to find it, and I will find it.

* * * * * * * * * * *

11905 Q. Are you familiar with this later book by Foster, The Twilight of World Capitalism? A. '49? I didn't make a study of it. I might have seen it.

Mr. Art: Will you show it to the witness, please?

(A book was handed to the witness.)

The Witness: I could have read it.

By MR. MARCANTONIO:

Q. Yes. As a matter of fact, it is an authoritative
11906 presentation of the Party's views on various subjects of the days of 1949, was it not, written by the Chairman of the Party? A. Yes.

* * * * * * * * * * *

11907 Q. Now, does not Mr. Foster declare, and I now read from page 125, the beginning of the first full paragraph:

"In order for the people to put the United States firmly on the path toward peace, democracy, and general well-being, the power of the monopolists who dominate our country must be curbed and finally broken, and the people themselves must take political charge, under the leadership of the working class. The struggle for socialism grows inevitably out of the everyday fight of the workers and their allies, especially against the present menaces of economic chaos, fascism, and war. In all good time the American people, on the basis of their existing conditions, will decide how and in what forms they will introduce socialism. The way our Party foresees the possible development of the future is along the following general lines:

"First, we propose the regular election of a democratic coalition government, based on a broad united front
11908 combination of workers, small farmers, Negroes, professionals, small business groups, and other democratic elements who are ready to fight against monopoly, economic breakdown, fascism, and war. This type of united front government could well have behind it an overwhelming majority of the people as it has in other lands."

Is that not the objective of the Party? A. Well, you are quoting now from a book that was written by William Z. Foster in 1949.

Q. Yes. A. Now, you started at: "In order for the people to put the United States firmly on the path"—et cetera, et cetera.

From the same page, the same book, let me also read one sentence, and then I will give you my answer.

"Otherwise, our Party works out its policies and programs upon the basis of its own understanding of the principles of Marxism-Leninism and in accordance with the requirements of the political situation in the United States and the world."

This is what Foster says.

Q. That is before what I have read, is it not? A. Yes.

Q. It is in the previous paragraph, is it not? A. 11909 Yes.

Q. Just—

MR. PAISLEY: Please don't interrupt.

MR. MARCANTONIO: I was just identifying paragraphs.

MR. PAISLEY: You interrupted him when he was trying to answer.

MR. MARCANTONIO: Mr. Chairman, excuse me a minute; I am not going to interrupt. I simply want to state that that kind of interruption was just like saying, "On what page are you reading?" I wanted to point out that was the language that preceded the paragraph which I had read.

MR. BROWN: Very well.

THE WITNESS: If you want my answer, in the light of what happened between the Soviet Union, the Bolshevik Party of Russia, and Yugoslavia, this whole thing is poppycock, because it doesn't conform with the facts. It doesn't conform with historical facts.

By MR. MARCANTONIO:

Q. Then you disagree with Mr. Foster? A. In the light of what he says over here, what I read here, "Otherwise our Party works out its policies and programs upon the basis of its own understanding," and what happened in Yugoslavia, Tito was not allowed to work out his own policies, well, this whole thesis over here, this whole presentation does not conform with the truth.

11910 Q. And this was written in 1949? A. 1949, after the Tito experience.

Q. And you testified that you were familiar with it, then. Did you at any time in the Party say what Mr. Foster wrote here was poppycock? A. I said I might have read it in 1949. I didn't study it.

Q. So that now you say if you had studied it you would have stood up and said it was poppycock; is that it? A. I would scratch my head and say, "Well, Foster is getting old, or he doesn't know what he is saying."

. . . . . .

11911 Q. I am asking you as of 1949, at the time that you were a member of the Communist Party, this was the Party line, what Mr. Foster wrote, was it not? A. Yes.

Q. Yes? A. Yes.

Q. And then didn't Foster say, as we find here on page 125, continuing:

"This type of united front government could well
11912 have behind it an overwhelming majority of the people, as it has in other lands. It goes without saying that the election of such a democratic government could only be brought about in the face of powerful and very surely violent opposition from organized reaction. The whole history of the American class struggle, which is full of examples of employer violence in strikes and in other mass struggles, teaches this lesson with unmistakable clarity. The bitter attacks made against the Progressive Party, led by Henry Wallace, during the 1948 elections, gave a sure indication of the frenzy and desperation with which the capitalists would confront a people's united front combination that was strong enough actually to threaten their control of Congress and the Presidency. Obviously, it would be an extremely difficult proposition to elect a truly democratic government in the face of this strong, violent, and reactionary opposition.

"Second, our Party contends that such an anti-fascist, anti-war, democratic coalition government, once in power, would be compelled either to move to the Left or to die."

This was a position of Mr. Foster and the position of the Communist Party; is that not right? A. Well, according to this book, that was the position, and that was the thinking of William Z. Foster. But may I add this: That this
11913 whole thing that you read is highly speculative, and it has no basis and no reality.

Q. Speculative or not, it was the position of the Communist Party; is that not right? A. That is right.

Q. And continuing, and I am just going to read this last portion, Mr. Chairman, at the bottom of the last full paragraph on page 126, Mr. Foster states:

"Only in this way will this country and the world be finally freed of the dangers of poverty, economic chaos, fascist slavery, and murderous war. These steps could be taken legally by a people's government, notwithstanding the opposition of the capitalists, however violent.

"To promote the election of a progressive, coalition government of this type which, by force of circumstances, would move to the Left and, eventually, to socialism, on the general pattern of the European people's democracies, is obviously not to advocate a program of force and violence, the enemies of the Communist Party to the contrary notwithstanding."

A. I said that this is highly speculative, and it just confirms that, because none of the new democracies followed this pattern in their establishment of a people's democracy in Europe, not a single one of them.

11914 Q. So. you say Foster is wrong? A. What Foster—

Q. Says here is wrong? A. He is wrong.

Q. Yes. A. He is wrong.

Q. But it happens that Foster is the Chairman of the Communist Party, and he is talking for the Communist Party, and you are not in 1949; right? In writing here Mr. Foster is speaking for the Communist Party as its Chairman. A. When was this published in 1949? I don't know.

Q. I am asking you this question: In this publication he is speaking as Chairman of the Communist Party, is he not?

Whether you agree or disagree with him, the point is, in stating this, he is making a statement as Chairman of the Communist Party, is he not? A. He wrote the book.

Q. As Chairman of the Communist Party? A. Correct.

Q. And he is setting forth the line of the Communist Party? A. The line of the Communist Party is not put forward by Mr. Foster; the line of the Communist Party is put forward by convention, by resolutions. This is Foster's book. It so happens he is also Chairman of the Communist Party. And I again make references
11915 to a previous book where he had some kind of an evaluation of the people's democracies that later on he had to retract. I will find that.

. . . . . .

11916 Q. I am not asking you about 1952, I am asking you up to the time that you were expelled from the Communist Party in 1949, up to that time, did you see anywhere—and you said at that time you were kept
11917 abreast of all of the Party's literature—did you see anywhere any criticism or repudiation of the writings which I have just read to you by Mr. Foster? A. I stated that I did not see it.

Q. You recall earlier in the afternoon you stated that in your teachings and in your talks at various times in the Communist Party you used Dimitroff's the United Front. A. Yes, I made reference to it.

Q. Teachings on the Seventh World Congress? A. Yes, I made reference to it.

Q. Which is now Petitioner's Exhibit 149. You are familiar with this, are you not? A. Yes. It contains the reports and speeches of Georgi Dimitroff, who was General Secretary of the Communist International in the period that he was functioning as a leading functionary of the Communist International.

. . . . . .

11942 Q. Would you say that the situation subsequent to the 1948 convention with respect to support of the leadership was that of solid support on the part of the membership? A. I would put it this way, that on the basis of democratic centralism there was no outspoken or no frontal attack against the Party leadership.

Q. Do you know of any opposition to the Party leadership? A. Democratic centralism wouldn't allow it.

* * * * * * * * * * *

11944 Q. You told us here that you saw Eisler at a banquet which was held at a smorgasbord restaurant, is that right? A. Yes.

Q. What year was that? A. It was in 1949.

Q. This banquet was held about two or three weeks after he came out of Ellis Island, is that right? A. He was out of Ellis Island. I don't know whether it was two or three weeks after. It was shortly after.

Q. Shortly after he was out of Ellis Island. This banquet was held under the auspices of the Civil Rights Congress, you told us? A. Yes, nominally under the auspices of the Civil Rights Congress.

* * * * * * * * * * *

11966 THE WITNESS: As a matter of fact, Mr. Chairman, the Party always charged that it was imperialism that breeds war, not the Soviet Union.

* * * * * * * * * * *

Q. You testified that in 1947 Peters stayed in your apartment for a month and a half, isn't that right? A. Yes.

Q. And that he went up-state after he left you? A. Yes.

Q. And that he was picked up by immigration
11967 authorities in Peekskill about a week after he left your apartment, is that correct? A. A week or ten days after he left my place.

Q. Did you tip off the immigration authorities? A. I resent that.

Q. Your answer is no? A. No, definitely not.

Q. He was arrested on a deportation warrant, right? A. He was picked up because of his own stupidity. He was traveling around in his car with a license plate that was registered in his own name, which was carelessness.

Q. That was stupid for him to go around in a car registered in his own name? A. If he was in illegality, it was stupid on his part to travel in his own car.

Q. The point of fact is that he was picked up on a deportation warrant, right? A. I don't know on what warrant he was picked up.

Q. He was later deported, isn't that right? A. He was not deported.

Q. He was not deported? A. No.

Q. As a matter of fact, the Department of Justice permitted him to depart voluntarily, isn't that correct? A. Yes, in 1949.

11968 Q. Exactly. A. Yes.

Q. After he was picked up on this deportation warrant he was released on bail, right? You so testified, did you not? A. Yes. He was released on bail, and he remained outside on bail for almost a year.

Q. Exactly. A. Then a deal was made—

. . . . . .

THE WITNESS: A deal was made on voluntary departure. The deal was made, let's say on a Thursday with the immigration authorities, and on Saturday morning he departed.

By MR. MARCANTONIO:

Q. By deal, you mean that the immigration authorities of the Department of Justice agreed to let him depart voluntarily? A. That is right.

Q. Prior to that, prior to departing voluntarily he did not conceal himself. He went around about his business, did he not? A. Yes. He was in the Party building. He had four classes over there for concentration work. After he

11969 testified to the New York grand jury, after he was called in to testify to the New York Grand Jury about the Whittaker Chambers case, he was an unfriendly

witness so the grand jury let him go. He was on bail. He was teaching classes in the Party building. He had his office on the ninth floor. Then after this arrangement was made with the immigration department on a Thursday, on a Saturday morning he was gone.

11972 Q. Did you attend the special convention of the Communist Party in 1940? A. Yes.

Q. In what month did that convention take place? A. That convention was held in the fall of 1940, and if my recollection is correct it was in the Odd Fellows Temple in East Harlem near the New York Central Railroad Building.

Q. And the purpose of the convention was to disaffiliate from the Communist International, was it not? A. Yes.

Q. You were a delegate to that convention? A. Yes.

Q. At that time you were a delegate from where, from West Virginia? A. From West Virginia. The specific purpose of that convention was to meet in an emergency. You see, we had a convention that summer, the regular convention that summer, and the special convention was called to meet in emergency in the way of the Voorhis Act at that time.

Q. Did you attend a meeting of district organizers that took place prior to the convention? A. Yes.

11973 Q. You were a district organizer in West Virginia? A. Correct.

Q. You testified that the purpose of the meeting was stated by Earl Browder, right? A. That 1940 emergency convention?

Q. Yes. A. Yes.

Q. Browder made the report to the convention on the question of disaffiliation, did he not?

Q. Yes, and he reported at the convention. A. That is right. Whatever decision this convention will take will in no way affect the question of proletariat internationalism, proletariat solidarity and fraternal relationship between the parties. It was specifically called to meet this emergency situation created by the Voorhis Act in 1940.

Q. Is that what he said to the convention? A. I don't know whether he said it in the district organizers' meeting or the convention, I have no recollection, but that was the purpose of that convention.

. . . . . .

11974 Q. You heard Browder make the speech himself? A. Yes.

Q. You say you don't remember what he said? I show you Exhibit CP-13, which is the report of Mr. Browder, the speech that he made at the convention we are talking about. I show it to you to refresh you. recollection. After you have looked at it—and I ask you to take some time to look at it—after you have looked at it I ask you to tell me whether or not that is the speech that Mr. Browder made.

. . . . . .

Q. Was that Mr. Browder's speech or report as far as you remember? A. In essence, yes.

. . . . . .

11976 Q. When you testified here to the effect that Mr. Browder reaffirmed the principles of proletarian internationalism at this convention, I am now asking you did you have in mind the following paragraph from the resolution of the convention that Mr. Browder proposed to the convention. I quote:

"That the convention reaffirms the unshakable adherence of our Party to the principles of proletarian internationalism, in the spirit of its greatest leaders and teachers, Marx, Engels, Lenin and Stalin, which offer the only road to the future for suffering humanity."

Did you have that in mind when you made that statement? A. Something to that effect. I also recall that the official organ of the Communist International, the
11977 theoretical organ, was not available for a time and it was reprinted here in the United States under the editorship of Browder for a few issues, and that died out, too.

Q. But it was published. A. Yes.

Q. So it was in Mr. Browder's convention report that this statement was made, isn't that right, the statement I just read? A. Yes, something to that effect, about not giving that it does not mean necessarily cutting off fraternal relationships and ties and giving up proletarian internationalism with the other brother parties, that what this emergency convention meant was the meeting of the emergency by the Voorhis Act that was supposed to go into effect shortly after this convention.

Q. That is the interpretation you placed on Browder's report? A. That is right. That was the sole reason for that emergency convention.

Q. This statement that I read to you, and which I re-read, quotes:

"That the convention reaffirms the unshakable adherence of our party to the principles of proletarian internationalism, in the spirit of its greatest leaders and teachers, Marx, Engels, Lenin, and Stalin, which offer the only road
11978 to the future for suffering humanity"—was in essence the same statement that Mr. Browder made also in the district organizers' meeting, isn't that right? A. What Browder said at the district organizers' meeting was that this convention has one purpose only, to meet this emergency, to meet the Voorhis Act, that the Party will fight against any attempt to be branded as a foreign agent or ties with foreign agency or under the influence of a foreign country.

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12078 REDIRECT EXAMINATION

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By MR. PAISLEY:

12080 Q. Mr. Lautner, I call your attention to Petitioner's Exhibit No. 376 and direct your attention to page 229, upon which page are greetings from the Central Committee of the Communist Party of the Soviet Union to the Communist Party of the United States of America.

12081 The question is, first, Is that the particular greeting to which you had reference in your testimony which you gave on direct examination?

. . . . . .

12083 Q. Mr. Lautner, based upon your experiences in the Communist Party of the United States as you detailed them here, upon the instructions you received while in the Communist Party and the instructions which you gave as a teacher in the Communist Party, and based upon your study of Communist Party official publications after you left the Communist Party, will you state to the Panel how you as a student of Marxism-Leninism would have interpreted such a greeting as that while you were in the Party?

. . . . . .

12087 THE WITNESS: First of all, this is not just a simple greeting. This is a political document of the highest importance. In such a concise way it raises all the key problems that the American Party is confronted with. Namely, it raises the problem of wishing successes to the American Party in the struggle against reaction, which is the fundamental struggle based on Marxism-Leninism. It raises the problem which the American Party suffers from, the ideological strengthening of the Party ranks. It raises the united front tactics that the Party is facing, the struggle for lasting peace between peoples. It raises the question of international solidarity. It raises the question of socialism. It raises the question of friendship between the peoples of the United States and the Soviet Union, which peoples the American Party is supposed to represent. It raises the question of "long live the Communist Party of the United States." In so concise form it raises all the basic questions that the American Party is confronted with at the present time, a very precise and concise document in the
12088 form of greeting the American Party at its 15th Convention. I think is it highly significant. It gives

leadership to the American Party and those who did read this document.

• • • • • • • • • • • •

Q. Mr. Lautner, how would you have interpreted the words, "struggle against reaction"?

• • • • • • • • • • • •

THE WITNESS: That is the basic struggle of Marxism-Leninism. Today reaction is represented in the imperialism and monopoly capitalism. It is the basic line of the Party, the struggle against reaction.

By MR. PAISLEY:

Q. How would you have interpreted "ideological strengthening of party ranks"? A. Our Party suffered from opportunist deviations from time to time, and the 1950 Convention was a good time for the Soviet Party to call this deficiency to the attention of the rank and file of the American Party members.

• • • • • • • • • • • •

12089 Q. How would you have interpreted "struggle for peace, democracy and socialism"? A. That is the new tactical approach since the end of the war, the link in the chain with which this tactical united front is to be built.

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12091 Q. Do you remember that on cross-examination Mr. Marcantonio read from this book by Foster, "The Twilight of World Capitalism"? Do you recall that? A. Yes.

Q. Do you recall saying in effect that he had to change his position later on, and it was written up in Political Affairs? A. Correct, and I also stated that I will find that Political Affairs.

Q. Did you find it? A. Yes.

Q. I hand you Political Affairs for June 1950. Can you point it out to the Panel? A. I found that article in which

Foster, in an article, "People's Front and People's Democracy," re-evaluates his whole position on the people's front, and where he accepts criticism and then tries to blame other international leaders that they made a similar mis-
12092 take in the evaluation of the people's front and what it stands for, and also the people's democracies. I think the article speaks for itself.

Q. Show me the page number there. A. From page 14 through page 31.

MR. PAISLEY: We want to offer in evidence this article by William Z. Foster entitled "People's Front and People's Democracy," including pages 14 through 31. We have not yet had it photostated, but I believe it is in process. We will have to take this and have it photostated.

MR. BROWN: Very well.

MR. ABT: Mr. Chairman, I object on the ground that the document is already in evidence as Petitioner's Exhibit No. 219.

MR. BROWN: The same article?

MR. ABT: Exactly the same article.

MR. MARCANTONIO: Word for word, Mr. Chairman.

MR. PAISLEY: Yes. We find, Mr. Chairman, that that was put in by Dr. Mosely. We particularly call to the Board's attention in connection with the witness' testimony about Foster's work "The Twilight of Capitalism"—

MR. MARCANTONIO: What is the statement, that he wants what testimony on "The Twilight of Capitalism"?

MR. PAISLEY: I am particularly calling this article to the Panel's attention in connection with the witness' testimony on cross-examination about Foster's "Twilight of
12093 World Capitalism." We call your particular attention to this article, and we emphasize the first page of the article on page 14.

We emphasize page 15 to "The Significance of Fascism."

We emphasize the section entitled "The Policy of the People's Front" at the bottom of page 18, page 19, and the first column of page 20.

We emphasize the first full paragraph on page 25, beginning "In any case"; also the section entitled "The Question of People's Democracy" on pages 26 and 27, especially the paragraph beginning at the bottom of page 26 and ending at the top of page 27.

The last full paragraph on page 29, beginning "When we say," through the next to the last paragraph on page 30, ending with "violence against the people."

12094 Q. I call your attention to page 126 of Communist Party Exhibit No. 58, which is "The Twilight of World Capitalism," by Foster. I direct your attention to the first full paragraph, the first sentence thereof, which reads as follows:

"Second, our Party contends that such an anti-fascist, anti-war, democratic coalition government once in power would be compelled either to move to the left or to die."

Mr. Lautner, as a student of Marxism-Leninism how would you interpret that language?

12098 THE WITNESS: Mr. Chairman, yesterday from this "Twilight of World Capitalism" Mr. Marcantonio read a lengthy piece from page 125 and 126 which was supposed to be the position that Foster had in relation to the question of united front, people's front, et cetera. I said that that thing is poppycock. It does not conform with the realities in 1949. It was speculative. It is not the position of the Party.

# Vol. III

# TRANSCRIPT OF RECORD

(Pages 999 to 1498)

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# Supreme Court of the United States

OCTOBER TERM, 1955

# No. 48

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COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER,

*vs.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

PETITION FOR CERTIORARI FILED APRIL 13, 1955

CERTIORARI GRANTED MAY 31, 1955

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* "Petitioner's exhibit" refers to the exhibits introduced by the Attorney General, the petitioner in the proceeding before the Board.

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IN THE

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 11,850

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COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Petitioner*,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, *Respondent*.

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**On Petition to Review and Set Aside an Order of the Subversive Activities Control Board**

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## JOINT APPENDIX

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**VOLUME III**

**(Pages 999 to 1498)**

12116 **Mrs. Bereniece Baldwin** called as a witness on behalf of Petitioner, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By MR. DENUNZIO:

12143 Q. Mrs. Baldwin, did you have a membership card for the years of 1949, 1950, and 1951? A. No, I did not.

Q. Why did you not have membership cards for those years? A. None were issued for those years.

. . . . . .

Q. Do you know why membership cards were not issued for the years 1949, 1950, and 1951? A. Yes, I do.

Q. Who told you the reason?

. . . . . .

12144 THE WITNESS: Helen Allison Winter, Phil Schatz.

By MR. DENUNZIO:

Q. What were you told specifically in connection with the non-issuance of cards for that year?

MR. ABT: May we have the time and place, Mr. Chairman?

MR. BROWN: The time and place? Will you give that, Mrs. Baldwin?

THE WITNESS: Yes. It was in the District Office headquarters the latter part of 1948 when we would usually get ready for registration in the fall of the year preceding, and I was told at that time, in the morning by Helen Allison, and in the afternoon by Phil Schatz, that there would be no cards issued for security reasons.

By MR. DENUNZIO:

Q. For security reasons. You have testified previously that in 1947 you assisted in the registration of membership and the collection of dues both for the District headquarters and the 14th Congressional Club. Where were those mem-

bership dues records kept? A. To which do you mean? The 14th or the complete State of Michigan?

Q. The 14th and the State of Michigan. A. They were both kept in my home.

Q. Kept in your home? A. In my home.

12145 Q. Why were they kept in your home?

MR. ABT: I object.

MR. BROWN: I will allow it. The witness may answer.

THE WITNESS: Helen Allison had told me that they did not wish records, membership records, dues records, kept at the district office because they might be searched.

By MR. DENUNZIO:

Q. When did she tell you that? A. She told me that just prior to my activity in registration. That would be about September of 1947.

Q. Do you know what was happening during that period of time whereby she thought it would be not safe to keep those records in the district party headquarters?

* * * * * * * * * * *

12146 THE WITNESS: I was told that that would be a security reason, in case the office was searched, because the Mundt-Nixon bill was up at that time and they were frightened that the office might be searched.

MR. BROWN: Who told you this?

THE WITNESS: Helen Allison told me that.

MR. BROWN: When did she tell you that?

THE WITNESS: At the Party headquarters sometime in September of 1947.

MR. BROWN: Very well.

By MR. DENUNZIO:

Q. Did these records remain in your home? A. For a short period until some of them were taken out.

Q. By whom and when were some of these records taken out, and under what circumstances? A. In Novem-

12147 ber, about the middle of November 1947, Phil Schatz came to my home, went through the files that I was keeping there, destroyed all trade union cards and any

lists of clubs that I had, except those which I had not tabulated as yet. He asked that I put those untabulated after they had been recorded in an envelope and keep them for him personally.

Q. Will you tell us who Phil Schatz was? A: Phil Schatz was the organizational secretary in 1947.

Q. At the time of that visit from Phil Schatz did he destroy or take away all of the cards in your possession? A. No. About a week later, ten days at the most, he came back to my home and destroyed all of the registration cards, that is, the individual card which gives the full status of an individual member. He destroyed those, and he also destroyed other records that I had, that is, membership names by the club.

Q. Did any records remain in your possession which had the names of Communists on them, the names of members of the Communist Party? A. No.

Q. Did Phil Schatz at that time tell you the reason for destroying the cards? A. He didn't for those particular people—

12148 Q. Give me the conversation. Did he tell you why he was destroying the records? A. Yes, he did. The number one reason was because they had received a membership card through the mail and the envelope had been opened. He said for security reasons he didn't want any data lying around.

Q. Mrs. Baldwin, during your membership in the Communist Party did you know a person by the name of Bill Allan? A. Yes, I do.

Q. Who is Bill Allan? A. He is a correspondent for the Daily Worker, and he was also Chairman or organizer for the Lower East Side Section of the Communist Party.

Q. Of what district? A. District 7.

Q. Did you attend a meeting in the early part of 1948 where he spoke? A. Yes, I did.

Q. Where was the meeting held? A. It was held at the Civic Center, Detroit.

Q. When was it held? A. About April.

Q. Did you attend that meeting? A. Yes, I did.

12149 Q. What was the purpose of that meeting? A. He outlined security measures for the Party.

Q. Tell us what he said at that meeting. A. He told us that all clubs should prepare to call emergency meetings and that the section itself should be supplied with mimeograph machines, mimeograph papers, and office supplies, and that no records were to be kept of members within the club or within the section, no telephone calls were to be made.

* * * * * * * * * * *

Q. Did he state anything as to what was to be done about dues collected, and so forth? A. Yes, he did. He said all moneys collected from the clubs or moneys raised

12150 by the section should be put in the bank under an individual's name, not under an organizational name.

Q. To your knowledge, pursuant to the advice given by Bill Allan, were any steps taken to secure machines and supplies, and so forth? A. Yes, there were.

Q. Tell us what steps were taken. I mean steps that have come to your knowledge, now.

* * * * * * * * * * *

THE WITNESS: Yes, about June or July of 1948 there was an emergency meeting called at the civic center by the lower East Side Executive Board. It didn't materialize into such a meeting. However, there were several people presented themselves there, and Oscar Rodes gave different members portable or collapsible mimeograph machines.

By MR. DENUNZIO:

Q. What kind of machines? A. Mimeograph machines.

Q. How many machines did you see there at that time? A. At that time I counted eight.

12151 Q. Eight. Do you know what was done with those machines? A. To those who were present it was given, mainly, in the auto workers.

Q. There were more than eight people present at that meeting, weren't there? A. No. Something happened. It didn't materialize.

Q. Can you give us the names of any persons, members of the Communist Party, who at that time received mimeograph machines and supplies?

* * * * * * * * * * *

THE WITNESS: Sven Falk, Ernie Sorensen, Harry Boskey. That is all I recall at this time.

By MR. DENUNZIO:

Q. Did you receive a machine? A. No, I did not.

Q. Were you told what use was to be made of these portable machines and supplies? A. The members get-
12152 ting them were told that—

* * * * * * * * * * *

Q. Were you present when they were told? A. Yes.

Q. You were present? A. Yes.

Q. Very well. Will you tell us what was told to these members receiving these machines as to what use they should make of them? A. Yes. They were to be put away and forgotten until they would be needed at any time that we would not be able to operate in the open, to be used for leaflets.

Q. After this meeting in April where Bill Allan spoke, did you attend any other meeting shortly thereafter concerning security measures? A. Yes, I did.

Q. What meeting? Tell us where and when it was held. A. In May of 1948 I attended a lower East Side executive board meeting at the Civic Center at which James Jackson gave us a security outline.

Q. All right. Before you tell us about that, what was the lower East Side section? A. It was a divisional section taking in all of the lower East Side and part of the northeast side membership of the Party.

Q. You state that James Jackson spoke at this
12153 meeting? A. Yes, I did.

Q. You were present? A. I was.

Q. Tell us what position James Jackson had in the district party? A. He was the educational director for District 7.

Q. What was the substance of his speech at that meeting? A. He stated that for security reasons the section itself was to be broken down into 50 groups, and that each group would function as a separate club.

Q. Approximately how many clubs did this east side section have? Can you tell us that? Do you know? Did it have many? A. Yes, it had quite a few.

Q. About how many would you estimate? A. About 12 or 14 at that time.

Q. Did you attend any other meetings shortly thereafter concerning security measures? A. Yes, the very next night.

Q. You attended another meeting? A. Yes.

Q. Where was that meeting held? A. That was the 14th Congressional Executive Board, which was held at

12154 4110 Haverhill, Detroit.

Q. Who spoke at this meeting? A. Peggy Wellman.

Q. What was Peggy Wellman's position in the district party? A. She was educational director for the 14th Club.

Q. Can you give us the substance of her talk that evening? A. Yes. She said for security reasons the lower east side section council had authorized the breaking up of each club into groups of five, and that was done that night.

Q. Mrs. Baldwin, you testified previously that in July 1950 the auto miscellaneous section was dissolved, isn't that so? A. That is right.

Q. Do you know the reason why it was dissolved?

* * * * * * * * * * *

Q. Were you told by any member or functionary of District 7 why— A. Yes, I was.

Q. —why the miscellaneous auto section was dissolved? Were you told by anyone why? A. Yes, I was.

12155 Q. Who told you? A. Oscar Rodes.

Q. What was Oscar Rodes' position in the Party at that time? A. He was organizational secretary at that time.

Q. What did he tell you? A. He told me that it was being dissolved for security reasons so that the auto workers could go into the community sections and clubs and lose their identity.

Q. Mrs. Baldwin, as a member of the Communist Party, District No. 7, did you know a member of the Communist Party by the name of Nat Ganley? I think you have already answered that previously. Tell us what position Nat Ganley had in the Party. A. In 1948, in the early spring when the auto miscellaneous was constituted, he became organizer for that section.

Q. Which section is that, please? A. Auto Miscellaneous Section. He also was a correspondent for the Michigan Worker and the Daily Worker.

Q. Shortly after the dissolution of the auto miscellaneous section did you attend a meeting where Nat Ganley presided? A. Yes, I did.

Q. Where was the meeting held and when?

* * * * * * * * * * * *

12156 A. Yes, it was in 1950, the summer, about August of 1950.

Q. Where was that meeting held? A. At Peggy Wellman's home.

Q. Did you attend the meeting? A. Yes, I did.

Q. What was the purpose of this meeting? A. Nat Ganley said that it was called for the purpose of organizing a completely new section called the Upper East Side Section, which would take in part of the Auto clubs of the Auto Miscellaneous Section, which had been dissolved, and would include the community club in that section, within that territory.

Q. Was he to hold any position in this new sec-
12157 tion? A. Yes, he was to be regional director and we were to have an organizational secretary.

Q. How was the section to be divided? A. All community clubs within that section would carry groups, not over five people, and in the shop branches they would have three members to each group, and no more.

Q. Did he state at that time the reason why there would be such small groups of individuals? A. Yes, it was a security measure so that too many people would not be gathered at one place.

Q. At this meeting were you assigned any position? A. Yes, I was assigned a leader of the group within my immediate territory.

Q. How many members did your group consist of? A. Four; five, with myself, I believe.

* * * * * * * * * * *

12158 Q. Did you thereafter function as the head of your group? A. Yes, I did.

Q. What were your duties as leader of the group? A. I contacted each individual member because I had been told at that meeting that we couldn't have group meetings. So I contacted the individuals and discussed their problems.

Q. Shortly after your appointment as a group leader, did you attend any meetings concerning the leadership of the Party district? A. Yes, I did.

Q. When and where was the meeting held? A. It was October, I believe the 18th, 1950, Oscar Rodes called me to his home.

Q. Who is Oscar Rodes? Tell us, please, again. A. He was the organizational secretary for this new section, upper east side section.

12159 Q. What transpired at this meeting? A. He told me that the Communist Party was establishing an underground apparatus and would have a reserve leadership, and I was to be one of those reserves, that I was bound to the decision that I must not contact any Communist Party members, attend any Communist meetings, or to contact anyone whi might be labeled a Communist, and that I should wait further orders and directives from some Party leadership.

Q. What was the date that you were told this by Oscar Rodes? A. October, I am sure it was the 18th, 1950.

Q. Have you since that date functioned as a part of the reserve leadership by staying away from Communist Party functions and Party members? A. With one exception, I have.

Q. This last meeting was held in October 1950. Have your since attended any functions or meeting when other members of the Communist Party were also in attendance? A. No, with one exception.

Q. What is that exception? A. That I attended a baby shower for Stephanie Allen in March 1951.

Q. Where was that baby shower held? A. It was
12160 held at Ike Greenberg's home on the West Side of the city.

Q. Were there other members of the Communist Party present there? A. Yes, there were.

Q. As a result of your attendance in March 1951 at this baby shower did anything happen? A. Just a few days later I was sharply criticized by Oscar.

Q. When you say sharply criticized, tell us exactly what happened? A. He telephoned me and said he was surprised that a person of my integrity had not abided by Party decisions by remaining away from Communist gatherings. He said that he hoped in the future I would abide by that decision.

* * * * * * * * * *

Q. After this incident of the baby shower has any member or functionary of the Communist Party contacted you? A. Yes. Immediately following my meeting with Oscar in his home the latter part of October, I was contacted.
12161 Q. October, what year is that? A. That would be in 1940, immediately following my meeting with Oscar.

Q. But before the shower? A. Yes.

Q. You said the baby shower was held in March. A. 1951.

Q. This incident is in April, did you say? A. No, the latter part of October.

Q. 1950? A. Yes.

Q. Now tell us what happened.

. . . . . .

THE WITNESS: Did I misunderstand you?

By MR. DENUNZIO:

Q. Yes, you did misunderstand, but give us this incident that took place in October 1950. A. The latter part
12162 of October 1950 I was called by a member of the Civil Rights Congress to participate in some typing.

Q. Who was this member of the Civil Rights Congress? A. Esther Boskey.

Q. Spell that name, please. A. B-o-s-k-e-y.

Q. Were you a member of the Civil Rights Congress? A. I was.

Q. When did you join the Civil Rights Congress? A. Some time of 1947.

Q. Will you give us the circumstances under which you joined the Civil Rights Congress? A. Yes. I was approached by Faye Gingold Grossman, the office secretary for district 7, to join this organization, and she gave me an application at that time.

. . . . . .

12163 Q. Let's clear up the record. By whom were you asked to join the Civil Rights Congress? A. By Faye Gingold Grossman, the District 7 secretary.

Q. When were you asked to join the Civil Rights Congress? A. Some time in 1947.

Q. As a result of that request did you join the Civil Rights Congress? A. I did.

Q. Did you attend any meetings of the Civil Rights Congress? A. Yes, I did.

Q. On the occasion of your attendance at these
12164 meetings did you see other members of the Communist Party there?

THE WITNESS: Yes, I did.

. . . . . .

Q. Directing your attention to the phone call made by Esther Boskey in October of 1950, will you please tell us the substance of your telephone conversation with her? A. Yes. She asked that I assist at the Civil Rights Congress office doing some typing for George Crockett.

Q. As a result of that request did you do any typing for George Crockett? A. No, I told her I would let her know later, and I checked with Oscar Rodes.

Q. When you say checked, what did you do, actually? A. I went and called him.

Q. Oscar Rodes? A. Yes.

Q. What did you say to Oscar Rodes? A. I asked him if I could assist with this typing, and he absolutely forbade me.

Q. He told you not to? A. Yes.

12165 Q. Did you? A. No.

Q. At this time you were underground? A. That is right.

* * * * * * * * * * *

Q. After the incident of the baby shower which was held in March of 1951 did any official or leader of the Communist Party contact you? A. Yes, in about June of 1951.

12166 Q. Who contacted you? A. Oscar Rodes contacted me.

Q. What was his position in the Party at that time? A. He was still to my knowledge organizational secretary for the upper east side.

Q. You were still a member of the Communist Party? A. Yes.

Q. Where did he contact you? A. At my home.

Q. What was the substance of the conversation between you and Oscar Rodes? A. He said that he was being forced to move and that he had a large box of Communist Party material and asked that I keep it in my home if I had a safe place to keep it.

Q. He said he had material, a large box of material. A. Yes.

Q. Did he tell you what kind of material it was? A. No, he didn't.

Q. Did he state why he wanted to put this box of material in your home? A. To keep it safe.

Q. To keep it safe. What did you say to him? A. I told him the only logical place I could think of would be in my attic. He said that would be fine.

Q. Did he state to you why it was necessary to
12167 keep this package of material safe.

. . . . . .

Q. Did he tell you what the contents of the material was? A. He wanted it reserved. That is what he said. He wanted it kept safe and reserved in case the home should be searched.

Q. What kind of records were these? Do you know what kind of records they were? A. No, he didn't tell me.

Q. Did he put those records in your home? A. He started to.

Q. What happened? Tell us exactly what happened. A. He went to the car and struggled with this large box and walked a couple of feet and returned to the car and came in very agitated. He said that a big black car had gone by with two gentlemen sitting in it, and he didn't wish to leave the box. It looked suspicious.

Q. So he did not store that package of material your house, is that so? A. That is right.

Q. Now, Mrs. Baldwin, I direct your attention to the
period of time between 1946-1949, when you assisted
12168 district headquarters in registering members and
collecting dues. During that period of time were any changes made in the method of recording membership and dues? A. Yes, there were.

Q. What changes were made, and when? A. Beginning with 1948 we were told that no records were to be kept of individual members—

. . . . . .

THE WITNESS: And that club payments, dues payments, were recorded and handed in to the District 7 headquarters as a whole. In other words, we turned the money in for the number of members paying and the months they were paying for. Once in a while when we would have a recruit we would hand in pertinent information as to the race, the type of work he did, and the age.

BY MR. DENUNZIO:

Q. Was a record kept of the membership by names? A. No. We used a score card.

Q. How long was that procedure for keeping records continued? A. Until now, to my knowledge.

* * * * * * * * * * *

12186 Q. Did you attend a meeting where there was a discussion in regard to the dissolution of the Communist Political Association? A. I did.

Q. Approximately when was that meeting held? A. It was approximately June 1, 1945.

Q. Who was the main speaker at that meeting? A. Carl Winter.

12187 Q. What was the subject of his talk? A. He said that we had been assembled for the purpose of discussing the Duclos article, Jacques Duclos' article, the French Communist Party.

Q. Was there a discussion of the Duclos article at that meeting? A. Yes, there was.

Q. Will you give us the substance of the discussion at that meeting that you attended? A. He wanted the membership to go on the theory that it was not Jack Duclos' own viewpoint—

* * * * * * * * * * *

12188 Q. Tell us as near as possible what was said at that meeting in regard to the Duclos article. A. Carl Winter said that the words of Jack Duclos in that article were not his own viewpoint but—

Q. When you say "his own"— A. Jacques Duclos' own viewpoint.

Q. But what? A. But it was rather the European Communists' viewpoint of the American Communist Party, and that the Daily Worker in several days hence would carry a resolution on the task of the Communist Party Political Association.

Q. Thereafter did an article appear in the Daily Worker concerning the Duclos article and the next tasks of the Communist Political Association? A. Yes.

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12213 Q. Mrs. Baldwin, I show you Government's Exhibit which has been identified as No. 395, which purports to be a discussion outline of the history of the Communist Party of the Soviet Union, and the Exhibit 395(a), which appears to be a handwritten note addressed to Toby dated 6-20—the other numeral is obliterated—49. I ask you whether or not you have ever seen that discussion outline and this note. Can you identify those two documents for us? A. Yes, I can.

Q. First, what purports to be the discussion outline, where did you see that? A. The stencils were brought in to the District 7 headquarters and left with this note from Ann Cook giving me instructions as to running this off on the mimeograph machine.

Q. So you ran this outline on the History of the Communist Party of the Soviet Union on the mimeograph machine, is that right? A. Yes, I did.

• • • • • • • • • • •

12214 Q. What use was made of this outline? A. I ran several copies off, and they were to be used in the course on the history of the CPSU. They are instructors' guides and questions.

Q. Instructors' questions? A. Yes.

Q. What use was to be made by the instructors of these questions?

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THE WITNESS: They were used in the discussion of the course.

By MR. DENUNZIO:

Q. During the time that you attended classes in which this course was taught did your instructor use this outline? A. She did.

. . . . . .

12215 By MR. DENUNZIO:

Q. I don't know whether you have testified to this already or not. When was this outline mimeographed by you? A. This was mimeographed by me some time in June of 1949.

Q. For use in class? A. Prior to the starting of the fall term, yes.

. . . . . .

12229 Q. Did you use any textbooks while you attended the last two schools? A. Yes.

Q. Will you please tell us what textbooks you used? A. We used the main textbook, which was the "History of the Communist Party of the Soviet Union." We also used Foundations of Leninism by Stalin. We used Leninism by Stalin and "What is to be Done."

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12244 Q. Mrs. Baldwin, I show you Petitioner's Exhibit which has been identified as No. 398, which purports to be a pamphlet, booklet entitled "Background of the Berlin Crisis, a Speakers' Guide, Issued by National Educational Department, Communist Party, 35 East 12th Street, New York City," and I ask you whether or not you can identify that booklet for us. A. Yes, I can.

Q. When did you last see that booklet? A. District 7 headquarters.

Q. Did you have a copy of it? A. I did.

12245 Q. Where did you get it? A. It was in my mail box at the headquarters office.

Q. Who put it in your mail box? A. The office receptionist.

Q. For what purpose was it put in your box?

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THE WITNESS: Yes, all speakers' guides and anything of an educational nature was left for the office per-
12246 sonnel and all club functionaries, all the leadership.

By MR. DENUNZIO:

Q. What use did you make of this pamphlet? A. This pamphlet was left so that I would have the correct answers for any question that might arise under the Berlin crisis.

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12283 Q. Mrs. Baldwin, as a result of your membership in the Communist Party and as a result of your attendance at Party Schools and various meetings and lectures held by the Communist Party in District No. 7, what is your understanding of the aims and objectives of the
12284 Communist Party of the United States?

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THE WITNESS: During the period I was in the Communist Party, the schools I attended, through those I was taught that socialism was the ultimate goal of the Communist Party of America, and that imperialism must be overruled, and since the American imperialists were the leading imperialists, they must be liquidated.

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12296 CROSS EXAMINATION

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By MR. MARCANTONIO:

12440 Q. After October 18, 1950, you stopped being active in the Communist Party, is that correct? A. Yes.

Q. That was a result of a conversation you say you had with Oscar Rodes? A. Yes.

Q. Will you tell us again just what that conversation was, what you said and what he said? A. He told me that

the Party was establishing a reserve leadership. In other words, it was an underground apparatus. That they would want a reserve leadership in case the present leaders would be picked up or jailed, and that this reserve leadership would become inactive, and I was one. I was not to contact Party members, not to associate with Party members or to attend any meetings or to associate myself with any one who could be labeled a communist, and that I was to wait further word from the leadership as to my activity.

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12521 Q. All right, coming back to the June meeting, how long did Carl Winter speak? A. I couldn't tell you exactly in minutes.

Q. Do you recall what he said. A. Yes.

Q. Would you say he spoke an hour or a half hour? Can you give us any idea at all? A. Oh, I would say 15 or 20 minutes.

Q. All right. Will you tell us what he said? A. During that period he touched lightly on the Yalta and Teheran agreements, and then he went into the Duclos article, stating that this was not the viewpoint of the French Party, it was not Duclos' own viewpoint of the French Party of the American Party, but it was European Communists' viewpoint of the American Communist Party.

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12690 **John Edward Janowitz** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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By MR. PAISLEY:

12727 Q. Mr. Janowitz, during your membership in the Communist Party Reliance Club did you pay dues? A. I have paid dues.

Q. How were they collected? A. They were collected by the Secretary of the Club.

Q. When? At the club meetings? A. At the club meetings at different intervals. They were supposed to be collected at every meeting, but sometimes they wouldn't be collected at one meeting and they would be collected at another meeting.

Q. Is this method still in use? A. The method is still in use, except that it is modified from what it was before, where we received a stamp years ago to show our membership paid up. Then in 1949 we did not receive any stamps or anything, or did not receive any books. All we did was receive a receipt for our membership. Later on in 1950 we did not even receive a receipt for our dues.

Q. Do you remember a meeting in the home of Charlie Eimer, secretary of the club, some time around 1949
12728 when the subject of membership dues was discussed? A. That is correct.

Q. Did anybody make any statement about it? A. I believe it was 1949 the discussion was that for security reasons there wouldn't be any stamps given out, that all we would do was pay dues and get a receipt, and when we received the receipt we tore it up. Then later on in 1950 we got away from that, and then it was decided that we would not pay dues even in that manner, we would be paying dues and each member was assigned a number, and the dues would be credited to that number.

Q. Were you given a number? A. I was given a number then. I was given No. 4, I believe.

Q. To whom did you pay your dues after you were assigned a number? A. To Charles Eimer, the secretary of the club.

Q. What kind of record would he keep of your membership? A. That I don't know. All I know is that when we paid our dues, I think it was 20 cents would be reverted back to the club and from that 20 cents material would be bought, that is, party material would be bought and distributed.

Q. When was the last time you paid your dues? A. I think in September 1951.

12729 Q. For what period of time would that cover?

A. We have always paid—I paid most of my dues on a three-month basis. That would probably cover—well, let's say, August, September, and October, probably. I don't remember what it would cover, but I know I paid my dues then.

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12731 Q. Mr. Janowitz, I hand you a document a photostat of which has been marked Petitioner's Exhibit 412, which purports to be an issue of For a Lasting Peace for a People's Democracy, Friday, March 10, 1950. Have you ever seen it before? A. This was given to me by Martin Chancey at Charley Eimer's house at a meeting in April 1950.

Q. You say in April. A. In April, yes.

Q. Did you receive any other document at that time? A. Yes, there was another pamphlet I received at that time.

Q. Do you remember what it was? A. I believe it

12732 was New—I can't remember the name right offhand.

Q. Do you remember seeing the document I place before you? A. Yes, I received that New Times at the same time.

MR. PAISLEY: Mark that please.

(Document produced and marked for identification Petitioner's Exhibit 413.)

MR. PAISLEY: The issue of New Times has been marked Petitioner's Exhibit 413.

By MR. PAISLEY:

Q. Is that your handwriting up there or whose handwriting is that? A. That is my handwriting.

Q. What, if anything, did Chancey say about these documents? A. Just what he always said: Read it, study it, and pass it on.

Q. Did he say that just to you or to others? A. No, everybody. Every time we got any literature that was what was said.

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12755 Q. Mr. Janowitz, do you know a man by the name of Sam Reed? A. Yes, I did.

Q. Did he have any position in the Communist Party out there in Cleveland? A. He attended all the meetings and to me he was known as the labor party chairman of Cuyahoga County, the labor representative of the party in Cuyahoga County.

Q. Of the Communist Party? A. Of the Commun-

12756 ist Party.

Q. Do you recall when your last saw Sam Reed? A. The last I saw Sam Reed was June 22, 1951.

Q. Can you recall where it was and the circumstances? A. That was at James Marino's home.

Q. In Cleveland? A. In Cleveland.

Q. Do you recall who were present? A. Present at that meeting was Charles Eimer, myself, James Marino, and Sam Reed.

Q. Was it a party meeting? A. It was a party meeting.

Q. Who was in charge? Who acted as the chairman? A. Sam Reed took charge of that meeting.

Q. Did he make any statements to you men assembled there? A. Yes. He said that the Party was going underground and that any books lying around loose should be put away and stored in storehouses, warehouses if there were too many of them, and that nobody was to call any Party functionaries on the telephone at any time and that no more than two of the group shall meet at any time. He said that if he was to be arrested, somebody else was being groomed to take his position.

Q. Did he say anything about the Daily Worker?

12757 A. Yes. He said that there would be no subscriptions taken or anything, and that the Party members should get active in church groups and everything and just carry on from there as such and not meet more than two at a time, and not to meet at any Party member's homes at all.

12758 Q. Mr. Janowitz, in view of that objection do you recall whether or not Reed gave you men any reason for this action that was contemplated? A. He said for security reasons the Party was going underground. Those were the reasons that were given.

Q. Have you attended any Communist Party conventions? A. Yes. I attended one in 1950, state convention.

Q. Do you remember about what time of the year?

12759 A. I believe it was about the 17th of December.

Q. 1950? A. 1950.

Q. You say it was a state convention. A. That is right.

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12760 Q. Do you recall any statements made at that time or speeches by Lumer? A. Some reports were given and Lumer gave a report on getting people to subscribe to the magazine, March of Labor. That was to be the number one job to be pushed through the unions and through the plants. There was more action taken there. I and Fred Haug were to represent the Party in going out and getting new members, and that was to be done by the other Party members giving us the names of people who were either interested or sympathetic to the Communist Party, and to go out and speak to them and try to convince them to join into the Party.

Q. You mean that they were wanting you to get new members for the Party or for the labor organization? A. That is right.

Q. For the Party? A. That is right.

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12763 Q. You attended this convention as the alternate in the place of Helen Gallo, did you? A. That is correct.

Q. How did you know how to get to the place where it was held?

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THE WITNESS: At this meeting on Saturday, the day before the convention, no one was given the address of that meeting and no one knew where that meeting was to be held. It was said that for security reasons the address would not be given, that the address would be given only at the time that the delegate was ready to go to the meeting and he would be taken there. The address was not given where this meeting was to be held.

By MR. PAISLEY:

Q. Do you recall where it was actually held? A. It was held at 112th and Buckeye at the Hungarian Work-
12764 men's Home.

Q. Were you given any instructions at that meeting as to how you were to learn where the place was and how you would get there? A. Saturday night after this meeting I was called by Sam Reed and he said that Helen Gallo, who was the delegate, could not attend, and that I was to meet him Sunday morning at 105th and Superior and he would take me to the meeting.

Q. Was it held on a Sunday? A. It was held on a Sunday.

Q. How long did it last? A. It lasted all day.

Q. About how many delegates were there? A. I would say about 60 delegates were there.

. . . . . .

12789 Q. Do you know a person by the name of Sid Stein? A. Yes, I have met Sid Stein.

Q. When and where did you meet him? A. I met him in the spring of 1951 at James Marino's home.

Q. In Cleveland? A. In Cleveland, Ohio.

Q. What were the circumstances? A. The circumstances were a party meeting was called at Marino's home, and Sid Stein came into that meeting with Phil Frankfeld.

Q. What position did Frankfeld hold in the Party, if any? A. He was the chairman of the Party in Ohio at that time.

Q. Were others present? A. Present were myself, Herbert Hirschberg, James Marino, Sid Stein, Phil Frankfeld. There

were others that I don't remember now offhand.

Q. What transpired on this occasion? A. Sid
12790 Stein told us the part that labor had to do as leaders in labor organizations, that we, regardless of what happened, had our job to do, to go out there and do the job that was given us. He also raised the question that if the locals go what they call the right wing of the IUE we should do everything in our power to go ahead and get into the leadership of these locals; wherever IUE comes in, to strive and try to be elected to the elective offices in these locals in the IUE. He said he had already met some of the locals who had gone to the IUE and talked to these people, and that that was the number one job for the Party.

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Q. What position, if any, did Stein hold in the Communist Party when he was telling you people that? A. Stein was the National Labor Organizer for the Communist Party.

Q. Where did he live, do you know? A. I don't know where he lived.

12791 Q. Was he a Cleveland man? A. To my knowledge, no.

Q. Mr. Janowitz, tell the Panel what the situation was at that time with reference to the IUE and the UE.

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12792 A. There were some locals who had seceded from the UE and went to the IUE, and Sid Stein said that these Party members who were in the UE when the local had gone IUE should strive for positions of leadership in that local to carry out the Party's duties in those locals.

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12799 Q. Have you ever seen Gerhard Eisler in this country? A. I have heard Gerhard Eisler speak once at a Civil Rights Congress in Cleveland.

Q. In Cleveland? A. At Cleveland Music Hall.

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12800 Q. Was it in 1950? A. It could be 1949 or '50.

12812 Q. Mr. Janowitz, the question was, from your experience in the Party during this period of approximately eight years, what did you learn were the objectives of the Communist Party in the United States of America?

THE WITNESS: My observations were that the Communist Party is the vanguard and that Communism and capitalism can not live in this world, that capitalism must go, that the Communists who are the vanguards of the masses must take advantage of every opportunity that arises to lead the masses, whether it be through depressions or strikes or anything else, to be the leaders of any movement that
12813 unites the masses for that purpose.

By MR. PAISLEY:

Q. For what? A. For the purpose of getting rid of the capitalist system in America.

12818 Q. Mr. Janowitz, what did the Communists teach you that they would do when they were successful
12819 doing away with capitalism in this country? A. The answer is, to replace capitalism it would be replaced with communism.

CROSS EXAMINATION

By MR. MARCANTONIO:

12837 Q. The UE at that time was a CIO union, was it not? A. That is right.

Q. At that time it was the firm policy of the UE and the CIO to promote the winning of the war, wasn't it? A. That is true.

Q. As a matter of fact, the UE and the CIO had subscribed to the non-strike pledge for the duration of the war, had they not? A. And that was adhered to.

Q. At the time you became organizer you had no way of knowing whether or not you would ever be invited to join the Communist Party, did you? A. No.

Q. As a matter of fact, you did not join the Communist Party until August 1943, months afterwards? A. That is correct.

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12992 **Harvey M. Matusow** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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By MR. SHEEHAN

12993 Q. Can you tell the Panel under what circumstances you first became interested in the Communist Party? A. Through my contacts in the American Youth for Democracy, which I joined in 1946 there was some Communist Party members in that club Roosevelt, the American Youth for Democracy, which I was a member of. One Jules Sheik was a member of the Party, and during the late spring and summer of 1947 invited me to join the Communist Party. However, I didn't do so at the time.

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13005 Q. Mr. Matusow, did you have any part in the arranging of meeting places for Party meetings during the time you were a member?

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THE WITNESS: Yes, I did. When I was operating the switchboard at the New York County headquarters of the Communist Party, 35 East 12th Street, on more than one occasion either Ernie Parent, Joe Bucholt, B-u-c-h-o-l-t, who was then one of the State officers of the New York County Youth Commission of the Communist Party, would ask me to contact one of two people, either Art Saha, S-a-h-a, or Jack Walkenstein, W-a-l-k-e-n-s-t-e-i-n, contact either of those two people for the purpose of obtaining their apart-

ment on the East Side of New York for meetings to be held by the Communist Party Youth Commission, and I
13006 complied with that. As I say, on more than one occasion I received the key to either one of those apartments and made arrangements for certain members of the Youth Commission to get to the meeting place. I was also instructed to tell either Mr. Saha or Walkenstein that they were not to be present in their homes during a specified period of time.

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Q. Will you tell us who Mr. Saha was? A. At that time Mr. Saha was the section organizer for the East Side section of the Communist Party, Youth Section of the Communist Party.

Q. Who was Mr. Walkenstein? A. He was the Chairman of the Ray Friedlander Youth Club of the Communist Party.

Q. Do you know how long these meetings took place in this manner while you were a member of the Communist Party?

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13007 THE WITNESS: During the period 1949 and as late as December 1950.

By MR. SHEEHAN:

Q. How do you know that the meetings took place during that period? A. I was at Mr. Saha's place in December of 1950 just after the adjournment of one of these meetings. I was told by Mr. Saha that the meeting had just concluded.

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Q. Mr. Matúsow, were you told the reason for keeping these meetings secret?

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13008 Q. Were you told the reason for keeping these meetings secret?

MR. ABT: I object.

MR. BROWN: Overruled. You may answer.

13009 THE WITNESS: Yes. There were certain people

who were in youth organizations that were not Communist youth organizations whose identity was to be kept secret, that is, their party membership was to be kept secret. Also, the purpose of the meetings away from Communist Party headquarters was that they did not want to hold these meetings because they felt that there was wire tapping and other means of surveillance on the meetings and that by holding the meeting away from Communist Party headquarters they could keep their business and the identities of those present unknown, in that one case it was told to me, to the FBI.

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By MR. SHEEHAN:

Q. Mr. Matusow, did you arrange for meetings in any other manner than the manner which you have described? A. Yes. When I was working for the Communist Party County Headquarters as switchboard operator on more than one occasion I was informed by Mr. Parent, whom I have mentioned before, and Mr. Buchold, to obtain a meeting hall in one of the many places where you could rent meeting halls, such as the Malan Studios, in New York City, for the purpose of a Communist Party meeting, but I was to tell them that it was for some group which never existed, to use some name that we just made up at the time rather than Communist Party Youth Commission or Communist Party leadership meeting.

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13010 Q. When you were working in the New York County office of the Communist Party did you have any knowledge of how correspondence was kept there? A. In 1949 when I was working there a system of burning messages was instituted, in that on every desk in the County office a tin can was kept and any messages that had names, addresses or phone numbers on it were burned right after they were read.

Q. Do you know how long this took place while you were a member of the Party? A. In January 1951 during the

hearings for my expulsion from the Communist Party I observed Joe Buchold, who was one of the people conducting the interrogation, burning messages by the same procedure that I have just mentioned. He had a tin can on his desk, and he kept burning them.

Q. Do you know Clara March Lester? A. Yes, I do. She was county membership director of the New York County Communist Party when I worked there in 1949.

Q. Did you have any official contact with her? A. Yes, I did.

Q. Do you recall any specific contact you had with her?

A. It wasn't specific. In April 1949 I was at the
13011 switchboard at the County Headquarters. She came down to the office and told me if I had any address books, any names, phone numbers, personal stuff, that I was to burn it or destroy it right then and there, and that we would not carry any names or addresses around with us at Communist Party national headquarters or county headquarters.

Q. Did she tell you why these instructions were given? A. Just that in case I was ever picked up by the police or anybody I would not be in a position to jeopardize any of the other members of the Party and let their names and addresses be known.

Q. Now, I would like to direct your attention back to the year 1948. Was there any change in the organizational setup of your Communist Party clubs at that time? A. Yes, there was. In September 1948 at the Ray Friedlander Youth Club of the Communist Party instructions came down from the county office that we were to establish a group system in the club rather than hold meetings of—I believe our membership was then 36 people, of all 36 people. We would hold group meetings of between three and five people. Each member of the executive committee plus a few designated group leaders would head specific groups, and people in the group would know only their group leader or the other group leaders, but were not to know who the other members of the

Party were who were not serving in the capacity of
13012 group leader.

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13013 Q. Regarding the Labor Youth League, do you know when it was organized and the circumstances surrounding the organization?

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THE WITNESS: The Labor Youth League was organized in Chicago on Memorial Day week-end in 1949.

13014 By MR. SHEEHAN:

Q. How did you know about the organization? A. I was a charter member of the Labor Youth League. I joined it in June 1949. Prior to that in meetings of the Communist Party Youth Clubs and Youth Sections in New York County we discussed the necessity for building a new Marxist-Leninist youth group along the lines of the old Young Communist League, and the decision we discussed on the basis of an article that had appeared, a report given to the 14th Convention of the Communist Party in 1948. For a period of months from December 1948 to May 1949 we discussed the setting up of a new Marxist-Leninist Youth Organization, which was the Labor Youth League.

Q. Were you told by any officials anything about how the name Labor Youth League was chosen for the organization?

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THE WITNESS: Yes. When I was on the New York State Executive Committee of the Labor Youth League, serving as a literature director, in meetings with Leon Wofsy, who was Chairman of the Labor Youth League, and Chairman of the National Youth Commission of the Communist Party, Julian Lowitt, Lou Diskin, and Joe Buchold, I was told in these meetings that the reason Labor Youth League was chosen as the name rather than Young Communist League
because they said if we left the name Communist
13015 out of the name of the organization we would be less

subject to prosecution under the Smith Act or any future legislation. They told me at these meetings that the reason we left the name Communist out of it was that we wanted to avoid any prosecution in the future.

By Mr. Sheehan:

Q. Did you hold any offices in the Labor Youth League? A. Yes. I was the first state literature director of the New York State Labor Youth League and served as acting national literature director because they didn't have one, and at that time was on the New York State Educational Committee of the Labor Youth League and the New York State Executive Committee of the Labor Youth League. That was from September 1949 to January 1950.

Q. What were your duties as literature director? A. To disseminate literature put out, distributed by the Labor Youth League to the membership in conjunction with the educational program.

Q. Do you know where the literature came from that you disseminated? A. Yes. The Communist Party Wholesale Book Corporation, its distributing house, at 35 East 12th Street, gave us a $500 credit for literature to be purchased from them, literature from International and New Century Publishers.

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13016 Q. Did you have any duties on the educational committee of the Labor Youth League? A. Yes, I did. That was in the preparation of study outlines for the dissemination of Marxist-Leninist study outlines to
13017 the membership, and my specific duty was to prepare bibliographies of reading material, such as we set up a program of a book of the month in the League. In October 1949 our book of the month was the "Twilight of World Capitalism," by William Z. Foster. In November of 1949 our book was "The Tasks of Youth," by Stalin. In December it was "The Young Generation," by Lenin. Those are the only three titles I remember at this time, but that book of the month was carried forward.

Q. Did your duties there have any connection with labor youth league rallies that were held from time to time, if there were any such rallies? A. One in particular was on November 19, 1949, at the Hotel Capitol, in New York, where it was a general membership meeting of the League. We set up a literature table there and sold a great deal of literature to the membership, the three books I have mentioned plus others. At all county and state affairs of the Labor Youth League literature tables were set up ahead of the meeting for distribution.

Q. Mr. Matusow, you testified you were a member of several Communist Party Youth Clubs. You were also a member of the Labor Youth League. Did you hold membership in these clubs and the Labor Youth League at the same time? A. Well, I maintained membership in the Communist Party until January 1951, but when the Labor Youth
13018 League was formed the plan was, and it was carried out, to disband all the Communist Party youth clubs, transfer all the members of the Communist Party Youth clubs into the Labor Youth League in that same area. The members who were transferred to the Labor Youth League would be assigned to Communist Party community clubs for administrative purposes, that is, dues paying purposes. Their Communist Party leadership and Marxist education was obtained in the Labor Youth League.

Q. Did you in your position on the educational committee receive any orders to carry out policies of the Communist Party?

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THE WITNESS: Yes, we did. At meetings of the executive committee of the Labor Youth League. Sam Engler, E-n-g-l-e-r, for instance, who was the New York State Educational Director of the Labor Youth League, was also a member of the New York State Educational Committee of the Communist Party, and would receive material and information at the New York State Educational Committee of the Communist Party meetings, and disseminate those to the Educa-

tional Directors of the Labor Youth League, who in turn would set up the Educational program as it was set up at the Communist Party. For certain political action Joe Buchold and Lou Diskin, who were the two state leaders of the Labor Youth League, who I worked with, at-
13019 tended meetings of the New York State Executive Committee of the Communist Party, and would receive instructions as to political action to be taken by the Labor Youth League. They would in turn disseminate these instructions to use at the Executive Committee meetings and to the various county organizations.

By Mr. Sheehan:

Q. Do you know if there was any relation between the labor youth League and the Communist Party of the United States?

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The Witness: Yes, there was. The leaders of the Labor Youth League that I have just mentioned, Leon Wofsy, the Chairman of the Communist Party Youth Commission, was chairman of the Labor Youth League. Lou Diskin, who was Chairman of the New York State Communist Party Youth movement, was Chairman of the New York State Labor Youth League. Ernie Parent, who was New York County Youth Organizer for the Communist Party, became the first county organizer of the Labor Youth League. Art Saha, who was New York County Educational Director of the Communist Party Youth group, became the New York County Educational Director of the Labor Youth League. At its inception in 1949 all the leaders of the Communist
Party Youth movement in New York just trans-
13020 ferred to the Labor Youth League and held corresponding positions and did receive their instructions from the Communist Party. I also was a member of the Communist Party and just moved to the Labor Youth League. There was no divorcement.

By Mr. Sheehan:

Q. You mentioned the World Federation of Democratic Youth previously in your testimony. What relation, if any, did the Labor Youth League have to this organization?

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The Witness: The Labor Youth League was one of the organizations in the United States that was part of the World Federation of Democratic Youth. When I was literature director of the Labor Youth League in New York State we published material that we received from the World Federation of Democratic Youth. We stated that we were affiliated with that organization. Our members wore their buttons—

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13021 The Witness: I believe the members of the League did wear the membership button of the World Federation of Democratic Youth.

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13022 Q. The question is: Do you know if the World Federation of Democratic Youth had any relations with the Communist Information Bureau? A. In 1949 at a meeting of the New York State Executive Committee of the Labor Youth League Lou Diskin gave a report on the meetings he had held in Budapest, Hungary, with certain people in the World Federation of Democratic Youth, and also of meetings he held with J. Peters in Budapest in 1949. He had gone there to attend the World Youth Festival, conducted by the World Federation of Democratic Youth, and stayed in Budapest to deliver some reports on the American Youth Movement to that group, to the Cominform representatives, he stated, and later reported back to us that he had held these meetings.

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13023 Q. Did you have anything to do with the sales of the Sunday Worker during your period in the Party, Mr. Matusow? A. Yes, I did.

Q. Will you tell us what your work consisted of in this regard? A. In 1949, from September 1949 I became the press director of the Ray Friedlander Youth Club of the Communist Party, and in that job processed subscriptions to the Sunday Worker that were obtained by members of the club. On many occasions there were members who had bought subscriptions to the Sunday Worker, which were processed by me, who did not want the paper going to their homes. They received the paper by having the subscription sent to the section headquarters of the Communist Party, and on Sunday morning those papers were hand delivered to these individuals.

Q. How do you know the papers were hand delivered to the individuals? A. On more than one occasion I took part in the delivery.

Q. Do you know why they did not want their iden-
13024 tity known? A. The reason for it was that they stated that in the event of the passage of the Mundt bill or any legislation against the Communist Party it would be better if their identity were not known, so they could continue to work as Communists.

Q. Do you know how long this method of delivery prevailed while you were in the Party? A. My last personal contact with that method of delivery was in December 1950.

Q. I direct your attention to July of 1949. Will you tell the Panel what your job in the Party was at that time? A. In July of 1949 I was the manager of the Camp Unity bookshop at Camp Unity, in Wingdale, New York.

Q. Were there any Communist Party meetings held there? A. Yes, there were.

Q. Did you attend these meetings? A. Yes, I did.

Q. Were these meetings open to all the personnel at the camp? A. All Communist Party members who were employed at the camp.

Q. Were they open to persons other than Communist Party members? A. No, they were not.

13025 Q. Were any other people besides the guests of

the camp present on the camp grounds at any time? A. No.

Q. Were any measures taken to see that no other people were present on the grounds? A. Yes, there were. There was a security setup initiated in the summer of 1949 whereby the male Communist Party members at the camp throughout the night toured regular shifts of guard duty at various places in the camp to see that nobody obtained entrance to the grounds who was not a guest at the camp. The reasons given were that we did not want anybody present who might identify certain people as having been at the camp and obtaining license plate numbers of cars, and the like.

Q. I would like to call your attention to the summer of 1950. Did you at this time contemplate a transfer of your membership between clubs of the Communist Party? A. Yes, I did.

Q. What transfer did you contemplate? A. I had obtained a job in Los Angeles, California, and contemplated transfer from New York to Los Angeles. I had contacted Joe Buchold, who was the acting state chairman of the Labor Youth League at the time, and told him about it, and he informed me that I would have to make arrangements for my transfer at the County Headquarters of the Communist
13026 Party. He accompanied me to the County Headquarters, where I was given a serial number from a dollar bill which I had, and gave that serial number to the security officer there. I didn't know his name at that time. I was told that when I got to California I would contact a certain person, and that serial number would match with one which that person had received and that would identify me as the correct person being transferred.

Q. Do you recall the last time that you had any contact with this procedure for transferring membership?

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THE WITNESS: Yes. In December and January 1950 I had returned from New Mexico. I had never gotten to California. While in New Mexico, I requested that my member-

ship be transferred to New Mexico. I contacted Joe Buchold and asked him whether or not I was to use that same number in getting my transfer to New Mexico. He stated that they were investigating some discrepancies, as he put it, in my activities, and I would just hold on to it.

Q. Did he give any indication that this procedure was still being used at this time? A. He stated it was, but that the number I had, just hold on to the number, and if I were cleared, continue to use it, and if I were expelled
13027 from the Party, as he intimated, forget about it.

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13029 Q. Do you know Mr. Ben Bordofsky? A. Yes, I do.

Q. Who is he? A. He was the manager of Wholesale Book Corporation at 48 East 13th Street. When I knew him he was state literature director of the Communist Party, New York State.

Q. Did you have any business contact with him? A. Yes, I did, when I was an employee of the Jefferson Bookshop and Workers Bookshop and the Camp Unity Bookshop, I was employed by Mr. Bordofsky.

Q. What relations, if any, did the bookshops that you have referred to have to the Wholesale Book Corporation? A. They were run by the Wholesale Book Corporation, and all checks and finance transactions that the bookshops conducted had to be approved and signed by Mr. Bordofsky.

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Q. Before the recess you identified, Mr. Matusow,
13030 a Mr. Ben Bordofsky. Did you ever have any business contacts with him? A. Yes, I did.

Q. Did he ever talk with you regarding how he received books from the Wholesale Book Corporation? A. Yes, he did.

Q. Will you tell us what he said and when and where? A. At the office of Wholesale Book Corporation on more than one occasion Mr. Bordofsky stated he had received copies of the newspaper For a Lasting Peace, for a People's

Democracy; New Times, a weekly news magazine published in the Soviet Union; copies of Soviet Literature, a cultural publication published in the Soviet Union.

Q. What I am getting at is how they were received, that is, by what means they were transported, how they were paid for, if they were, or what.

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THE WITNESS: Mr. Bordofsky stated that these publications were received without cost except for certain duties that had to be paid when they came through customs.

MR. MARCANTONIO: May we have when and where that conversation was held, Mr. Chairman?

MR. BROWN: Yes, surely. When and where was
13031 this held?

THE WITNESS: The conversation was held in the fall of 1949 when I was an employee of the Workers Bookshop and of Mr. Bordofsky. It was held on the fourth floor of the Communist Party headquarters in New York, which was the office of the Wholesale Book Corporation, of which Mr. Bordofsky was the head.

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By MR. SHEEHAN:

Q. Did you discuss the receipt of books from the Soviet Union with any other officials whose duties had to do with the receipt of books? A. Yes, I did.

Q. With whom did you discuss it? A. During the same period of time at the same office, the Wholesale Book Corporation, I discussed the question of books being received from the Soviet Union with Mr. Alexander Trachtenberg, who at that time was head of International Publishers and the over-all boss of the Wholesale Book Corporation and the book shops. He told me that for certain books they had received plates, book plates and English translations of
books from the Soviet Union, as well as on more
13032 than one occasion they had received the actual page proofs for the pages for a book, which International Publishers only put the binding on. One he referred to in

particular was the Selected Works of Lenin, one edition of the Selected Works of Lenin.

Q. You said they received the plates and translations, I believe. A. That is correct.

Q. I didn't get this. Did he mention how these were paid for, if they were? A. There again any duties that had to be paid through customs were the only cost for these translations and plates.

MR. ABT: Mr. Chairman, I move to strike that conversation on the grounds again it is complete hearsay.

MR. BROWN: Motion denied.

MR. SHEEHAN:

Q. Is this the same Alexander Trachtenberg who is now under indictment in New York under the Smith Act? A. It is.

Q. I direct your attention to the year 1949. Do you recall discussing any trips abroad with any Party officers at that time? A. Yes, when I was an employee of the Workers Bookshop I discussed with Miss Elizabeth Gurley Flynn the trip she had just taken to France to attend the 80th Birthday Party for Marcel Cachin, I believe it is C-a-c-h-i-n,
13033 a French Communist leader. In the course of conversation at the bookshop she told of a meeting she had held with other Communist Party members of European countries at this affair in Paris.

Q. Did she say what was discussed at this affair, in meeting with other members? A. The question of Party organization and the question of, again I use the quote, the imperialist war being started by the United States, unquote, and what to do about it, what the role of the American Communist Party is in that question.

Q. Did you discuss with any other officers of the Party any trips abroad? A. I have mentioned previously having heard a report by Lou Diskin, the State Chairman of the Labor Youth League on his meeting in Budapest, Hungary, with various Communist Party people, one J. Peters, and leaders of the Communist Youth movement in Hungary and other European countries.

Q. Do you recall when you heard about this trip? A. Upon Mr. Diskin's return to the United States in the fall of 1949.

Q. Where did that conversation take place? A. At a meeting held in the office of the Labor Youth League at 799 Broadway, New York City.

Q. Did Mr. Diskin state what was the purpose for
13034 his going abroad at that time? A. The purpose of his going abroad was to attend the World Youth Festival held in Budapest, Hungary, in 1949 after the festival to have certain discussions with Party leaders over there as to the role of the American Communist movement.

Q. Do you recall discussing the attendance at Communist Party schools abroad with fellow Party members?

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THE WITNESS: Yes. With one Art Saha, who had been very active in the Finnish movement of the Communist Party. He told me he had been recommended to attend a Communist Party leadership school in Helsinki, Finland. This was in September 1948, and he said he had been recommended—I didn't get the last name, but it was Carl, the head of the Finnish movement in the New York area of the Communist Party. In 1950 again Mr. Saha said he had been recommended to go to that school. That was in December 1950.

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Q. Did he tell you in your discussions with him what was the purpose of the school operated in Finland? A.
13035. He stated that it was a leadership training school for Communist Party members, a Finnish Communist Party school, but the purpose of the attendance of an American Communist was to prepare them for work in Finnish Concentrations, organizational work in the Party among the Finnish nationals in the United States.

Q. I direct your attention to the summer of 1950. Will you tell the Panel what you were doing at that time? A. In July of 1950 I left New York and established residence in New Mexico, Taos, New Mexico, and in July was a guest at the San Cristobal Valley ranch at Taos, New Mexico.

Q. Do you recall any of the activities that went on at the ranch? Did you take part in any meetings there? A. Yes, I did. While in Taos, New Mexico, I was a member of what was called AMNA, American Mexican National Association, as well as the Communist Party, and the San Cristobal Valley Ranch was the center of these activities. I had been invited to go to the ranch by Mrs. Jennie Wells Vincent, who I had met in New York the preceding years.

Q. Can you tell us about any of the meetings, any discussions that were held at this ranch? A. Yes. One in particular on August 7, 8, 1950, conducted by Clint Jencks, who was an officer in the Mine, Mill and Smelter Workers

13036 Union.

Q. Do you know anything more about Mr. Jencks? A. Mr. Jencks was identified to me as a member of the Communist Party—I attended meetings with him at the ranch—and as an officer in the Mine, Mill and Smelter Workers Union, out of Silver City, New Mexico.

Q. You say that he gave lectures at the ranch, is that right? A. He did lecture on the dates of August 7 and 8.

Q. What was the subject of his lectures, if you recall? A. The question of what would be the role of the Mine, Mill and Smelter Workers Union in the event of any conflict between the United States and the Soviet Union or any—again quote—imperialist war, unquote, and that the role of the union would be, where possible, to slow down production of basic metals and slow down the smelter plants processing copper and zinc ore that came out of the area down there, that they were making plans for just such an eventuality.

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13046 Q. Mr. Matusow, I show you a copy of Political Affairs for September 1948, specifically the article entitled "For a Fighting Party Rooted Among the Industrial Workers," by Henry Winston, commencing on page 834 and ending on page 856. This has been marked for identification as Petitioner's Exhibit No. 418. This is stated to be a report to the convention on the organizational and ideo-

logical tasks of the CPUSA. I ask you if you have ever seen that article before. A. I have.

Q. Have you read that article? A. I have.

Q. Did you have a copy of it in your possession at any time? A. Yes, I did.

Q. Was it used in any Communist Party discussions? A. It was used in discussions at the Ray Friedlander Youth Club of the Communist Party in October and November of 1949. It was the basis for discussion of the tasks of the Party.

Q. You say that was used in October 1949? A. Pardon me, 1948, I am sorry.

MR. SHEEHAN: Mr. Chairman, we would like at this time to offer this exhibit in evidence as Petitioner's Ex-
13047 hibit No. 418.

MR. ABT: What is the number?

MR. SHEEHAN: Exhibit 418.

With your permission, Mr. Chairman, I would like to emphasize certain parts of this article, specifically page 839, in the right-hand column the first sentence of the third full paragraph, which reads: "The central task before the Party is the fight for shifting the main base of our party to the working class. This can not be done unless we turn the face of the entire party to workers in the factories."

Again, on page 840, under the heading, "How to Apply the Concentration Policy," the first sentence of the second paragraph on that page: "First of all, it requires a fundamental understanding of the role of the workers in the basic industries in relation to the working class and life of the country as a whole."

Again, skipping one sentence, the third sentence in that paragraph: "One can not conceive of successfully building the Progressive Party, of organizing an effective fight against the Draft, or in defense of civil liberties, a successful fight against war and fascism, unless this section of the working class is fully mobilized."

The next two sentences I want to emphasize are the first two sentences of the next paragraph: "Secondly,
13048 such a policy requires the selection of the points of concentration where a base must be secured, if we are to set in motion the entire labor movement. This means knowing which districts must be given major national attention, which industries are key and what plants are decisive."

The right-hand column on the same page, the first full sentence in that column: "While we must strengthen the Party in all basic industries, we must particularly select for major concentration such industries as steel, auto, mining, maritime, electrical, and railroad."

Finally on page 841 in the third full paragraph, the second sentence: "In practice we concerned ourselves much more with specific policy and tactical questions of the Unions, of relationship to top bodies, rather than to questions of building a base below to insure correct policies and tactics."

I would like to emphasize those portions of that article.

By MR. SHEEHAN:

Q. Mr. Matusow, did you ever discuss this article with its author, Henry Winston? A. I did.

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13049 Q. Did you ever discuss this article with its author, Mr. Henry Winston? A. I did.

Q. Will you tell us when and where? A. In December 1948 I had gone to Philadelphia to attend a meeting on press building, the question of subscriptions to the Sunday Worker. The main speaker at that meeting was Henry Winston. After the meeting Mr. Ben Simonowsky and Mr. Winston
and myself returned to New York. In the course of
13050 the trip back to New York on the Pennsylvania Railroad, we discussed the article in question here.

Q. Will you tell us what he said about the article? A. He said that the question of industrial concentration and the movement of young people, members of the Communist Party youth movement, to basic industries was important

at this time because in the event of any, again quote, imperialist war, unquote, it would be necessary to have people in basic industries to mobilize the workers against this war in an effort to slow down production and to do whatever possible to see that such a, quote, unjust war, unquote, is not successful.

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13052 Q. Mr. Matusow, are you acquainted with the non-Communist provisions of the Taft-Hartley Act? A. I am.

Q. Did you discuss these requirements with members of the Party? A. I did.

Q. Will you tell us with whom, where and when? A. In the spring of 1948 and in the fall of 1949 I discussed the question of the non-Communist affidavit of the Taft-Hartley Act with one Aaron Kramer, an employee and officer of the United Office and Professional Workers Union, one Jack Greenspan, a business agent for one of the United Office and Professional Workers locals, one Ethel Beech, who was in charge of the union hiring hall of the United Office and Professional Workers Union on 29th Street, New York City.

Q. I believe it is clear. I asked you before if you discussed this with members of the Party. I want to make sure. Are these people members of the Party? A. Yes, they are.

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13053 Q. Will you tell us what you were told in your discussions?

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A. The Party decision that was discussed by the Party members that I have just mentioned was that in order to get around the provisions of the Taft-Hartley—

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THE WITNESS: The first meeting was with Mr. Kramer at the office of the United Office and Professional Workers Union in May and early June of 1949, and with the same Mr.

Kramer when he was vacationing at Camp Unity
13054 in July of 1949. So the question of getting around, as he stated, the non-Communist provisions in the Taft-Hartley Act was that we could resign and the orders were to resign from the Communist Party; in the case of some of the very well known Communists who were in trade unions to have a public resignation, that is, published in the Daily Worker, but the only thing, as he stated, that ceased to be in existence was formal recognition of our membership in the Communist Party. We were still members of the Communist Party, but as I stated, a letter would be published saying you had resigned from the Communist Party. They still attended meetings, as he stated, with other members of the Communist Party.

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13055 THE WITNESS: The question of Miss Ethel Beck, who was in charge of the union hiring hall or the placement center, the office of the United Office and Professional Workers Union, I had been instructed to see her by the New York County office of the Communist Party in April of 1949. I was instructed to see her in relation to obtaining a job in one of the direct mail houses, as they call it, that were under contract to the union, and also I was instructed to see at the same time a Mr. Jack Greenspan, who was business agent for the direct mail houses. As I say, it was a meeting of the Communist Party, instructions of the Communist Party. We discussed the question of the Taft-Hartley law and the non-Communist affidavit because at that time they were attempting to get employment for me in one of the direct mail houses where they felt the union was weak and the Party said we have to have a Party member in that direct mail house. I raised the question at that time,
13056 if I went into the shop and got a job, for instance, as shop steward and would have to comply with the non-Communist affidavit of the Taft-Hartley law, would I be required to sign that non-Communist affidavit. At that time on the question of resignation from the Communist

Party, I was told that resignation from the Communist Party, but continuing to function as a Communist, was the correct procedure.

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Q. You mentioned that you worked for Communist Party bookshops. How long did you work in bookshops for the Communist Party during your membership? A. Over a period of 1948 and 1949, ten months of full time employment, and approximately six months of part-time employment.

Q. Will you tell us where you worked and at just what times? A. In June of 1948 I worked at the Jefferson School bookshop, the Jefferson School of Social Science, 575 Sixth Avenue, New York City. In July and August and part of the month of September I worked at their summer camp, Camp Sherwood, Monticello, New York. In the 13057 period from September 1948 through approximately March of 1949 I worked at the Jefferson School Bookshop on Sunday evenings, where I kept the bookshop open in conjunction with a lecture series that was held at the school. In May over the Memorial Day week-end in 1949 I worked for the Jefferson School Bookshop at their camp, that year Camp Arrowhead at Ellinville, New York.

The third week in June 1949 I went to work at Camp Unity, and I worked as manager of the bookshop there from that week in June until the first week in September 1949. From the second week in September 1949 until approximately the first week in December 1949 I worked at the Workers Bookshop in New York City.

Q. Will you tell us what connection the Workers Bookshop had with the Communist Party, if any? A. It was part of the Wholesale Book Corporation and Communist Party literature distribution center, part of the New York State literature department of the Communist Party.

Q. What was the principal function of these bookshops? A. To sell Communist Party literature, Marxist-Leninist literature.

Q. Did you attend any Communist Party schools? A. Yes, I did.

13058 Q. What schools did you attend? A. I attended new members classes of the Communist Party in the Joe York Youth Club of the Communist Party in the Bronx. I attended leadership classes given by the Tompkins Square Youth Section of the Communist Party. That was in 1948 and '49, running from about December 1948 through March 1949. I attended the Jefferson School of Social Science and studied Marxism I on Science and Society, for a period of ten weeks in the spring of 1948. In the fall of 1948, starting in October and running for 40 weeks, I received a scholarship for the Institute of Marxist Studies at the Jefferson School of Social Science.

Q. Regarding your course in Science and Society, how often did that class or course meet? A. For ten weeks, one and a half hours a week.

Q. I will ask you the same question about the course at the Institute of Marxist Studies. A. That ran for 40 weeks, three hours a week.

Q. What courses did you study specifically in the Institute of Marxist Studies? A. Marxism II, which was Political Economy, Marxism and Labor, Capitalism and the Class Struggle, Imperialism, What Is Philosophy, The Negro Question. There were three courses, but I wouldn't venture to go to my memory to give you the exact titles of those three courses.

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13060 Q. Mr. Matusow, I would like to show you Government's Exhibit No. 121 in evidence which is the book "Foundations of Leninism," by Joseph Stalin, and ask you if you are familiar with this book. A. I am.

Q. How did you become familiar with that book? A. When I was an employee of the Jefferson School and the Workers Bookshop in my capacity as State Literature Director of the Labor Youth League and in relation to educational and reading material for educational programs in the various

Communist Party clubs that I was a member of. Also, it was used as part of the selected reading for some of the courses in the Institute of Marxist studies at the Jefferson School.

13061 Q. Now I show you Government Exhibit No. 138 in evidence, which is the book "Problems of Leninism," by Joseph Stalin; and ask you if you are familiar with that book. A. I am.

Q. How did you become familiar with that book? A. Again it was used as part of the selected reading in the courses in the Institute of Marxist studies at the Jefferson School. It was also sold—I sold it at the bookshops at the Jefferson School and Workers Bookshop. I also distributed this book when I was state literature director of the Labor Youth League and used it in relation to selected readings for study in the Communist Party Youth Clubs of which I was a member.

Q. I show you Government Exhibit No. 139 in evidence, which is the book "State and Revolution" by V. I. Lenin. Are you familiar with that book? A. I am.

Q. How did you become familiar with that book? A. Again in relation to my work at the Jefferson School and Workers Bookshops. I sold the book. In connection with the Institute of Marxist Studies at the Jefferson School for selected readings and the Communist Party study groups in the Communist Party Clubs that I was a member of.

13062 Q. I show you Government Exhibit No. 149 in evidence, "The United Front," by Georgi Dimitrov, and ask you if you are familiar with that book. A. I am.

Q. How did you become familiar with that book? A. It was used as a text in the course Marxism and Labor, a part of the Institute of Marxist studies at the Jefferson School. It was also used and sold in the Workers and Jefferson School Bookshops, and used for reading material in specific study work in relation to industrial concentration in the Communist Party Clubs that I was a member of.

Q. I show you Government Exhibit No. 140, which is the book, "Imperialism, the Highest Stage of Capitalism," by V. I. Lenin, and ask you if you are familiar with that book. A. I am. There again the book was sold and used in the Jefferson School and Workers Bookshops. It was used in the courses at the Institute of Marxist Studies, in the Communist Party Youth Clubs of which I was a member, and we distributed this book through the State Literature Department of the Labor Youth League.

Q. Are you familiar with the book, "Strategy and Tactics of the Proletarian Revolution"? A. I am.

Q. Will you tell us how you became familiar with
13063 that book? A. I first became familiar with the book when I was employed at the Jefferson School Bookshop in 1948. I sold the book at the Jefferson School Bookshop, at the workers bookshop. I distributed the book in the literature department of the Labor Youth League in New York State, and used "State and Revolution" as part of the text in the new members' classes of the Communist Party at the Ray Friedlander Youth Club.

Q. Are you familiar with the book "Mastering Bolshevism," by Joseph Stalin? A. Yes, I am.

Q. How did you become familiar with that book? A. "Mastering Bolshevism" was used as a text in the new members' classes at the Ray Friedlander Youth Club, of the Communist Party in 1949. We also sold the book at the Jefferson School and Workers Bookshops, and distributed the book through the state literature department of the Labor Youth League.

Q. I show you Government's Exhibit No. 330, which is the book, "History of the Communist Party of the Soviet Union," and ask you if you are familiar with that book. A. I am.

Q. How did you become familiar with it? A. It was used as a basic text for new members' classes in the
13064 Communist Party, and part of the book was used for selected readings in some of the courses in the Institute of Marxist Studies. It was also distributed by

the state literature department of the Labor Youth League and by the workers and Jefferson School Bookshops when I was employed there.

Q. Do you know of the Zhdanov report on "The International Situation" given at the conference of a number of Communist Parties in Poland in 1947? A. Yes, I do.

Q. Will you tell us where you first became familiar with the Zhadnov report? A. I first became familiar with the Zhadnov report at the Jefferson School Bookshop where we sold the Zhadnov report.

Q. Can you tell us what you know about the Zhadnov report?

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THE WITNESS: It was used in a number of courses again in the Institute of Marxist Studies. The first copy
13065 of the report that I saw was one that was printed by Foreign Language Publishing House, Moscow. It had been obtained through the Four Continents Bookshop. The Wholesale Book Corporation had obtained it there. It was then out of print for a few weeks, and the Jefferson School reproduced the Zhadnov report in mimeograph form and used it as a basic text in a number of their courses.

By MR. SHEEHAN:

Q. Was this report used in any discussions, in any clubs at which you were present? A. Yes, it was. It was used in relation to the study outline on the question of China. I forget the exact title of the study outline. It was put out by the Communist Party of New York State Educational Committee. The general idea was new people's democracy in China and the war dangers facing it through American imperialism. That was the general context of it. It was mainly dealing with the role of the American Communist Party in relation to establishing recognition of Communist China. The Zhadnov report was one of the selected readings in that.

Q. Do you recall when you had the last contact with the various books and reports that you have just described here?

A. Yes. It was in December 1950. I was in New York. I had just returned from New Mexico. I went up to the
13066 Jefferson School Bookshop to make arrangements with the manager, one Sid Ballinger to have him send certain Communist Party literature to me. I was planning on going back to New Mexico. While there we discussed a number of publications, that is the question of the Little Lenin Library, of which this is a part, still in stock there. I was trying to make arrangements to get a number of each of those and some of the basic texts such as history of the Communist Party of the Soviet Union. The books were still carried in stock there, and while I was there we discussed and referred to them as well as others.

(Document produced and marked for identification Petitioner's Exhibit 419.)

By Mr. Sheehan:

Q. Mr. Matusow, I show you what is marked Government's Exhibit No. 419 for identification, which purports to be a bibliography of the Jefferson School of Social Science for the course Marxism V, The Struggle for Socialism, and I ask you if you have seen that document before. A. Yes, I have.

Q. Where did you see it? A. This was a study outline which was given me when I was taking the course, Struggle for Socialism, Marxism V, a part of the Institute of Marxist Studies. We used this outline as our basis for study, that is, the reading materials to be used in the course.

13067 Mr. Sheehan: Mr. Chairman, we wish to offer at this time this document as Petitioner's Exhibit No. 419 in evidence.

Miss McHale: Is this dated?

The Witness: This was used over a number of years. It was used in 1949. "It might have been used later."

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By Mr. Sheehan:

13068 Q. Mr. Matusow, I show you what has been marked for identification as Petitioner's Exhibit No.

420, which purports to be a bibliography of the Jefferson School of Social Science for the course Marxism and Labor, and ask you if you have seen that before. A. I have.

Q. Where did you first see that? A. It was a study outline given to me for the course, Marxism and Labor, in the series of Marxist studies over the years 1948 and 1949.

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13069 Q. Mr. Matusow, I show you what is marked as Petitioner's Exhibit for identification No. 421, an article from Political Affairs of July 1950, entitled "For a United-Front Policy Among the Jewish People—Sharpen the Struggle Against Bourgeois Nationalism," beginning on page 55 and running through page 70. I want to call your attention to page 58, the right-hand column, beginning with section (b) at the end of that column, continuing through to page 61, the portion beginning with the heading "The Struggle Against Bourgeois Nationalism." I ask you if you have ever read that. A. Yes, I have.

Q. Will you tell us where and when you have had occasion to read that? A. In July of 1950 in New York City we discussed this at a meeting of the West Side Club of the Labor Youth League.

Q. Do you know who Ilya Ehrenburg is? A. He is a Soviet author, novelist and writer.

Q. Can you tell us anything more about him? A. I have sold a number of his books and articles and read them, one Novel called "The Storm. I read a speech of his that was delivered before an international gathering, a cultural gathering in Warsaw, Poland, in 1949.

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13073 Q. Mr. Matusow, I show you what has been marked for identification as Petitioner's Exhibit No. 422, the book "The Theory of the Proletarian Revolution" published by International Publishers, and ask you if you have ever seen that book before? A. I have.

Q. Will you tell us where you saw that book? A. I saw this book at the Workers and Jefferson School Bookshops where it was sold. It was also sold through the state literature department of the Labor Youth League and used as a basic text for study in the new members' classes conducted in the Ray Friedlander Club of the Communist Party.

13079 Q. Mr. Matusow, I show you what has been marked for identification as Petitioner's Exhibit No. 423 the book, "The Dictatorship of the Proletariat," published by International Publishers, and ask you if you have ever seen that book before. A. I have.

Q. Where did you see that book? A. At the Workers Bookshop and the Jefferson School Bookshop. It was sold there. It was sold also and distributed by the State Literature Department of the Labor Youth League. It was also used as a basic text and reading for new members and leadership classes in the various Youth club of the Communist Party to which I belonged.

13088 Q. I believe you testified before the recess that you had instructions to arrange for the trip of the Communist Party delegate to the World Youth Festival in Budapest. Can you tell us what arrangements, if any, you made for this trip. A. Yes. When we got—that is, when Ted Bassett and I got to Puerto Rico, we conferred with Juan Santo Rivera, the Chairman of the Party there, and Caesar Andreau, A-n-d-r-e-a-u, the general secretary of the Communist Party. On the basis of that we selected Eugene Cuebues Arbona, the head of the Communist Party Youth Movement in Puerto Rico, as a delegate to go to the Budapest World Youth Festival meeting. I had instructions to give Mr. Ceubues, which I did, which were that he was to apply for his passport to go to Europe and in his application state that he was going to France, Italy, and England as a tourist. I also had instructions to pick up before I left

Puerto Rico the biographical information necessary
13089 for a Hungarian visa. I received from Cuebues photographs, his date of birth, signature, and other material that was necessary. I was instructed to and complied with the instructions to bring that material back to New York. I did turn them over to a Lou Diskin, the Chairman of the Communist Party Youth Movement in New York State, and Mr. Diskin and myself brought the information down to the office of the American Youth for a Free World at 144 Bleeker Street. While in Puerto Rico I was also instructed to tell Mr. Cuebues when he arrived in Paris, France, he was to go to the office of the World Federation of Democratic Youth and there he was to pick up his visa to Hungary.

Q. Were you told why your instructions were to tell him in his application to state that he was going to France, England, Italy and not to Hungary where he actually intended to go?

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THE WITNESS: I was told that the reason for his application stating that he was going to France, England, et cetera, was because the State Department had a ban on issuing passports to Hungary, and that the only way he could get there would be by applying for the passport to a western European country.

13090 By MR. SHEEHAN:

Q. Did you again see this Mr. Cuebues after you left Puerto Rico? A. I did.

Q. When and where did you see him again? A. I met Mr. Cuebues two days after he returned from Budapest, Hungary, in New York City, and there conducted him on a tour of the Communist Party Youth clubs in New York City, where he lectured.

Q. Did you have any conversations with him at this time? A. Yes, I did. He told me that he had complied with the

instructions that I had given him about picking up a visa in Paris, and he said he had been to Hungary.

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13092 Q. Mr. Matusow, I show you Petitioner's Exhibit No. 314 in evidence, which is the constitution of the Communist Party of the United States, and I ask you if you have seen that document before. A. I have.

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13093 Q. Where did you see this constitution? A. I saw this constitution distributed at the Ray Friedlander Youth Club of the Communist Party, as well as Communist Party New York County Headquarters, New York City.

Q. Have you read it? A. Yes, I have.

Q. Did you discuss it in any of your classes in the Party? A. Yes, I did.

Q. I would like to direct your attention to the first sentence of the preamble of the constitution on page 3, which reads: "The Communist Party of the United States is the political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism." Were you given any explanation of this sentence in your discussions in your classes on the constitution?

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Q. You may specify the time and place and the circumstances. A. The discussion of the constitution of the Communist Party of the United States was made at the Ray

13094 Friedlander Club of the Communist Party in Sunday afternoon classes held at the home of Mr. Ira Wallach, also known as Ted Tinsley. His wife, Mrs. Wallach, was conducting a class in leadership for members of the Ray Friedlander Youth Club of the Communist Party. I could not give you now the exact date. It was in that period of weeks of late 1948 or early 1949. For a period of weeks we had Sunday afternoon classes at that home on 14th Street.

In one of the first classes the question of the constitution of the Communist Party of the United States was raised, and it was discussed. The question of "Principles of scientific socialism, Marxism-Leninism" were interpreted at these classes by the instructor, Mrs. Wallach, and through the discussion, as meaning the establishment of a dictatorship of the proletariat, the establishment of socialism in the United States.

Q. Was it explained just how the dictatorship of the proletariat would be brought about? A. How the dictatorship of the proletariat would be brought about would be socialism through evolution or revolution.

Q. I would like to direct your attention to the first sentence of the second paragraph of the preamble, which reads: "The Communist Party upholds achievements of American democracy and defends the United States Consti-
13095 tution and its Bill of Rights against its reactionary enemies who would destroy democracy and popular liberties."

On the basis of your study and your classes in which the Constitution was discussed, in your opinion can the two sentences that I have pointed out be reconciled?

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13096 THE WITNESS: I started by saying that the class was set up by the New York County Educational Department of the Communist Party. It was an official class of the County Educational Department. On the
13097 question of the principles of scientific socialism, Marxism-Leninism, the question of tolerance to minority groups in the society, the dictatorship of the proletariat, it was very strongly emphasized in the class that we will not and can not maintain the dictatorship of the proletariat and tolerate any minority group, any opposition to our dictatorship as a proletariat. On the basis of Mr. Sheehan's question, the question of reconciling the two paragraphs could not be gotten because the Constitution and the Bill of Rights do uphold the recognition of minority groups.

As we were taught in the first paragraph, there was no tolerance or recognizing of minority groups under the dictatorship of the proletariat.

13098 Q. As a result of your membership in the Communist Party and your attendance at Party Schools and meetings, what was your understanding of the aims and objectives of the Communist Party of the United States. A. That we will defend the interests, the quote that was used this morning, of the American working class and in terms of event of a show down, as it was put in the class, of a war with the Soviet Union, we would not support the American imperialists, unquote; and on the question of establishing a dictatorship of the proletariat in the United States it would be gotten through the means of revolution because they state, quote, the ruling class will not give up its power, unquote, and therefore we must use violent means.

Q. During the time of your membership in the Party did you hear from any spokesman for the Party or did you read in any literature of the Communist Party that there was ever any change in the ultimate aims and objectives of the Part as you stated them?

13099 THE WITNESS: No, there was never anything that I read showing changes in the aims of the Communist Party, in the time I was in the Party.

By MR. SHEEHAN:

Q. Did you ever hear any leaders of the Communist Party criticize any foreign or domestic policies of the Soviet Union?

THE WITNESS: I did not.

Q. Did you ever hear any leaders of the Party praise or approve the domestic or foreign policies of the United States? A. In context I would like to qualify the question, Mr. Sheehan.

Q. You may answer the question and explain your answer. A. In the question when the United States and the Soviet Union agreed, I have heard certain Party officials praise or recognize that the United States took a good position, but on a question where the United States and the Soviet Union disagreed on a certain question I have never seen the Communist Party come to the defense of the United States Government as opposed to that of the Soviet Union.

13100 MR. ABT: May we have the time and place of all these discussions and who said what, Mr. Chairman?

MR. BROWN: I believe the witness testified over his entire period of membership.

MR. ABT: That is my point, Mr. Chairman.

MR. MARCANTONIO: We are entitled to know when and where and who said it.

MR. BROWN: If you remember, and the circumstances when what you just testified to was said.

THE WITNESS: I didn't say that was stated. I think the question was "when you were a member of the Communist Party from October 1947 to January 19, 1951, did any leader of the Communist Party to your knowledge criticize the Soviet Union on their internal or domestic policy?" and the answer was no. I think you heard the other question.

Specific examples can be given. In the summer of 1948 when I was working for the Jefferson School at their summer camp we had a discussion given by Dave Goldway, the director of the Jefferson School, on the question of Yugoslavia and Tito. It was early in the summer. The discussion said that we agree with Tito, we agree with Yugoslavia and all the things they are trying to do. A few weeks later the news was published in the Cominform Bulletin, For a Lasting Peace, For a People's Democracy, that Marshal Tito and the Yugoslav Communist Party had been expelled

by the Cominform. The same Mr. Dave Goldway
13101 lectured at the Jefferson School Camp taking the reverse position, though it had been only a matter of a few weeks and he only read about it in the Cominform journal, according to his own admission to me at the camp.

. . . . . .

13102 Miss McHale: From your profile of activities I got the impression that you were very active over that period in either operating bookshops or the sales of their products. Did you ever have anyone say to
13103 you, "Oh, I am not going to buy that. It is 30 years old. It is stale stuff"?

The Witness: No, I never did.

Miss McHale: They just accepted it as something that they should have because it appeared in the bibliographies?

The Witness: That is correct.

Miss McHale: Was there a lot of sales talk in promoting those periodicals?

The Witness: I may give an example for you. In 1948 a great to-do was made about the fact that the Communist Manifesto was 100 years old, but it is just as important today and lives on. It is just as relevant today as it was in 1848 when it was written. That is just one example of the other pieces of Marxist literature. In "The Young Generation," by Lenin, a publication which was dated 1905, there is a chapter called "Organizing the Youths" which was used quite extensively in the Labor Youth League in 1949 and recommended setting up certain basic principles for youth organizations.

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13110 Cross Examination

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By Mr. Marcantonio:

13144 Q. You testified that in this discussion, this October meeting, late in October, the discussion centered

around an article in the September issue of Political Affairs, isn't that right? A. Correct.

Q. You said it was said there at this meeting that it was the policy of the Communist Party not to support the United States in an imperialist war against the Soviet Union. A. Correct.

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13229 **Daniel Scarletto** called as a witness for Petitioner, having been first duly sworn, was examined and testified as follows:

MR. BROWN: Please be seated.

DIRECT EXAMINATION

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By MR. STORY:

13241 Q. Mr. Scarletto, how long did you continue in the Communist Party underground after you were assigned to that organization?

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13242 THE WITNESS: I continued in the Communist underground until the moment I took the stand in Los Angeles, California. I took the stand on Friday. I was contacted on Wednesday night by my underground contacts.

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Q. Mr. Scarletto, in addition to these classes that you attended at the beginning of your membership in the Communist Party did you attend any other Communist Party schools or classes at any time during your membership? A. Yes, I have.

Q. What schools have you attended? A. After the beginners classes when I was in the club, I then went in the summer, about August of 1948, I think it was, I got a letter that I was to attend the leadership school which was three classes out on Western Avenue in Los Angeles.

Q. Did you attend this school? A. Yes, I did.

13243 Q. How long did the school last? A. It was only a three-day, three evenings in the whole course.

Q. How long were the sessions? A. The sessions were from 7 to 10 o'clock, three hours apiece, and it was for three nights.

Q. After this school did you attend any other schools conducted by the Communist Party? A. Yes. In the summer of 1949 we had two classes for the regional leadership. One was held on Hayes Avenue, Highland Park, and the other one was held on Grenada Avenue, Highland Park.

Q. How long did this school continue? A. It was for two Saturdays. They lasted six hours apiece.

Q. Do you recall any of the textbooks or materials that you used at these schools? A. They had instructors there who came in with written up forms, and they read from their forms.

Q. Were you assigned any reading material during this course? A. Yes. Before we went to the first class we were assigned some reading material, and then after the second class we were assigned some by the instructor. We were told some books to study for the first class, and then while we were there we were given some more names of books
13244 to study for the next class.

Q. Do you recall the names of any of these books? A. No, I can't recall them offhand, it has been so long ago.

Q. Did you attend any other Communist Party schools after the two schools you have just mentioned? A. Yes. I attended the Marxist Institute in Los Angeles.

Q. When did you first receive notice that you were to attend the Marxist Insitute? A. It was around December of 1949 that I received notice through the club chairman that I was to attend this Marxist Institute.

Q. Who was the club chairman at that time? A. Gertrude Stoughton.

Q. Please tell the Panel what Gertrude Stoughton told you concerning the Marxist Institute that you were to attend.

MR. FORER: I object. It is hearsay.

MR. BROWN: Overruled.

THE WITNESS: She told me that I had been selected to go to this school, which would last one year, and it had a $20 fee which we would pay, $5 of it, quarterly. She said it should start around November, and she wanted to know—she said I had been selected and I had to go.

By MR. STORY:

Q. Did she tell you how long this school would continue? A. She said it would continue for one year.

13245 Q. Was this a full time course, Mr. Scarletto? A. No. We went one night a week.

Q. How long were the sessions? A. They would average about four hours.

Q. After you received these instructions did you enroll in the Marxist Institute? A. Yes, I did.

Q. Did you register in the school under your own name? A. Oh, no. They just put down our first initial. That is all they used on our applications.

Q. Approximately when did you attend your first session in the Marxist Institute? A. It was in November of 1949.

Q. Approximately how many students were present in your class? A. There were 18 students present.

Q. After you started in this school were any security measures taken to protect the identity of the students attending this school?

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THE WITNESS: Yes. The first security measure that was taken, we were all given numbers and not names. We were told, "If you know any of these people before you

13246 started this class, never to call them by their first name or last name during this course."

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MR. BROWN: Do you remember the persons who were present?

THE WITNESS: Yes.

MR. BROWN: And where this conversation took place?

THE WITNESS: Yes.

MR. BROWN: And what time?

THE WITNESS: Yes. In the latter part of November when we first started the classes, the instructor was Gunther Michel, and there were only two people at that time I had been acquainted with before the classes started. One was Arthur Schaffer and the other was Silvia Freeman and her husband.

By MR. STORY:

Q. Was it Michel who asked you not to address anyone by his first name? A. Yes. He was the instructor.

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Q. After these instructions were given by Gunther
13247 Michel, were you given a number? A. Yes, I was.

Q. What number were you given? A. I was No. 13.

Q. Do you recall the names of any of the textbooks that were used in connection with this school? A. Yes, I recall a few. One was the History of the Communist Party of the Soviet Union. One was State and Revolution, and Imperialism by Marx. The Communist Manifesto. That is all I can remember offhand, right now.

Q. Where did you obtain these books which you used in the Marxist Institute? A. They have a bookstore out Seventh Street out on Seventh Street. First they had the books at the Institute. Then after a couple of months we had to go out to the bookshop to pick them up.

Q. Were you given these books or did you have to buy them? A. No, we had to pay for every one we got.

Q. Were you given any other material in connection with the Marxist Institute? A. Oh, yes. They gave us our outlines.

MR. STORY: Mr. Clark, will you mark this document Petitioner's Exhibit 424.

(Document produced and marked for identification Petitioner's Exhibit No. 424.)

13248 By Mr. Story:

Q. Mr. Scarletto, I hand you a document and ask you if you can identify this document. A. Yes. This is a copy of the first outline of the Marxist Institute, the first quarter.

Q. When did you receive a copy of this outline, Mr. Scarletto? A. At the first class we had in the Marxist Institute.

Q. Were you given other outlines in addition to this one while you were connected with the Marxist Institute? A. Yes, I was.

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13255 Q. Mr. Scarletto, I hand you a document which has been marked for identification Petitioner's Exhibit 425, and ask you if you can identify that document. A. Yes, I can.

Q. What is that document? A. This was one of our study outlines on Imperialism.

Q. When, during the course of time you attended the Marxist Institute, did you receive that outline? A. I received this one here—after we had completed this study outline on Marxism-Leninism, we received Imperialism.

Q. Was that outline used during the course of instruction at the Marxist Institute? A. Yes, it was.

13256 Q. Mr. Scarletto, I refer you to page 4 of session 1 of Government Exhibit for identification 425, and at the top of the page, page 4, where it says "Required reading." While you attended the Marxist Institute as a student did you read the material which is listed in this outline under the heading "Required reading" and "Supplemental reading"?

Mr. Abt: What page is that you are referring to?

Mr. Story: Page 4 of session 1.

The Witness: Yes.

By Mr. Story:

Q. Would you look through the outline which is government's exhibit for identification 425 and tell the Panel

whether or not it was required for the students attending this Marxist Institute to read the assignments in the outline under the heading "Required reading"? A. Sometimes there were a couple, some of the books that we didn't have to bother with, but he always told us which ones he wanted us to get in the outline at the schools.

Q. I see. Did that pertain to all the sessions or just to session 1 which you are looking at here? A. It seems as though throughout the whole study there were certain books that were not necessary for us to have. He would just tell us which ones to get.

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13257 Q. Mr. Scarletto, did you complete the full course that you were told that you were to take when you started at the Marxist Institute? A. No, we didn't.

13258 Q. How long did you continue in the Marxist Institute? A. We continued to the spring of '50, until shortly after the Korean War started.

Q. What happened to the Marxist Institute after the Korean war started? A. When the Korean war started, we moved it and had a couple of meetings, and then it was cancelled and we were told by the instructor that we were cancelling it for security reasons and that we would be notified when it would start up again.

Q. Were you ever notified that the institute would start up again? A. Yes, I was.

Q. Tell the Panel what happened. A. I received instructions from the section organizer of the 45th AD, Mim Schaffer, that I was to go to the home of Ada Dobbs on a certain date, at a certain time there—The following week it was—and that she would instruct me where to go to continue my Marxist Institute.

Q. Did you go to the home of Ada Dobbs? A. Yes, I did.

Q. What information did you receive there? A. She told me she couldn't give me any information on where to go, but I would have to wait there and that a man would come who knew where it was and would go with me.

13259 Q. Mr. Scarletto, where had the Marxist Institute

classes been held prior to this time? A. They were held at a hall, some classrooms they had over there at the Jewish Cultural Center in the City Terrace.

MR. ABT: What is that?

THE WITNESS: At the Jewish Cultural Center in City Terrace.

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By MR. STORY:

Q. Did this man ever come to Ada Dobbs' house? A. Yes, he did. His name was Lym, L-y-m.

Q. What took place after Lym arrived at Ada Dobbs' house? A. She introduced me to Lym. I had never met him before. And said that he would be our instructor. He told me to follow him in my automobile and he would take me over to the home. He said we are having it in a private home for security reasons. To park my car a couple
13260 of blocks away from the house. As he went by he pointed to the house and drove on, and so did I, and I walked back and met him there.

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Q. Mr. Scarletto, were you told by your instructor or any of your superiors why the Marxist Institute was being discontinued?

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13261 THE WITNESS: I will answer the question, yes. It was for security reasons, and we were told that the Korean war was getting pretty hot and that they thought they would call it off.

By MR. STORY:

Q. Who told you that, Mr. Scarletto? A. The section organizer told me that.

Q. What was the name? A. Mim Schaffer.

13262 Q. When did she tell you that? A. That was in the late summer of 1950.

Q. The later summer of 1950. A. Yes.

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Q. Mr. Scarletto, did you attend any Communist Party conventions at any time during your membership in the Party? A. Yes, I attended one convention.

Q. Where and when did you attend this convention, and what was the convention? A. In 1948, in July, I attended a convention—it was a sectional convention—and it was in Los Angeles on Echo Park, the name of the Street, at the Echo Park Women's Club.

Q. Do you remember when in 1948 you attended this convention? A. I think it was in June.

Q. Did you attend this convention as a delegate? A. Yes. I was voted as a delegate from my club to go to this
13263 convention.

Q. About how many delegates attended this convention? A. There were about 60 of them there.

Q. How were you selected as a delegate for this convention? A. I was selected and voted by the club to go.

Q. At the time you were selected as a delegate for this convention, were you told where the convention was to be held? A. No, I wasn't told where the convention was to be held, but I was told the day it was to be held.

Q. How did you find out where the convention was to be held? A. I had to go to the home of the section organizer. She gave me the address on El Sereno Avenue and told me to go there Saturday morning about a quarter of eight and pick up a load of delegates in my car, and that there would be one member there that would know where the convention was to take place. She also told me to bring my lunch.

Q. Who was the section organizer who gave you these instructions? A. Mim Schaffer.

Q. Did you go to the address she had given you on the date that she told you to be there? A. Yes, I was there right on time when I was supposed to be.

13264 Q. What took place after you arrived at this address? A. The people were there that I was to pick up. They were all there, and Jim Forest was there, and he told me he was the one who knew where the convention was to take place. We all got in my car.

Q. What took place after you got into your car? A. He told me to drive to Echo Park and I drove there, and he showed me where it would be but he said, "Don't stop here. Keep on going." He had me drive a couple of blocks down the street and we stopped and let the women out of the car, which left only him and me. Then he had me turn left and park down a side street. He said, "Be careful never to park near a building where there is a meeting going on."

Q. What type of building was this convention held in? A. It was a one-story wooden building there, about the size of this room.

Q. What was the building called? A. The Echo Park Women's Club was the name of the building. That is the only name they had on the front of it.

Q. After you and Jim Forest had parked the car, tell the Panel what happened next. A. He and I walked back to the building, and as we stepped in the door we had to be identified by a Panel. We had to state our club, our position in the club, and our name. That was all recorded. Then they had a master-at-arms which when the Panel gave
10265 him the nod, he allowed us in.

Q. How long did this convention last, Mr. Scarlato? A. Counting our half-hour lunch period—we weren't allowed to leave the building for lunch—we were in there for approximately 8½ hours.

Q. Did any of the delegates attempt to leave the building during this convention? A. No one was allowed to leave the building during the convention. They had those instructions before they came in.

Q. What took place at this convention? A. All the delegates of different clubs had something to say about the work they were doing in the clubs. It so happened that the delegate who was from the same club that I knew, talked from our club. I didn't do any speaking that day.

Q. What happened when the convention was over at the end of the day? A. When the convention was over we were instructed to leave in intervals of five or six people, and the master-at-arms would let five or six people out at a time.

Then we would close the door and wait a while and he would let a few more out.

Q. Did you leave with the same group that you brought to the convention? A. Yes.

13266 Q. After you had gathered the delegates into your car, what did you do then? A. I took them all home.

Mr. Abt: Mr. Chairman, I would like to move to strike all of this witness' testimony with reference to so-called secret practices engaged in at this convention on the grounds that I have urged previously, and that is that the secrecy which this witness claims was practiced at this convention is not secrecy of the character defined in and required by the act and therefore the witness' testimony on that question is entirely irrelevant and immaterial to any issue in this proceeding.

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By Mr. Story:

Q. Mr. Scarletto, was the organizational structure of your Communist Party club changed at any time? A. If the Mexican Concentration Club? It was changed, yes.

Q. How was it changed? A. At a chairman's meeting in the spring of 1949 we had orders from our section organizer, Mim Schaffer, to break our club, which had gained a few members. We had orders to split it in two and make two groups out of it.

Q. About how many members did you have in the Mexican Concentration Club at that time? A. There were 15 members, but there were always a couple of them

13267 who couldn't make the meetings regularly. We had 15 members.

Q. After you received these instructions from Mim Schaffer was the Mexican Concentration Club broken down into two groups? A. Oh, yes, we split it in two.

Q. Did you hold any position in either of the groups after it was broken down? A. I was still Org. Sec. for both groups.

Q. Did Mim Schaffer tell you the reason for this breakdown? A. Yes.

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Q. What did she tell you? A. She said it was for security reasons, and she also said, she told the chairman of the meeting for the Org. Sec. not ever to collect any dues in the presence of other members, that it would all be done in private. Take a member into the next room then to collect any dues or sustainers from them, so the other members wouldn't know what another member's standing is in the club as far as dues were concerned. That I did.

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13268 Q. In connection with these dues that were to be collected in privacy, did you have any official functions or duties in connection with the collection of dues in the Mexican Concentration Club? A. That was one of the official duties of the organization secretary to handle the finances.

Q. And you were the organizational secretary after the breakdown? A. Yes. I used to go to both meetings at times.

Q. Tell the Panel just how you would collect the dues after these instructions from the section organizer. A. I would take a person, each individual, into the next room of whatever home we were holding the meeting in, and I would tell them how much they owed me and where they stood, and they would pay me in private. There were no re-
13269 ceipts or anything.

Q. Did you keep a record of the dues payments, Mr. Scarletto? A. I was not allowed to keep a record. I had to do it in my head. I had to know what every one owed me.

Q. After this reorganization or breakdown in the summer of 1949 did you have any further reorganization at any time during your membership? A. Will you ask that question again, please?

Q. After the reorganization of your club in the summer of 1949, did you have any further reorganization during your membership in the Mexican Concentration club? A. Yes.

Q. When did this reorganization take place? A. Towards the end of the year of 1949, late in the year.

Q. Tell the Panel what happened during this reorganization. A. We had a chairman's meeting, and we were instructed by Miss Schaffer, our section organizer. She said that the clubs had to be broken down again, reshuffled. We were to take these two groups which we had and split them again, which left us with, on the average, about four people to the group.

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13270 Q. Were you told why this breakdown was to take place?

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THE WITNESS: Yes, we were told that we were to have this breakdown so in case any one group was picked up, they would get only three or four people, which wouldn't prove too much.

By MR. STORY:

Q. How were these groups reorganized, Mr. Scarletto, when they were reorganized in the fall of 1949? A. We broke them down into small groups, which were four on the average, and we appointed someone as group leader for each of these small groups. Then the Chairman and I would go to a chairman's meeting and we would take notes on all that was to be done. Then we would have a group leader's meeting, and we would pass the information on to them so they could relay it to their smaller groups.

Q. After this reorganization in the latter part of 1949 did the entire Mexican Concentration Club meet in one group at any time? A. No, they continued on through 1950 in small groups.

Q. Where did these groups hold meetings after they were organized? A. Our instructions were to hold the meeting at a different place every week. We held them in automobiles, too, seeing that there would be only four people. We would hold meetings in automobiles. Then we would change
13271 around. We would use different houses at different times.

Q. At this meeting where you received instructions for the reorganization in late 1949 did you as an official of the Mexican Concentration Club receive any other instructions concerning the security of your groups? A. Yes.

Q. What instructions did you receive? A. We were supposed to change our names and use only nicknames from then on, which we did, and to use code, to make up our own code for telephone conversations.

Q. Would you tell the Panel what type of code you would use in connection with telephone conversations? A. We were all given nicknames, and but for one person we weren't supposed to know where the meeting was to be held, and then I would get a phone call, for instance, which would say, "Hello, Chips, come by and pick up that book tonight." And I would know just where the meeting was going to be by such a statement.

Q. During what period of time, Mr. Scarletto, was this system used? A. It was used from late 1949 through 1950.

Q. Mr. Scarletto, did you receive a Communist Party membership card or book in the year 1949? A. I received the constitution of the Party.

13272 Q. I mean a membership card. Did you receive a membership card? A. Oh, no, I never received a membership card for 1949.

Q. Were any membership cards issued for the year 1949? A. No, they were not.

Q. Were you as an official of the Mexican Concentration Club told why they wouldn't issue membership cards?

. . . . . .

THE WITNESS: Yes.

By MR. STORY:

Q. What were you told?

. . . . . .

THE WITNESS: At a chairman's meeting at Mim Schaffer's house we received the orders that there would be no

more cards put out because if a person was ever searched and cards were found, it would prove embarrassing.

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13273 THE WITNESS: That I would say was in the early part of 1949.

By MR. STORY:

Q. Who told you that, Mr. Scarletto? A. Mim Schaffer, our section organizer.

Q. You have testified, Mr. Scarletto, that you had a membership card for the year 1948. A. That is correct.

Q. What happened to that membership card? A. We were given orders to destroy our 1948 cards.

Q. Would you tell us who told you, when you were told, and where you were told? A. We were told that at the home of Mim Schaffer at the first of 1949, when we were told there would be no 1949 cards issued.

Q. Did you destroy your membership card? A. No.

Q. What did you do with it? A. It was turned in with reports to the FBI.

13274 Q. Mr. Scarletto, you have testified that you were assigned to the Communist Party underground in January 1951. Will you tell the Panel when you received the instructions for this assignment, who told you, and what you were told? A. I was told by my chairman, Gertrude Stoughton, right around the first of 1951, that I was to get in contact—

Q. That was 1951, is that correct? A. Yes, right around the first of January 1951, yes.

—that I was to contact Arthur Schaffer, and that I did.

Q. When did you contact Art Schaffer? A. She told me on a Tuesday night, and on a Wednesday night I had to go over there, and I went over and caught him home about seven o'clock.

Q. Caught who home? A. Art Schaffer. At the time she said for me to be there.

Q. What happened after you went to the home of Art Schaffer? A. I knocked on the door, and he was home alone. He answered the door and said "Come on in." I went on in and he stepped outside and looked around first and then he locked the door from the inside.

Q. Did you have a conversation with Schaffer after he had locked the door? A. Yes, I did.

13275 Q. What did Schaffer say to you? A. He said, "You have been chosen to go into a new kind of work." He said, "From now on you will be severed from your club and you will be responsible only to the county."

Q. Only responsible to whom? A. The county.

Q. What did he mean, responsible to the county? A. That means the Party, the County functionaries.

Q. The county office of the Communist Party? A. Yes.

Q. What county is that? A. Los Angeles County.

Q. Did Schaffer give you any other instructions about that time? A. He said, "I am sorry I can't tell you what your duties will be, but I can only give you a couple of lines." He said that he was in the same kind of work and the other hint was that I would be running a machine. That was all that he could tell me, and that in a couple of weeks he asked what was the best time to catch me home at night and I said about six-thirty. He said, "Fine, within about two weeks there will be a Man contact you at your house." He said "You have never seen him before and he will say that he is a friend of Ernie's." He told me that being that we are not allowed to keep a

13276 record of our members or dues standing, "I want you to make a list of all the members and their dues standing, and take it over to your club chairman and tell her that you will not be with the club. Turn these names and dues standings over to her and let her handle them from there."

Q. Did you take the dues standing and the names of the members of your club to the section organizer? A. No, to the chairman of the club, of the Mexican Concentration Club.

Q. What did you tell the chairman of the Mexican Concentration Club at that time? A. From Artie's house I went straight over there, and she was home. I gave her the list. I made it up at Artie's house and took it over and told her that I was no longer in the club, that I had been severed by Arthur, and that here were the names and all the dues standings.

Q. Did Schaffer tell you what type of machine you would be running after you got into this new work? A. No, he didn't tell me whatsoever. He just said a machine.

Q. This man who was to contact you and tell you that he was a friend of Ernie—did you know anyone in the Communist Party by the name of Ernie? A. No, I didn't know at the time.

Q. What were you doing for a living during this period of time, Mr. Scarletto? A. I was working over at
13277 Lockheed at that time, Lockheed Aircraft.

Q. Working as what? A. As an aircraft sheet-metal man.

Q. At the time you had this conversation with Art Schaffer were you engaged in any other Communist Party activities as of that time? A. I was just engaged in my club duties as organization secretary.

Q. Were you engaged in any campaigns for the Communist Party? A. No, not at that time, not that I recall.

Q. After the conversation with Art Schaffer were you contacted by the man who he told you would contact you? A. Yes. It was more than two weeks, though. It was about two and one-half. The man came to my house at approximately 6:30 at night and knocked on the door, and when I answered he said, "I am a friend of Ernie's." I said, "Oh, yes, I have been expecting you."

Q. What took place after that? A. He said, "Where can we talk?" and I said, "We can go out in my car." We went out to my car parked at the curb, and there we talked.

Q. What did he tell you after you got in your automobile?

A. He said, he asked me, "How long have you been
13278 in the movement?" and I told him. He asked me

what schools I had attended. He asked me what club I was in, what was my position in the club and who was my section organizer.

Q. Did you give the man who identified himself as a friend of Ernie's all this information? A. Yes, I did.

Q. Were any arrangements made for further contact after this meeting? A. Yes. He told me that he would contact me again in two or three weeks, at the same time.

Q. Did he at this first meeting tell you anything about the type of work you would be doing? A. Yes, he said something about I would be running a No. 40 printing press.

Q. Did he tell you where this printing press was located? A. No.

Q. Did he tell you anything further about what you were to accomplish with the printing press or what your duties would be? A. Yes. He said that we were going to set up a printing press and that it was to be used to move masses of people in time of crisis.

Q. After this first contact with this man who identified himself as a friend of Ernie's, were you later contacted by the same man? A. Yes. He came back in about, I
13279 say, February, about the middle of February. He came back again.

Q. What year, Mr. Scarletto? A. 1951.

Q. What took place at this second meeting? A. He knocked on the door and he said, "Can we go out to the car and talk?" and I said, "Oh, yes." So we went back out to the car. He said, "Say, can you operate a typewriter?" I said, "No, I have never used a typewriter." He said, "Well, that is all right." He told me that the following Saturday he wanted me to meet him in Downey, California on the corner of Firestone and Lakewood Boulevard. That is about 30 miles from my home.

Q. Did you meet this contact or this man in Downey, California? A. Yes. On Saturday morning I drove my car down and parked it in a parking lot, and I walked down to the corner where I was to meet him at nine o'clock.

Q. Approximately what date was this that you met this contact? A. I would say it was in the middle of February of 1951.

Q. What took place after you arrived at Downey, California? A. As I walked down to the corner, to my surprise I ran into an old friend of mine from the Marxist
13280 Institute, Irving Ritkes. I was surprised to see any one else there besides the man I was to meet, and I said, "What are you doing here?" and he smiled and said, "The same thing you are." We both waited until our contact came there.

Q. What happened after the contact arrived? A. He drove up in his automobile and he said, "You two fellows get your cars and follow me," and that we did. We followed him over to the next town, which is named Norwalk.

Q. What happened after you arrived at Norwalk, California? A. He circled around the neighborhood there off the main highway, and he pulled up on a side road at the home which I later learned was Dick Morton's, pulled up there and parked his car.

Q. What happened after you got out of the car? A. He introduced me to Dick, and he said, "Dick, you and Irving and Danny will be working together."

Q. When you say he introduced you, who are you talking about? A. This man who said he was a friend of Ernie's. I didn't know his name until they called him by the name of Kinney. He answered to the name of Kinney, by Ritkes and Dick.

Q. Did you know this man by any other name other than Kinney? A. No, I didn't, not until that time, until
13281 he was identified. I got his license number and later identified him by a picture at the FBI.

Q. After you were introduced to Dick Morton, what took place then? A. We all went out to the garage, which was closed up and we went in the side door. The big double door was down and locked. We went in the little side door. There all four of us uncrated and set up this printing press.

Q. Name the four people who were uncrating the printing press. A. Irving Ritkes, Dick Morton, and this Kinney, and myself.

Q. When you say uncrating this printing press, was it a new or used printing press? A. It was a new printing press, still in the crate.

Q. Do you know the type of printing press that was? A. I think it was a Chandler & Price, if I am not mistaken. It was a hand-operated printing press.

Q. After you had uncrated the printing press, what took place? A. We set it up to see if it would work all right.

Q. Did the machine work all right? A. Yes, it worked.

Q. After you had ascertained that this machine worked all right, did anything else happen during the day
13282 that you were there? A. After we got the machine to working we didn't run off any prints because we didn't have the proper ink. We just made sure the mechanism was all right, and Dick Morton and Irving Ritkes stated that they were both expert printers and were both employed in the printing industry. Then Kinney said that those two men were to teach me how to operate the machine and that I would take instructions on whatever date we would set up. That is what he told us.

Q. Did you receive any instructions that first day that you were out there, out at Dick Morton's garage? A. Yes. He showed me some of the working operations of the machine and told me how to care for the rollers. He told me never to lay the rolls down because they might get a flat side on them. It was the general operation of the machine that day.

Q. Did the three other men remain in the garage with you all the time that you were at Morton's house that day? A. Yes, we all remained in the garage.

Q. After this first trip out in the garage did you return to that garage at any other time? A. Yes. Kinney shook hands with me, and he left. He said that I would never see him again, that I would be responsible to these other two

men. They told me to come out on Tuesday nights
13283 for my instructions on the machine.

Q. Did you go out on Tuesday nights thereafter? A. Yes, and I complained to Ritkes that the machine was too far away from my house, and there was a lot of traffic getting out there and back, about 60 miles. He told me to quit the griping, that there were three other machines and they were farther yet.

Q. You were employed during this time, were you not? A. Yes.

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By Mr. Story: What were you doing? A. I was working out at the Lockheed Aircraft.

Q. How many hours a day were you working? A. I was working eight hours a day.

Q. After you had complained to Ritkes did you go to this garage at Dick Morton's house any other time? A. Yes,
I was there seven or eight times, I think, once a
13284 week.

Q. Did anyone go there with you? A. Irving went with me a couple of times.

Q. Was Dick Morton present on these occasions? A. Yes, he was always home because he left the garage locked.

Q. In addition to this printing press, were there any other supplies in this garage? A. Yes. When I first started taking my instructions there was a large supply of paper in the garage, but Irving Ritkes when I first started going out there had me meet him on San Fernando Road, and we transferred more paper and ink and fluid to clean up the machine, to clean the rolls with. He gave me a form. He wanted to see if I could set up the machine with this form that he made up.

Q. Where did he give you this form that you mentioned? A. On the San Fernando Road. It was taken from his car and put into my car.

Q. Will you describe to the Panel what this form looked like? A. It was a frame of iron, and in the center all the

print was put in. It was just a practice form. It was just for a beginner to learn how to set up a machine. Then it had the pins around the edges, and blocks to hold the print in this form. It was wrapped up in cardboard about that big (indicating).

13285 Q. What did Ritkes tell you to do with this form after he gave it to you? A. He wanted me to run off some prints and see how I could run the machine. That was after I had had a couple of instructions. He said that after he saw how I could run the machine, if I proved all right, he wanted to have a practice run. He said he wanted to see how long it would take him to make up the form, get it to me, and have me go out and run off the number of leaflets which they would want and get them to the distribution points.

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13286 Q. Mr. Scarletto, I hand you a document and ask you if you can identify that document. A. Yes, I can.

Q. What is that document? A. That is a picture of the form which I used.

Q. Are there any initials or is there any identification appearing on the document which causes you to identify it? A. Yes, there are my initials and the date that I got it.

Q. This is a photograph of the form that you were given by Ritkes, is that correct? A. Yes, it is.

Q. How many copies of this form did you print when you took it out to the printing press? A. Oh, I would say I might have printed about 60 or 80. After I got it to working I ran off about 60 or 80. The ones that weren't any good I just threw away.

Q. What did you do with these prints? A. Irving wanted to see them. Some of them I turned over with my reports to the FBI, and the rest I took over and showed them to Irving, and he was very pleased at the progress I had made.

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13287 Q. Mr. Scarletto, you have stated that there was a supply of paper in this garage at one time. A. Yes.

Q. Can you give the Panel any indication as to the amount of paper that was stored in the garage?

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THE WITNESS: It was on a large box, larger than this table. I would say about one-half times larger than this table, and it was stacked about that high with paper all over the top.

By MR. STORY:

Q. What other material was stored in the garage? A. There was a large can of paste ink which is used in
13288 that type of printing, and cleaning fluid for the machine, and a bunch of clean rags. We always had to have rags.

Q. At Approximately when was the last time you went to the garage at Dick Morton's house? A. I would say about May of '41. I would say, rather around the first part of May or the end of April, somewhere in there I stopped going out.

By MR. STORY:

Q. During the time that you were in the Communist Party underground as you have described it, did you have any association whatsoever with other Communist Party units? A. I was told that I was never—I was told by Irv. Irving told me when we first started in this work that I was severed from the club, of course, and that I was never to be seen in public again at any function. I was never supposed to go out with any leaflets, never to go to meetings, no leaflets, and never to be seen at any picket lines or any mass meetings. I wasn't supposed to associate too much with my former Communist Party friends.

Q. Did you pay Communist Party dues during this time? A. Yes. He told me that I was to go by and pay all my dues and sustainers and drive money which they would be asking for, by quotas—he said I still had to fulfill my quotas—to Mim Schaffer.

13289 Q. Did you pay your dues to Mim Schaffer? A. I paid my dues, my sustainers, and every time there was a quota or fund raising campaign I had to pay that all to her.

Q. Mr. Scarletto, were you given a security examination at any time in connection with this underground work?

. . . . . .

THE WITNESS: Yes. I would say about the second week in May I received a phone call—

MR. ABT: May we have the year?

THE WITNESS: Of 1951. I received a phone call from my contact, Irving, and he said that there would be a man call me up and identify himself as Lou. He said, "He will call you up in a day or so," and I was to get in contact with him.

By MR. STORY:

Q. Did this Lou ever contact you? A. Yes. He called me and said, "Hello," and asked me who was talking. I said "Danny." He said, "This is Lou." He said, "I want you to meet me tomorrow night. Drive your car to the Wabash Theater." That is a theater which is close. "In the City Terrace, and park your car there at about a quarter to eight."

Q. Did you meet the man who was to identify himself as Lou at the Wabash Theater? A. Yes, I drove my
13290 car there and I parked and waited, and soon a man walked up to the car and said, "I am Lou."

Q. What took place after he walked up and identified himself as Lou? A. I said, "Who sent you?" He said, "Irv." So I opened the door. The window was rolled down. I said, "Get in." He congratulated me on my being so security conscious.

Q. What did you do after Lou got into your car? A. He told me to drive and he would tell me where to go. He took me about six or seven blocks away up in the hills there and had me park in front of an apartment house.

Q. What did you do after you parked in front of the apartment house? A. He got out of the car and I got out and we walked up the steps and knocked on the door of this apartment on the right. I had never been there before in my life.

Q. What happened after you knocked at the door of the apartment? A. This lady answered the door and he introduced me to her. He said, "I want you to meet Lillian Carlson." In turn she introduced me to her husband, Frank Carlson.

Q. Were there any other people present at Carlson's home when you arrived? A. Yes. There was an elderly woman, who left after I arrived.

13291 Q. After the lady left, then what people were present at Carlson's house? A. There was Lillian Carlson, Frank Carlson—I know him, I had met him before—and this Lou, who later proved to be Lou Barron.

Q. What took place after you were introduced and the elderly lady left the house? A. They told me to come into the kitchen, which was the next step right through the door, first the living room and then the kitchen. They told me to sit at the table. I sat down and they pulled out their papers, whatever they had there, and Lillian Carlson sat at my left, Lou sat across the table from me, and Frank Carlson sat in a chair in the doorway.

Q. Was Frank Carlson in the same room with you? A. He was in the doorway right behind me, about from here to that chair there. He sat in the chair and listened and watched while it went on. I turned around and looked at him several times.

Q. Did Frank Carlson hold any position in the Communist Party in Los Angeles at that time? A. He came to the Marxist Institute one night right after I first started there in late 1949, and he was introduced by the instructor, Gunther Michel, as county organizer. He sat in the back of the room for about an hour or maybe a little shorter,

13292 I would say about three-quarters of an hour, and then he got up and left.

Q. When was the last time you have seen Frank Carlson? A. The last time I saw Frank Carlson was at the trial in Los Angeles, California.

Q. Approximately what date was that? A. I would say about February 22, or something like that. I don't remember the date right offhand. He was there every day of the trial, of course, but the last time I saw him was the last day I was there.

Q. That was while you were testifying? A. Yes, while I was testifying.

Q. Was that in February or March? A. I think it was in March.

Q. Approximately how long ago was that? A. Just a couple of weeks ago, two and one-half weeks ago.

Q. After you had gone into the kitchen, what took place next? A. They told me that I had a lot of questions to answer.

Q. Tell the Panel how this group received you and what they asked you and what they did. A. She took out a form, a large form—

Q. By she, whom do you mean? A. That is Lillian Carlson. She and Lou read over questions from this form. They laid another piece of paper alongside the form and
13293 as I answered the questions they filled in the other piece of paper to compare with the questions.

Q. What questions did they ask you, Mr. Scarletto? First, how long did this interrogation take? A. Four hours.

Q. Generally tell the Panel what type of questions you were asked. A. They first started off by where I was born, and how old was I, when was I born, of course, and I had to give an account of my parents, where they were born and if they were foreign-born, to which I answered yes. Then I had to give an account of my life from the time I could remember. They wanted to know where I went to school, in what town, what grades, and the name of the principals of the schools, and the names of the teachers if I could remember them. They wanted to know the names of all

my brothers and sisters and what schools they went to. They wanted to know all the jobs I held in my life, what unions I belonged to, what jobs my family was doing at present. I told them that my mother was working in the meat packing industry and my brother was working in the steel industry. They said, "Oh, that is fine, two basic industries."

They wanted to know what unions they belonged to, and they wanted to know what strikes I had ever participated in. They wanted to know when I went into service, what was my position in the service and what branch
13294 of the service I was in. They wanted to know if I knew any FBI agents or any federal employees. They wanted to know if I had any relations who were civil service or federal employees, if I knew any police or FBI men or any government agents of any description. They wanted to know if I knew any Army officers or Naval officers.

Q. Did you know any Army officers or Navy officers? A. Yes, I have a personal friend who has just retired, who is a Naval Air Admiral, Admiral Perice.

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13295 Q. Mr. Searletto, you were testifying about the security interrogation which you were given by the Party. Who did the interrogation? A. Lillian Carlson and Lou Barron.

Q. Were you asked for the names of other Communist Party members, for references? A. Yes.

Q. What did you tell them? A. First I didn't want to give them the names, but they told me it was all right, so I just told them who my section organizer was and who my chairman was, that was all.

Q. Were you searched during this interrogation? A. They stopped the interrogation at one point and told me to stand up, which I did, and they said, "Put your wallet and everything on your person out on the table." At that point I laid out my wallet and my car keys, my hanker-

13296 chief, and what change I had in my pockets: They said, "Is this all?" And I said, "Yes."

Q. What took place after you put your personal effects on the table? A. Lou Barron picked up my wallet and dumped all its contents out on the table, and he riffled all through my wallet to be sure he didn't miss anything. They both went over every little slip of paper and everything I had in my wallet, in detail. They examined it very closely.

Q. Were you criticized for anything that was found in your wallet?

. . . . . .

THE WITNESS: Yes, I was. My chairman had met a member that was in the first club I was ever in, and he wanted to see me and gave her his address, which was his handwriting, and she gave it to me. I put it in my wallet. I was criticized very much for having that.

I also had the home address of Dick Morton. He had no telephone; and I had the telephone number of Irving Ritkes in my wallet. They both criticized me on my breach of security, and said that they were amazed to find that a man of my standing in the Party would have some embarrassing information on him in case he was picked up. They pushed them in front of me and said, "Here, destroy these."

And right in front of them I tore up the phone num-
13297 ber and address of this Party member.

There was a $20 bill there, and she picked it up and said, "We will just keep this for the Party," and I reached over and took it back. I told them it was my grocery money and it was all I had on me at that time.

By MR. STORY:

Q. Did anything else take place during their search of this wallet? A. That is all I can remember right now.

Q. Mr. Scarletto, you were telling us this morning about instructions that you received prior to attending the section convention back in 1948. A. Yes.

Q. Do you recall at this time any other security regulations that you were required to conform with before going to this convention? A. Yes. I was told to leave my driver's license and whatever identification I had in my wallet, at home.

Q. Did you do that? A. Yes, I did.

Q. Was your wallet checked to make sure that you were carrying out the instructions? A. No, but I carried them out in case it would be checked.

13298 MISS MCHALE: While you are on that subject, may I ask a question?

MR. STORY: Yes, Dr. McHale.

MISS MCHALE: Was this park in which the meeting was held a city-owned park? Was that State property?

THE WITNESS: It was private property. It is not in the park. It is right across the street from the park. The name of the street is Echo Park.

MISS MCHALE: That is why I was confused. I know some of them are city-owned. I was wondering how you went about renting it for this meeting.

THE WITNESS: I don't know how that was done.

MR. DENUNZIO: Echo Park is the name of the street.

MISS MCHALE: I understand.

By MR. STORY:

Q. Mr. Scarletto, at the end of this security interrogation that you had at Frank Carlson's house, did you receive any further instructions? A. Yes. She said—

Q. "She"? Who? A. Lillian Carlson. She said that I was supposed to keep in contact with Mim Schaffer and pay her my dues and sustainers, and it was all right for me to tell her that I was interrogated, but I was not supposed to go to any Communist meetings.

13299 She said that my underground contact, Irving Ritkes, would get in touch with me.

Q. Did you see Ritkes at any time after this interrogation? A. Yes, I saw Ritkes about five or six weeks later. He

called me up and wanted to talk to me, and I went out and met him that evening. He said, "We will meet at the usual place," and I drove down and met him there.

Q. What took place when you met Ritkes on this occasion? Give us the date, also, Mr. Scarletto, the approximate date. A. I would say it was around the beginning of July.

Q. What year? A. 1951. I told him that Mim Schaffer wanted me to do some work in the IPP, and he told me, he said—

Q. Excuse me. What is the IPP? A. Progressive—let me see. I can't think of it right now.

Q. Would that be the Independent Progressive Party of California? A. Yes.

Q. All right, continue. A. I told him she wanted me to do some work in there, and he told me, he said, "What I told you still goes. You are not supposed to do anything."

He said, "Tell her that you will do it, and to hell
13300 with her. Don't do it."

So then I told him about the interrogation. I said, "Boy, that man Lou you sent over, they sure wrung me out." He said, "You should be proud that the Party takes such precautions." He said everybody in our status had to go through the same thing.

Q. Mr. Scarletto, were you required to re-register in the Communist Party after you first joined the Party?

. . . . . .

THE WITNESS: Yes, we had to re-register every year, and they told us if the Party didn't re-register you they would drop you. Every year I received a re-registration.

By MR. STORY:

Q. What took place at these re-registrations? A. I had to go to my section organizer, and it was done in private. She would take me into the bedroom where no one else in the house could hear what was going on, and she had a form from which she would read off the questions. Every year we had more questions. They went into more detail.

Q. When was the last year that you were re-registered in the Party? A. I think it was about November of '51.

Q. Were you required to fill out any forms or any applications or anything of that nature, during these
13301 re-registrations? A. No. She did all the filling out. I just answered the questions which she read from the form.

Q. Mr. Searletto, did you receive any instructions as to what you were to do in the event that you were arrested in connection with Communist Party activities? A. Yes, I did.

Q. Will you tell the Panel who gave you those instructions, and approximately when they were given? A. Mim Schaffer gave us those instructions, and we were told—

MR. ABT: May we have when and where?

By MR. STORY:

Q. When? A. That was at the home of Mim Schaffer, I would say in the middle of 1950. We were told there that in case we were ever picked up by the FBI, we were not supposed to answer any questions. In case we were taken in we were not supposed to talk, and demand to see our lawyer. In case the FBI came to our door, to slam the door in their face and don't talk to them. If they called us on the phone and you didn't know who you were talking to, don't talk.

She also told us that the FBI was calling on different members, saying that they were a collection agency or a credit agency, and were checking up on someone's credit and trying to pump information from Party mem-
13302 bers that way. Just to hang up the phone on all this kind of calls.

We also got a leaflet, one side printed in Spanish and the other side printed in English. They had all these do's and don't's in them.

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Q. Where did you receive this leaflet or pamphlet with instructions on what to do? A. At the home of Mim Schaffer, at a Chairmen's meeting.

Q. The Chairmen of what? A. That is of all the clubs in the El Sereno District.

Q. Was this a Communist Party meeting? A. Yes.

Q. Was this pamphlet put out by the Communist Party? A. IPP. No; CRC, I think it was.

Q. Which was it, can you recall now? A. CRC. That is it.

Q. What is the CRC? A. Civil Rights Congress.

Q. You received one of those leaflets? A. Yes, I
13303 did.

Q. Were you ever picked up or arrested in connection with Communist Party activities? A. No.

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Q. What position, if any, did Miss Stoughton have in the Party? A. She was Chairman of the Mexican Concentration Club, and she was also Section Educational Director at that time.

Q. Now, tell us what was said in terms of the Korean war at this meeting? A. Alice Kanamearu—she is of Korean descent, and her husband is Japanese. She came to the meeting that night. She was the Press Director at the time. She said she could no longer handle the Press Director's job of the club because she and her husband, who was about to go into the service, thought it would prove embarrassing
to him if she was caught doing any of this kind
13304 of work. Gertrude Stoughton told her; she said,

"You are wrong. We should encourage our husbands to go in the service because in the Russian revolution large numbers of men were encouraged to go over to the Communist side and were assured safe conduct. We should have a plan where we can do that in the American Army, too."

Alice Kanamearu said, "Oh, I didn't look at it that way. Then he would have opportunity for sabotage, too."

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Q. What kind of a meeting was this, Mr. Scarletto? A. It was one of our regular unit meetings that we had once a week.

Q. Did Gertrude Stoughton make any other statements at this meeting, that you can recall? A. She said that the same thing was done in the Italian war. She said a lot of Italians were encouraged to desert the Fascist Army and go over to the side of the Allies.

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13305 Q. Did she make any other statements concerning the Korean war? A. She said we should have a plan set up so where our soldiers would be insured safe conduct through the enemy lines.

Q. Through the enemy lines where? A. In Korea.

Q. This entire discussion was concerning the Korean war which was then going on? A. Yes.

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Q. What was said concerning sabotage at this meeting?

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13306 THE WITNESS: Gertrude Stoughton said she thought it would be a good idea if I went back in the Navy Air Corps, which would give me a good chance for sabotage, and I agreed with her.

By MR. STORY:

Q. What position or what kind of work did you do in the Navy Air Corps? A. I was a mechanic and a gunner.

Q. When you say a mechanic, did you work on motors or parts of planes? A. I worked on the engines, and at one time I had charge of the surface control, all the aircraft controls.

Q. Did Gertrude Stoughton know that? A. Yes, because I had told her about it before.

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13308 Q. Do you remember any other Communist Party
13309 meeting where the Korean war situation was discussed? A. Yes, I remember another one.

Q. Tell us the time of the meetings, where the meeting was held and the statements that were made concerning the Korean war. A. About the first of December, 1950, we had

a meeting at the home of Margaret Todd, of El Sereno, on Mallard Avenue, and that night Gertrude Stoughton, the chairman, said that some of our officers in North Korea were killed in their sleep by their orderlies, who were Koreans, who disappeared after they cut the officers' throats.

After that statement was made, Margaret Todd said, "I love the Commies."

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13312 Q. Mr. Scarletto, do you recall an incident where a Communist Party member in Los Angeles by the name of Warwick Tompkins was expelled from the Party? A. Yes, I recall that incident.

Q. Tell the panel approximately when you first heard of this incident? A. I forget just when I got that letter. I was representing our chairman at a chairmen's meeting that night, and we were given mimeographed copies concerning Warwick Tompkins and his wife, Helen, of the Midtown Section, Los Angeles, announcing that they were expelled from the Party for supporting Anna Louise Strong and trying to get some other Communist members to support her, too.

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13313 Q. Did you receive this letter that you have just mentioned, in your official capacity as an official of the Communist Party?

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THE WITNESS: It was to be taken and read to all clubs. Every member had to know about it so they would have no contact with this man, so they would all know he was a traitor to the Party.

By MR. STORY:

Q. Where did you get this letter or document? A. At a chairmen's meeting.

Q. Were you told what to do with this letter?

13314 A. Yes. I was told to take it to the club and read it

and see that all members got word of it.

Q. Did you read this letter at your club meeting at a later date? A. Yes.

. . . . . .

Q. Will you tell the Panel the contents of this letter?

MR. ABT: I object on the grounds stated.

MR. BROWN: Objection overruled.

THE WITNESS: It was said that Anna Louise Strong had circulated some slanderous remarks about Russia, and that the United Nations was responsible for the shooting war.

By MR. STORY:

Q. What was said concerning the activities of Tompkins in this letter? A. It was said that he tried to organize some Communist members to support Anna Louise Strong.

Q. Support her in what? A. In her ideals and her distributing of leaflets.

Q. What was the nature of those leaflets? A. It just said slanderous remarks against Russia.

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13317 CROSS EXAMINATION

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By MR. ABT:

13457 Q. Now, Mr. Witness, you testified here yesterday, did you not, as follows, at page 11265:

13458 By MR. STORY:

"Q. What was said concerning sabotage at this meeting? A. They knew that I was in the Navy Air Corps and they thought it would be a good idea that I should—"

And then I interrupted with an objection, and then you continued:

"Gertrude Stoughton said she thought it would be a good idea if I went back in the Navy Air Corps, which would give me a good chance for sabotage, and I agreed with her."

Did you not so testify? A. Yes.

Q. You also testified with reference to this portion of the conversation in the Los Angeles trial, did you not? A. Yes, I think so.

Q. And is this not all that you said on the subject in Los Angeles, at page 3239:

"Q. What else was there about sabotaging airplanes? You mentioned something about sabotaging airplanes. A. I have done aircraft mechanical work for years, including the three years as an aircraft mechanic in the Navy Air Corps, and I said, 'I really could keep a lot of planes on the ground that should be in the air.' They just really congratulated me on that."

13459 Were you asked that question, and did you make that answer? A. Yes.

Q. Now, you testified, did you not, a few moments ago here, that you reported this conversation to the FBI in the same way that you testified to it in Los Angeles? Didn't you so testify a few moments ago? A. Yes.

MR. ABT: Mr. Chairman, we now move that the Panel direct the petitioner in this proceeding to produce here this witness' report to the Federal Bureau of Investigation in which he says that he reported the conversation which occurred at Gertrude Stoughton's house in September or October 1950.

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13461 MR. BROWN: The motion is denied.

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13601 **Timothy Evans, Jr.** was called as a witness by and on behalf of the petitioner, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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By MR. STORY:

13605 Q. Did you receive a membership card in the Communist Party after you joined? A. No, I joined the Party after the 1948 registration and I didn't receive a card for 1948.

Q. Did you receive a membership card in 1949? A. No. Prior to the registration in 19—

13606 Q. Were you told why you did not receive a Communist Party card in 1949?

THE WITNESS: Yes, we were told why we did not receive cards for 1949, membership cards for 1949.

THE WITNESS: The place was Nora Lafferty's. That was the place. The time was in the late fall of 1948. That
13607 takes care of the time and place. And she said thusly. That there would be no cards issued for 1949 because of security reasons.

Q. Did Nora Lafferty hold a position in the Communist Party at the time she made this statement in late 1948? A. Yes.

Q. What position did she hold? A. She was Chairman of the Harriet Tubman Club.

Q. How long did you continue as a member of the Harriet Tubman Club, Mr. Evans? A. I was a member of the Harriet Tubman Club until the club was divided into groups—I mean into squads—in 1948.

Q. How many squads were formed out of the Harriet Tubman Club? A. The club was broken into two squads.

Q. Were you told by any official in the Communist Party when this action was being taken? A. Yes, I was.

Q. What were you told and who told you?

13608 THE WITNESS: I was told—at a meeting we were told that the Harriet Tubman Club would be divided into squads, and that each squad would have its group leader and that this group leader would have full authority over the squads. He would take care of the collection of dues and

of sustainers, and because of security reasons no new membership cards would be issued for 1949, and if there were still existing old cards should be collected and destroyed, preferably burned.

We were also told that a new code system would be worked out whereby a record for keeping dues and sustainers would be kept by numbers instead of names. At that particular meeting, the club was divided into squads.

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Q. Mr. Evans, would you tell the Panel the person making this statement? A. Nora Lafferty made the statement.

Q. And did she hold a position at the time she
13609 made that statement?

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THE WITNESS: She did hold a position. She was chairman of the club.

By MR. STORY:

Q. Were these squads that were formed out of the Harriet Tubman Club numbered or given names?

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Q. Were you assigned to one of these squads? A. Yes, I was. I was assigned to Nora Lafferty's squad.

Q. How long did you remain a member of Nora Lafferty's squad? A. A short time after the club was broken into squads, the section leadership became alarmed at the inactivity of the squads and soon the original membership of the club started meeting together again.

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13610 Q. Mr. Evans, after the Harriet Tubman Club had gone back together again, how long did you remain a member of this club? A. I was a member of the Harriet Tubman Club until another reorganization took place in the summer of 1950.

Q. Did you hold any position in the Harriet Tubman Club at any time? A. Yes. Shortly after ~~we went~~ back together, I was made a club chairman.

Q. You mentioned another reorganization in the summer of 1950. Where did you first hear of this reorganization which you state took place in the summer of 1950?

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THE WITNESS: In July 1950 at 717 Franklin Street, Oakland.

By MR. STORY:

Q. Was this at a Communist Party meeting or what kind of meeting was it?

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13611 THE WITNESS: It was a Communist Party meeting of the West Oakland section.

By MR. STORY:

Q. Tell the Panel what took place at this meeting. A. Ray Thompson, a section official, told the members at this meeting that the world situation had created quite a bit of alarm in the Party, and for that reason the Party was adopting stricter security measures, that the clubs would be divided into smaller groups, and that each group would consist of no more than five people, and that these five people in each group were not to know who the members of the other group was, and that the leader of each group would be the sole contact between the section and his group.

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13612 Q. Had you finished your testimony concerning what happened at this meeting? A. No, not quite. I think I left off where the group leader of each group would be the sole contact between his group and the section, and that the group leader should be a trusted comrade, and that strict security measures and screening processes would be adopted in order to root out unreliable comrades.

Q. After this meeting, did this reorganization actually take place in the Communist Party? A. Yes. Shortly after the meeting the reorganization did take place, and the clubs were divided into groups.

Q. Were you assigned to one of these groups? A. Yes, I was.

Q. What was the name of your group? A. The groups carried numbers instead of names. The number of my group was group No. 4.

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13613 Q. Mr. Evans, did any other reorganization take place in your Communist Party clubs at any time during your membership? A. After the clubs were divided into groups, another reorganization did take place in the Party.

Q. When did that reorganization take place? A. We had a Party reorganization shortly after 1950 at a meeting of the West Oakland section. Billy Wachter, county education director, told us that the county office of Alameda Coun[illegible] would be dissolved and the two counties,
13614 Alameda and Contra Costa County would be merged to form a regional, and this regional would be directly under the state office.

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13615 Q. Mr. Evans, you mentioned a Billy Wachter.
13616 Did he hold a position in the Communist Party?

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THE WITNESS: Yes, she held a position.

By MR. STORY:

Q. What position did she hold? A. She was county educational director of Alameda County.

Q. Was this at an official Communist Party meeting where Wachter gave this statement? A. It was.

Q. Mr. Evans, how long did you continue as a member of a group which was formed out of the reorganization in the

summer of 1950? A. I continued to be a member of this group until another reorganization took place in early 1951.

Q. Do you recall when in 1951 the other reorganization took place? A. It was, I think, around January of 1951.

Q. Where did you first hear of this reorganization which took place in early 1951? A. I first heard it at the West Oakland section convention.

Q. When was that held? A. It was in December of
13617 1950.

Q. Where was it held? A. It was held at the home of Emma Stanley, 840 Delaware Street, Berkeley, California.

Q. Now, tell the Panel what was said at this convention concerning the reorganization which took place in early 1951.

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THE WITNESS: At the convention of the West Oakland section in 1950, the Chairman told us that the club, the groups weren't operating efficiently and that security measures weren't being followed, and that the groups would be redivided in order to place active members in each group. He said that each group should have a representative number of Negro and white comrades, it should have a representative number of male and female, there should be at least one industrial worker in each group, and also that after the groups are formed, each member of the group should be given a marked organization to work in outside of his regular Party activity.

By MR. STORY:

Q. Were you given any instructions concerning the security measures to be followed once this reorganization took place?

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13618 THE WITNESS: Under this new organization, the groups were not to tell the time nor the place of the meetings, and all contact—the group leader was to contact all of his members concerning the place and the date of the

meeting, and the telephone as an instrument of conveying messages was banned for Party use. Also that they should continue the use of the number system for keeping of records of dues and sustainers, and the use of last names should be also banned, and there should be no intercommunication between groups.

. . . . . .

Q. Mr. Evans, you mentioned the number system. What do you mean by the number system in keeping of records of dues and contributions?

. . . . . .

THE WITNESS: This method of number system or alphabetical system was a system that could be devised by any group that would not reveal the identity of the person so stipulated on the card, but the group could understand who it was, and it was just for a method of keeping records so that if the card was lost, nobody could trace that particular person as being the one who paid those dues.

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Q. Did this reorganization that was discussed in the latter part of 1950 actually take place? A. Yes, it did.

Q. What unit were you assigned to after the reorganization? A. After the reorganization, I was assigned to one of the groups.

Q. Did you hold any position in this group? A. I was the group leader.

Q. Did you hold any other position in the Communist Party in addition to being group leader? A. Yes. I was educational director for the West Oakland section.

MR. ABT: May we have a time, Mr. Chairman?

THE WITNESS: 1951.

MR. FORER: That was the West Oakland section?

THE WITNESS: Yes, West Oakland section.

By MR. STORY:

Q. When in 1951 did this reorganization take place? A. The reorganization took place a short time after the con-

vention. It took place in either the latter part of
13620 January or the early part of February.

Q. How long did you continue as the educational director for the West Oakland section? A. I was educational director from the early part of 1951 until the fall of 1951.

Q. Mr. Evans, did you attend any conventions during the time you were a member of the Communist Party? A. Yes, I attended three conventions during my membership.

Q. What conventions did you attend, and when were they held? A. I attended the West Oakland section convention of the Communist Party in 1948.

Q. And when in 1948, Mr. Evans? A. It was in the late fall of 1948. I attended the West Oakland section convention in December 1950, and I attended the regional convention in January of 1951.

Q. Where was this first convention that you attended in the fall of 1948 held? A. It was held at the home of Nora Lafferty.

Q. Where was Nora Lafferty's home? A. In Oakland.

Q. How many delegates attended this convention? A. Approximately 50 delegates.

Q. Were any steps taken by the Communist Party
13621 to conceal the activities of this convention?

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THE WITNESS: No steps were taken by the Party to conceal this convention.

By MR. STORY:

Q. Where was the second convention held that you attended? A. The second convention was held at Emma Stanley's house, 840 Delaware Street, Berkeley, California.

Q. How many delegates were at the second convention, Mr. Evans? A. Between 15 and 20 delegates.

Q. Were any steps taken to conceal the second convention that you attended from the general public?

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THE WITNESS: The second convention as well as all the events that led up to it were surrounded by a thick cloud of secrecy.

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13622 Q. Will you tell us what measures were taken to conceal this convention?

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THE WITNESS: On the morning of the convention we were told to assemble at the home of Mary Green. All the delegates were told that.

By MR. STORY:

Q. Was that in Oakland? A. That was in Oakland, yes. After we had assembled, there, the delegates were divided into groups of three, and we were told to use as few cars as possible. The place where the convention was to be held was not told to the entire group, but was told only to the driver of each group. We were told on leaving Mary Green's house to leave in a casual manner, and when we arrived at the place of the convention, to park at least two blocks from its location.

13623 Q. Who gave you these instructions? A. The Chairman of the West Oakland section.

Q. What was the name of the chairman? A. Roscoe Proctor.

Q. Did you go to Mary Green's house on the day you were instructed to go there? A. I did.

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13624 Q. Mr. Evans, you were testifying about the convention you attended in December 1950. I think when the noon recess was called, you were discussing the delegates that had collected at Mary Green's house; after you left Mary Green's house, approximately what time did you arrive at the convention hall? A. We arrived there between 9 and 9:30 in the morning.

Q. How long did this convention last? A. The convention lasted until about 9 o'clock that night.

Q. Where did the delegates have lunch on that day? A. We were told to bring our lunch because nobody would be permitted to leave the place of the convention.

Q. Did you observe any delegates leaving the convention during the first day of the convention? A. I observed, but no one left the convention hall.

13625 Q. What took place at this convention? A. We reviewed our work for the past two years and we placed a lot of emphasis on strict security measures—

. . . . . .

THE WITNESS: And a discussion of security measures to protect the various comrades in the performance of their duty. It was also at this convention that we discussed the peace campaign and the relationship of the Party to the press. That was the PW newspaper. And we discussed the reorganization program which took place in the groups in 1951.

By MR. STORY:

Q. After this convention was over, how did the delegates leave the convention hall? A. At the conclusion of the convention, the chairman directed how the delegates would leave. They came in threes with a specific driver, so he would tell the driver when he could take his group and leave. So as he would call the driver, the people who came with him would leave. And he would always give each driver a chance to reach his automobile and leave before he would call the next driver. I would say at about five minute

13626 intervals.

Q. Now, Mr. Evans, you have testified that you also attended a regional convention of the Communist Party. When was this regional convention held? A. The regional convention was held in January of 1951.

Q. Did you attend this convention as a delegate? A. Yes, I did.

Q. How were you selected to attend this convention? A. At the West Oakland section convention, we elected delegates to attend the regional convention, and I was elected as one of the delegates at the West Oakland section to go to this particular convention.

Q. Where was the regional convention held?— A. The regional—state the question again.

Q. Where was the regional convention held? A. The regional convention was held at Eastgate Lodge, 3138 Grove Street, in Berkeley.

Q. About how many delegates attended this convention? A. We had between 30 and 40 delegates in attendance.

Q. How were you directed to this convention, Mr. Evans? A. On the Saturday before the convention was to convene, we were directed to meet at Mary Green's house, and upon arriving there we were told that we would be directed to the convention hall.

Q. Did you go to Mary Green's house? A. I went there as instructed to do so.

13627 Q. What happened after you arrived at Mary Green's house? A. Upon arriving at Mary Green's house, she told me that I was to drive the delegates to the convention, that is, the delegates from the West Oakland section. She said, or she gave me the address and told me to drive the delegates to 3116 Grove Street.

Q. How many delegates were selected from the West Oakland section? A. Approximately five. It was five of us I think, four regular and one alternate delegate.

Q. What happened after you arrived at 3116 Grove Street? A. When we got to 3116 Grove Street, we were met by West Bodkin, who then directed us to the convention hall.

Q. Did Bodkin hold a position in the Communist Party at that time? A. Yes, he did.

Q. What position did he hold? A. Bodkin was county organizational secretary.

Q. What time did you arrive at the convention hall? A. We arrived there between 9:30 and 10 o'clock.

Q. How long did you remain at the convention hall? A. We stayed there until about 6 o'clock that evening.

13628 Again we were told to bring lunch as no one would be permitted to leave the convention.

Q. What took place at this convention? A. We had our usual round of speeches by different people. Mickey Lima made a speech for the necessity of recruiting more people in to the Party, as insurance of our own safety. He mentioned that this was one of the best security measures that we could follow, that is, to align ourselves with more people. He also mentioned the necessity for mass concentration, especially in other well organized groups, so if the Party was attacked, or if individuals in the party were attacked, at least they would have friends in other organizations. He spoke on a peace program and the war in Korea.

A fellow by the name of Paul Schlipe made a talk on industrial concentration and necessity of infiltrating the different unions, especially the key unions. Another fellow by the name of Matt Crawford made a speech on the necessity for the establishment of a Negro nation in the South.

Q. Mr. Evans, you mentioned Mickey Lima. Did he hold a position in the Communist Party at the time you appeared in this convention? A. Yes, he did.

Q. What position did he hold? A. Mickey Lima

13629 was the chairman of the East Bay region of the Communist Party.

Q. When was the last time you saw Mickey Lima? A. The last time I saw Mr. Mickey Lima was in the Los Angeles trial.

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Q. Mr. Evans, how did the delegates leave the convention hall at the end of the day? A. At the end of the day the delegates were called according to sections that they came from and as the different sections would be called, they would leave. The drivers of the cars and the different sections would leave. We were told to leave in a carefree manner, don't go direct to your car, but kind of browse around

before you leave, and not to take a direct route home.

Q. Was this convention completed in one day? A. No, the convention continued the following day.

Q. Where was the convention held on the second day? A. The convention the second day took place at 2002 San Pablo Avenue, El Sereno, California.

13630 Q. How were you directed to the convention hall the second day? A. On the second day we followed the same procedure as we followed the first day, by going to Mary Green's house with the exception that we also picked up Roscoe Proctor at another address, and he directed us to the convention. This time we were told not to take a direct route but to drive more or less casually around and then go to the convention place.

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Q. Did you drive your automobile the second day? A. I did.

Q. What took place at the convention on the second day? A. We had more of the same speeches on industrial concentration, on the peace campaign, on world conditions and war, on stricter security measures, and on mass concentration.

Q. How long did the convention last on the second day? A. The convention concluded around six o'clock that evening also.

Q. How did the delegates leave the convention hall on the second day. A. The general procedure that was fol-
13631 lowed the first day was followed the second day. The only difference being that on the second day there was a back exit for us to take and we took the back exit and walked around the block to reach our automobiles.

Q. Mr. Evans, did you attend any Communist Party schools during your membership in the Party? A. Yes.

Q. When was the first school and what was the first school you attended? A. The first classes I attended was in the Harriet Tubman Club. We had ten or twelve classes for beginning students.

Q. Do you recall what textbooks were used in these classes?

. . . . . .

THE WITNESS: The primary textbook used in this particular course was a booklet entitled, "Theory and Practice of the Communist Party."

By MR. STORY:

Q. Now, Mr. Evans, did you attend any other schools while you were a member of the Communist Party? A. Yes.

Q. What school did you attend? A. I went to the
13632 Marxist-Leninist Institute, which lasted for a year, from about April of 1949 to June of 1950.

Q. Was this a full time school? A. No. It met only once a week and at night, and it would last usually for about three hours.

Q. Where were these classes held? A. The classes were held in various sections of Oakland.

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Q. How many students were enrolled in this school?

. . . . . .

13633 THE WITNESS: We had two sections of about 30 students in each section.

By MR. STORY:

Q. Did you enroll in this school under your own name? A. No. We were enrolled according to numbers. The number that I used was 72.

Q. What classes were taught in the Marxist Institute? A. We had four main classes, and the classes were political economy I and political economy II, Marxist-Leninism I, Marxist-Leninism II.

Q. Mr. Evans, were any steps taken by the school authorities to conceal the existence of this school?

. . . . . .

MR. STORY: The student attended the Marxist-Leninist Institute. He should know whether there were any steps taken to conceal the existence of the school from the general public.

13634 THE WITNESS: There were attempts to conceal the identity of the school. We were told not to discuss the school with anyone, not to discuss the place or the date of its meeting, not to discuss the contents that went on in the school, I mean the subject matter, and after each class, we were told to pick up all scraps of paper that might contain written matter and to destroy it.

Q. Did you use any textbooks at the Marxist Institute? A. We had a large outline that we used as a study guide and in this large outline it made references to some of the Marxist classics and those—

13635 Q. Mr. Evans, I hand you a document which has been marked for identification as Government Exhibit 427, and ask you if you can identify this document. A. Yes, this is one of the outlines we used in the school.

13639 Q. Mr. Evans, do you know of your own knowledge any plans devised by the Communist Party for underground activity in the Communist Party?

THE WITNESS: I do know of plans that we made at—

13640 Q. What plans were made concerning the underground activity of the Communist Party?

THE WITNESS: At a West Oakland section meeting in June of 1950, we were told that the groups should equip

themselves with a mimeograph machine and with
13641 paper, stencils and ink, so that in the event the Party is forced underground that these small groups that are segments of the main body could carry on their work independent of the county office, in the event the office is closed down.

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13642 Q. Do you recall the name of the person who gave you the instructions at this West Oakland section meeting? A. Yes, the name of the person was Ray Thompson.

Q. Did he hold any position in the Communist Party at the time he gave this information? A. He did.

Q. What was that position? A. He was an organizer. He was sent into the West Oakland section to bolster up the section.

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Q. Did you have any position in the Communist Party at the time you received these instructions? A. Yes, I was leader of a group. I was chairman of a group.

13643 Q. Was anything done within your group to carry out these instructions?

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THE WITNESS: My group purchased a used mimeograph machine, paper, stencils and ink as required by the section to do.

By MR. STORY:

Q. What did you do with this material after you purchased it? A. I stored it in my apartment.

Q. Where is that equipment now? A. The equipment is still in my apartment.

Q. Mr. Evans, do you know of any other plans made by the Communist Party concerning underground activity?

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13644 THE WITNESS: In the late summer of 1951, I was contacted by Roscoe Proctor, the chairman of the West Oakland section, and told that the reorganization of the clubs which will take place the following fall that I was not supposed to accept any group or section position, that I was being considered for underground assignment, and that I would have to go through a careful screening process before I could get the job.

. . . . . .

Q. Were you screened by the Party in preparation for this assignment, Mr. Evans?

. . . . . .

THE WITNESS: I was.

By MR. STORY:

Q. When were you screened? A. It was in the late, late summer, near August.

Q. Of what year? A. Of 1951.

Q. Tell the Panel what happened, who contacted you and where you were contacted.

. . . . . .

13645 THE WITNESS: At this time I was contacted by a man named Morris Keller, who was a member of the Security Commission, which controlled the West Oakland section.

. . . . . .

THE WITNESS: This fellow got in contact with me and told me that he wanted to see me, and after I went to see him, he took me to a room and said that he had to give me a screening for a new job that was coming up for me. He handed me a questionnaire and proceeded to have me to answer the questions from the form that he had given me.

By MR. STORY:

Q. Were you interrogated at any time during this screening? A. Yes, after filling out the questions, you know, then

he asked me some questions openly.

13646 Q. Do you recall what subjects were covered during this screening? A. Yes, I do.

Q. Tell the Panel what subjects were covered.

. . . . . .

THE WITNESS: In the questionnaire itself, questions were asked about your family background, how old you were, how much education you had, the jobs that you had held chronologically right along, different places you worked, asked your union affiliation, your religious affiliation, also asked the background of your parents, whether they were foreign or native born, or how old they were, where they worked, where they are living now, the address, the address and age of your sisters and brothers. I also was asked how long I had been in the Party, the number of books I had read, the schools I had attended. I was asked whether or not I still agreed with the Party's position, and whether or not I thought the future of the Party's position would be imperiled by events happening now. I was also asked whether or not I had associated with factionalists, and whether or not I had ever been arrested or had any type of criminal record, other than a traffic violation. I was

13647 asked whether I had ever been contacted by the FBI or other agent for misdemeanor or any government violations.

I also was questioned about my wife's family, her background and religion, et cetera.

By MR. STORY:

Q. Are you finished? A. Yes.

Q. How long did this screening process take? A. This process took from between two and three hours.

Q. After you were screened by the Party, did you hear anything more about your underground assignment? A. A few weeks after this screening process, I was again contacted by Roscoe Proctor who told me that I would be contacted by another man who would use the name of Terry

Rose, and that this fellow would give me further instructions according to my underground activities.

Q. Approximately when did Roscoe Proctor contact you? A. It was the early fall of 1951.

Q. Did Proctor tell you anything about the type of assignment you were to receive? A. Yes. He told me that the job would consist in the main of acting as a courier between the section and the county.

Q. Were you ever contacted by this man who was to identify himself as Terry Rose? A. No, I was never
13648 contacted by Terry Rose.

Q. Did you ever hear anything further concerning your underground assignment? A. Yes. About a week before I testified in Los Angeles, I was again contacted by Roscoe Proctor, and he told me that the job was still in the hopper, and that this fellow was still going to contact me.

Q. You have not heard anything further? A. I think the testimony in Los Angeles probably took care of that.

Q. Mr. Evans, were you given any instructions while you were in the Communist Party as to what you were to do in the event you were arrested in connection with Communist Party activities?

* * * * * * * * * * *

Q. What were you told? A. I was told on several occasions by different officials that in the event that you were arrested while performing Party activities to stand on your constitutional rights and don't answer any questions, don't give your name, and to demand that you be allowed to talk to a lawyer, and to get in touch with one of the Civil Rights Congress lawyers.

13649 We were also given a small card explaining what to do in case you were arrested.

* * * * * * * * * * *

Q. Mr. Evans, I hand you a document which has been marked for identification as Government Exhibit 428, and ask you if you can identify that document. A. This is the same as the card that was given to us.

Q. Where did you receive this card? A. It was given to me at the meeting of the Harriet Tubman Club.

MR. ABT: May we have the date, Mr. Story?

THE WITNESS: Shortly after my coming into the Party. I would say it was given in the spring of 1948 by Nora Lafferty.

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By MR. STORY:

13654 Q. Mr. Evans, were you taught anything concerning the allegiance owed by a member of the Communist Party to the Government of the United States during your membership in the Party?

* * * * * * * * * * *

THE WITNESS: We were taught about just and unjust wars in the Marxist Institute.

* * * * * * * * * * *

Q. What were you taught about just and unjust wars in the Marxist Institute? A. We were taught that a just war is not a war of conquest, that it was waged to free people from oppression and enslavement, and that a just war is waged sometimes to free colonies from capitalist oppression. We were also taught that an unjust war is a war of
13655 oppression, designed to enslave people and that this war of oppression could only be waged by a capitalistic country, because in doing so they seek to enslave other countries in order to create a market for their products. We were taught that the Soviet Union could never wage an unjust war because by the very nature of itself, the Soviet Union is geared for production of its own people, and they don't seek outside markets for an outlet for their products. Therefore, on that basis, only a capitalistic country could wage an unjust war, and also that it was our duty as Communists to fight against anyone who would wage an unjust war, and to try to bring it to a successful conclusion.

* * * * * * * * * * *

13656 MR. BROWN: Mr. Evans, were you taught anything at the Marxist Institute as to what action the Communist Party or the members thereof would take in the event of a war between the Soviet Union and the United States?

THE WITNESS: We were taught that we are supposed to support any country who is engaged in a just war, and oppose any country who is waging an unjust war. We were taught that the Soviet Union could never engage or never start an unjust war, that they could only start a just war, and we were supposed to support anyone who started or anyone who was the recipient or started a just war, and oppose an unjust war. We were told that the United States could never start a just war, by the very nature that they are a capitalistic country, and could only start an unjust war. And we were supposed to oppose this unjust war and support the just war.

By MR. STORY:

Q. Were you told by any of your Communist Party superiors at any time what category the Korean war falls in?

. . . . . .

13657 THE WITNESS: I mean it more or less destroyed the thought I intended to convey because of the question. The question was, was I told what category the Korean war fell in, is that correct?

MR. BROWN: Yes.

THE WITNESS: We were told that the Korean war did represent a free nation being aggressed upon. In
13658 this case the North Koreans and the Chinese forces represented the forces of liberation, and that the United States, and her allies, and whoever she could draw into it, represented the aggressors, and therefore they were waging an unjust war, against the North Korean and Chinese people.

By Mr. Story:

Q. Who made that statement, Mr. Evans? A. Roscoe Proctor, at the section educational meeting.

Q. Approximately when was that made? A. Around the fall of 1950.

. . . . . .

13659 Cross Examination

. . . . . .

13745 The Witness: This is the explanation I would like to give to the question in reference to the yes or no answers concerning the Party's fight for the rights of Negroes. It can be characterized in the general term of the Party's fight for the rights of Negroes. The question asked me by the gentleman over there was, did they not actively participate in a struggle to save the life of Willy Magee. On the surface that would appear to be correct, that they did sponsor a program which would seem to carry on a projection that would induce a person to believe that the Party was extremely interested in saving the life of one man, Willy Magee, who happened to be a victim of oppression in the South. But a further study of Communist tactics and of Communist strategy will refute this to the point where, if you gave a "yes" answer to such a question you might give an incorrect one, because the Party's position in the fight for the Negroes is not focused upon one individual, to help relieve the situation of that one individual alone. The Party's program and its final destiny is socialism. It is their main strategy which any Party member will attest to and say so. So the fight to save Willy Magee was really a struggle to rally Negroes around the cause and to
13746 further publicize the party.

I know one eminent person spoke and said the Party is not interested in Negro rights from the humanitarian standpoint. They are not interested in Negro rights as rights to save the Negro alone. The Party feels that in elevating the standard of Negroes, in giving this false projection to the Negro, making them feel that they want to

reform a government such as there is to accept the Negro as a full citizen, is erroneous. The Party does not have that projection in view. They want to raise the level of the Negro and raise his understanding so he can be a useful means of helping them obtain the final victory, which is socialism.

So if you ask me the question whether the Communist Party actively fought to save the life of Willy Magee, I don't think I can say correctly that it was their main objective, that that was their main fight. I can say that they actively participated in the campaign because there are circles who believe that the Communist Party was most detrimental in the struggle, that it was the Communist Party which actually sealed the doom of Willy Magee, and the people who have struggled, like the NAACP for the Negro rights for years, will have no part side by side with the Communist Party because they felt they did more harm than good. For me to sit here and say that they actively participated in a program to save the man's life, to give a yes answer to it I
13747 feel it would be an injustice to the cause that they really represent.

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By Mr. Forer:

13764 Q. Yes. You were also taught, were you not, that if despite all efforts to keep peace a war did break out between the United States and the Soviet Union that it would be the duty of Communists to cooperate with all democratic forces to bring such a war to a speedy conclusion on the basis of a democratic peace and thus de-
13765 feat the predatory war aims of imperialism. Were you not taught that? A. I think that is correct.

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13787 **Louis Francis Budenz** called as a witness on behalf of Petitioner, having been first duly sworn, was examined and testified as follows:

Direct Examination

* * * * * * * * * * *

By Mr. Paisley:

13794 Q. Have you been a member of the Communist Party of the United States? A. Yes, sir, I have been.

Q. When did you become a member? A. I became a member in August 1935, but became an open member in October 1935.

Q. What is the difference between a member and an open member? A. Well, from August to October I was a concealed member, that is to say, I did not announce that I was a member of the Communist Party, nor did I act publicly as a Communist.

13795 Q. Prior to the time that you joined the party had you been acquainted with any party leaders? A. Yes, I knew several of them—Jack Stachel, Clarence Hathaway, and Carl Winter, Israel Amter, and a number of others.

Q. How did you happen to come in contact with them? A. In connection with various united front movements and in connection with the unemployed movements.

Q. What had been your work just before you joined the Party? A. I had been connected with the Conference for Progressive Labor Action, which was called the Musteites; that is, it was an organization which was out organizing unemployed and in that connection we worked with the Communists.

Q. Did you have occasion, Mr. Budenz, to discuss the possibilities of your becoming a member with any of these people before you joined?

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13796 The Witness: Yes, sir, I discussed membership in the Communist Party, and as a result of that I applied for membership in August 1935.

By Mr. Paisley:

Q. With whom did you discuss it? A. I discussed it with a number of people prior to joining, and then I went to Clarence Hathaway, who was head of the Daily Worker, and he accepted my application, signed it, and told me I had been accepted, but that I would have to wait as far as my open membership was concerned.

Q. Why? Did he tell you why you would have to wait? A. I would have to wait until Jack Stachel and Earl Browder returned from the Seventh World Congress of the Communist International in Moscow. Then they would decide or a decision would be made, at any rate, with them participating, as to whether I should be an open or concealed member from there on.

Q. When they came back did you discuss the matter with them? A. First I discussed it with Stachel, who came back first.

13797 Q. Do you recall the conversation, the substance of it? A. Yes, he told me that I should wait until Browder got back so far as my membership was concerned, and mentioned the fact that a large delegation of American Communist Party representatives had been present at the Seventh World Congress.

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13798 Q. What did Stachel say, if anything, about whether or not you would be a concealed member or an open member? I believe you said he said to wait until Browder came back. A. That is correct.

Q. Where was the conversation? A. That was on the Ninth Floor of the Communist-owned building there at 35 East 12th Street or 50 East 13th Street. The building runs between 12th and 13th streets.

Q. At that time had you actually gone to work with the Daily Worker? A. No, sir. I didn't go to work for the Daily Worker until October.

Q. Did you have a second conversation with Stachel about it? A. Yes, sir, one with Mr. Browder present.

Q. What were the circumstances and what was said? A. There the discussion was in regard to open or concealed membership, and it was decided that I should become an open member.

Q. Who decided that? A. Browder did, after consultation with other Communists.

Q. You then became a member, did you? A. Yes, sir. In October—that is, I think, October 2, 1935, it was announced in the Daily Worker that I had become a member of the Communist Party. There was a statement of that.

13799 Q. Did you make a public statement? A. Yes, sir. I made a public statement at Jack Stachel's suggestion.

Q. Was it printed in the Daily Worker? A. Yes, sir.

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Q. I have just shown you, Mr. Budenz, a photostat of what appears to be the Daily Worker, a photostat of which Daily Worker has been marked Petitioner's Exhibit 429 for identification. I call your attention to page 2 there. Do you recognize your picture? A. Yes, sir.

Q. Is that the statement that was published at the time? A. That was the statement which I prepared and submitted to Stachel and it was published as a result.

Q. Do you remember any conversation with Stachel about the statement? A. Yes, sir.

Q. Will you tell the Panel what he said? A. He stated that it was good enough, that it would be printed as I wrote it, but that I had not emphasized sufficiently Stalin's position of leadership in the International Communist movement, as the guide of the movement.

13800 Q. Did he call your attention at that time to any other document or article? A. Yes, sir. In that connection he called my attention to the resolution of loyalty to Stalin adopted at the Seventh World Congress by the representatives of the 65 parties there.

Q. In what form or shape was this resolution? Do you remember? A. He had a printed copy and had me read it. My impression is it was from the International Press Correspondence, but at least it was a printed copy.

Q. What is the International Press Correspondence? A. That was the reportorial system of the Communist International, sending out news to the Communists of the world on the happenings in the International Communist move-

ment and in the Communist movement of various countries. It was translated into various languages. This was the English edition.

Q. Was that International Press Correspondence the official organ of the Communist International?

. . . . . .

THE WITNESS: Yes, sir.

. . . . . .

13801 Q. Now I call your attention, Mr. Budenz, to your quoted statement. I quote from it a portion as follows: "For him who purposes to advance the workers' revolution, there is but one road to follow: the path of the Comintern. That definite conclusion leads me to announce
13802 my affiliation with the Communist Party of the United States."

What was this path of the Comintern which you felt at that time should be followed?

. . . . . .

THE WITNESS: The path of revolution, the violent shattering of the non-Communist governments as the aim of the Communist International, expressed in its program and in the statements of its leaders, Lenin and Stalin.

By MR. PAISLEY:

Q. The shattering of other governments with what purpose in mind? What was the path? What was the ultimate goal?

. . . . . .

THE WITNESS: To set up the dictatorship of the proletariat, to lead to the dictatorship of the proletariat or the world Soviet dictatorship.

By MR. PAISLEY:

Q. Now I show you a photostat of the International Press Correspondence, a copy of which has been marked Petitioner's Exhibit 430 for identification.

(Document produced and marked for identification Petitioner's Exhibit No. 430.)

By Mr. Paisley:

Q. I ask you, Mr. Budenz, if that is the document
13803 which Stachel referred to, called to your attention.

A. That is the resolution he referred to.

Q. Is it the one that appears on page 861? A. Yes. I thought you were calling my attention to that. "To Comrade Stalin, Leader, Teacher and Friend of the Proletariat and Oppressed of the Whole World."

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13804 Q. At the time he called this resolution to your
13805 attention did he say anything more to you about this American delegation that you now recall, which had attended the convention?

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The Witness: He stated in connection with this resolution the American delegation approved of it along with the other Communist parties.

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13808 Q. I call your attention to what has been marked Petitioner's Exhibit No. 431. I ask you to tell the Panel whether or not you recognize this International Press Correspondence, Volume 15, No. 33, as International Press Correspondence, the official organ of the Communist International. A. Yes, I do. I am very familiar with it. It was given free to every member of the Daily Worker staff and every Communist functionary.

Q. Can you find Volume 15, No. 33 in this? A. That is the same one.

Q. I call your attention to page 861 of Volume 15, No. 33, in the original. Do you see there the resolution of Comrade Stalin about which you testified? A. Yes, sir; that is the resolution.

Q. You recognize that as the International Press Correspondence? A. Yes, sir, that is the International Press Correspondence which we were required to study.

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13809 Q. In your conversation with Mr. Stachel about that Seventh World Congress did he mention any other American Party members being over there and participating in it?

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Q. Other than Foster and Browder and himself?

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13810 THE WITNESS: Yes. He mentioned a number. I can recall Martha Stone, Sam Darcy, and Ben Carruthers. There were others mentioned.

By MR. PAISLEY:

Q. Did you later have any conversation with any of these individuals about their having been over there? A. Oh, yes. I didn't with Darcy, because he didn't come back to the United States for a long time. He remained in Moscow. But I did with Martha Stone and with Carruthers.

Q. How about Gil Green? A. Yes, I did with Gil Green.

Q. Do you remember the occasion? A. He arrived in the early part of 1936. I met him on the ninth floor of the Communist Party, that is, the headquarters, at the time he was giving a report to the National Committee on his work among the youth and upon his investigation of the Communist youth movements of Europe and specifically the Soviet Union. He stated to me that he had remained a few months after the Seventh World Congress to make that investigation.

Q. Was he a delegate to the convention? A. Yes, sir. He told me he made a speech there, as a matter of fact.

Q. Do you know whether Stone and Darcy were delegates?

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13811 THE WITNESS: Stachel said they were delegates. Stone and Carruthers told me they were.

By MR. [redacted]SLEY:

Q. When you became a member of the Party, Mr. Budenz, were you given any party literature? A. Yes, sir, prior to my joining the party I was given some literature by Jack Stachel.

Q. Do you recall what it was? A. There was J. Peters. Peters Manual of Organization and M. J. Olgin's "Why Communism?" the program of the Communist International as adopted at the Sixth Congress and reaffirmed at the Seventh, and Stalin's Foundations of Leninism.

Q. Did he give you any reason for giving you this material? A. Yes. He stated that these books are documents which would be of value in making my work measure up more to Communist integrity and understanding.

Q. Did you make any use of them? A. Yes, sir; I made constant use, that is, off and on.

Q. In what way? A. In different ways, in making reports to the Daily Worker Staff, in making talks to Com-
13812 munist groups, in teaching at the Worker School, and also in editorial work on the Daily Worker.

Q. Over what period of time did you make use of them? A. I might say practically all the time I was in the Communist Party.

Q. By the way, when did you leave the Communist Party? A. October 1945. I was in the Party ten years officially and openly.

Q. You were in the Party, then, before the creation of the Communist Political Association? A. What is that?

Q. You were in the Party, then, before the creation of the Communist Political Association? A. Oh, yes. That took place in 1944.

Q. And the reactivation of the Communist Party. You were in there during that period? A. Yes, sir.

Q. After you joined the Party just what assignments were given you? A. I was named first a member of the staff of the Daily Worker, and after a very short period I was made Labor Editor of the Daily Worker.

Q. For how long a period? A. Oh, I should say until January 1936, maybe earlier.

13813 Q. You had had editorial and newspaper experience before that, had you? A. Yes, sir.

Q. For how long a period of time? A. For many years I was editor of the Labor Age, prior to that, for approximately 12 or 13 years.

Q. At that time when you first became Labor Editor, where was the paper published? A. You mean the Daily Worker?

Q. Yes. A. The Daily Worker was published at 35 East 12th Street, that is, or 50 East 13th Street. It had that double address. On the eighth floor so far as the editorial offices were concerned.

Q. Where were the Communist Party USA headquarters? A. On the ninth floor of the same building.

Q. Who gave you your appointment as Labor Editor? A. Earl Browder.

Q. What was his position in the Communist Party? A. General Secretary of the Communist International.

Q. Of the Communist International? A. I mean of the Communist Party.

Q. How long did you continue in the position of Labor Editor? A. Until November 1937, when I went to Chicago to become editor of the Midwest Daily Record.

13814 Q. What was the Midwest Daily Record? A. The Midwest Daily Record was a Communist-controlled, organized and financed newspaper which the Communists stated publicly was the Communist gift to the people's front.

Q. Who appointed you to that position? A. The announcement was made by Jack Stachel, although he stated the Politburo had appointed me.

Q. Did he give you any directions as to what you should do? A. Yes, he did. I was to conduct this paper as a people's

front paper, but with the Communist line to dominate it and to guide it. It was to be under the direction of representatives of the Politburo.

. . . . . .

Q. What was Stachel's position, Mr. Budenz, in the Party, when he sent you out there to Chicago? A. Jack Stachel was the most important member of the Political Bureau or Political Committee. It had various names. The Communists changed the name of it. It was the Executive Committee of the National Committee. He had various commissions. He was in charge of trade union work, he was in charge of the Party for a time. He had various commissions, and he was the most important member of
13815 the Political Bureau.

Q. Did he indicate to you whether or not your assignment to that work in Chicago had been considered by the committee? A. By the Political Bureau?

Q. Yes. A. Oh, specifically. As a matter of fact—That answers the question.

Q. Had the paper been established when you went out there? A. No, sir, it was not established, as a matter of fact, as a paper until the following February, but I went out to get the staff together, to make the preliminary arrangements, to go to various cities and conduct a fund campaign, and things of that sort.

Q. Did you finally get it started as a newspaper? A. In February 1938.

Q. Was it a daily or a weekly? A. It was a daily, with the exception of Sunday, until some time in 1939 when it became a weekly.

Q. What were the circumstances that brought that about? A. The paper had made an appeal to a wider group of readers than just Communists on the grounds it was a people's front publication, and when the Hitler-Stalin Pact occurred, it lost thousands of readers and finally became a weekly and then terminated.

13816 Q. Did you run into any financial difficulties at that time? A. It had financial difficulties all the

time, I must say, but they became accentuated in 1939 and it terminated about January 1940.

Q. To what extent was your work supervised on that paper by the Party?

. . . . . .

Q. To what extent, if any, was your work supervised?

. . . . . .

THE WITNESS: It was carefully supervised, not only in the sense that I was obliged to make frequent trips to New York to consult the Politburo members, but also that Morris Childs, who was the leader of the Communist Party in Illinois, was made a candidate to the Politburo in order to supervise the paper more directly on the scene.

By MR. PAISLEY:

Q. What was his official designation in Illinois? A. That designation has changed from time to time. He was the district leader in Illinois. The title is state secretary or state chairman or district organizer. These titles have been changed from time to time, as was the custom of
13817 the Communist Party.

Q. How long did you remain as editor of the Midwest Daily Record? A. Until its discontinuance.

Q. In what year? A. 1940, the early part of 1940. I returned to New York approximately in February 1940.

Q. Do you know why and what the circumstances were surrounding the ceasing of publication in January 1940?

. . . . . .

THE WITNESS: Yes, sir. As I stated, it was due to the fact that the circulation had fallen off to such a degree that it was found impracticable to continue it.

By MR. PAISLEY:

Q. Did you ever have occasion to come to New York with Morris Childs in connection with the financing of the paper?

. . . . . .

THE WITNESS: Yes, sir, on several occasions, and specifically in the year 1939, when we were trying to obtain more funds from the Communist Party.

By MR. PAISLEY:

Q. What occurred on that occasion? A. We had
13818 a conference with Robert William Weiner who was then in charge of the Communist Party funds.

Q. Was he an official of the Party? A. He has been treasurer of the Party and president of the International Workers Order, but he always has been in charge of the funds. He later became head of the publishing house, the New Century Publishers. But even during that period he was in charge of all the Party funds and supervision of all the Party financial affairs.

Q. Did you and Morris Childs have a discussion with him with reference to the financing of the Midwest Record? A. Yes, sir, this was one of the many discussions.

Q. Do you recall what was said? A. Yes, sir. When Weiner said that it was impossible for the Party to put any more money into the Midwest Daily Record, Childs asked him if we couldn't get some money from abroad.

Q. What did he say? A. He said that we could normally, but the channels of communication abroad had been broken for the time being, and perhaps could be re-established so money could come.

Q. Was the word "abroad" used or was there any discussion as to what "abroad" meant?

. . . . . .

13819 THE WITNESS: That was the terminology which was used very frequently in the Communist Party.

By MR. PAISLEY:

Q. Was it clarified to you by Weiner what he meant?

. . . . . .

THE WITNESS: It was not definitely stated what he meant but that term had been used constantly in the Communist Party as a specific source or center.

. . . . . .

Q. What did it mean to you, Mr. Budenz?

. . . . . .

THE WITNESS: It meant financial aid from Moscow, both because of this terminology and because of experience.

By MR. PAISLEY:

Q. After you discontinued your work on the Midwest Daily Record what did you do? A. I returned to New York, where I was advised that I was to become head of
13820 the corporation publishing the Daily Worker and managing editor of the paper.

Q. Do you recall who told you that? A. Yes, first Elizabeth Gurley Flynn and then Earl Browder, who called me up to the ninth floor to advise me officially that the Politburo had so appointed me as the President of the Corporation that was to be formed.

Q. Browder was then general secretary of the Party? A. Yes, sir. He was the leader of the Party.

Q. Did you discuss it with any other leaders of the Party? A. Yes, I discussed it with a number of leaders of the Party.

Q. Was Foster then one of the leaders? A. Yes, sir, Foster was about that time named as liaison officer of the Politburo with the Daily Worker.

Q. How about Dennis? A. He succeeded Foster as the liaison officer of the Politburo supervising the work of the Daily Worker.

Q. How long did you remain as managing editor of the Daily Worker? A. First I think I should explain, if I might, when the corporation came into existence.

Q. All right. A. Because there were some months there where the legal procedure had to be straightened
13821 out. The corporation came into existence openly, that is, it was publicly acknowledged, around June 1940.

Q. Prior to the creation of the corporation who was running the Daily Worker openly? A. They had a prior corporation, and I was working in the Daily Worker, but the corporation was announced publicly in June while I was in St. Louis at the convention.

Q. What was the name of that corporation? A. Freedom of the Press Company, Inc.

Q. You became president? A. That is right, at that time.

Q. Were you also managing editor of the paper? A. I became managing editor about a year or a year and a half later, although that was also involved in the Politburo's decision.

Q. What duties did you have before you became managing editor? A. I was acting practically in that capacity. We had an associate editor there, Sam Don, and we worked together. Then I became definitely managing editor, although that I say was the arrangement made some time prior.

Q. During that period 1940 to 1945, when you left the Party, did you hold any positions in the Party? A. Yes, a number of positions. I was on the state Trade Union
13822 Commission of New York in 1936 to '37. I was on the State Committee of the Illinois Communist Party, that is, the Illinois district during my time in Chicago. I was also a member of the State Committee in New York. I was a member of the National Trade Union Commission for a time, and other commissions.

Q. In the period of time were you ever on the National Committee of the Party? A. Oh, yes. I was a member of the National Committee of the Party, being co-opted in 1936.

Q. How long did you serve on the National Committee of the Party? A. I was on the National Committee of the Communist Party so far as attendance was concerned all through my period from 1936 on, but during part of the time that I was head of the Daily Worker I was advised by Browder that it would be better for me to not be a member of the National Committee, although I attended all the meetings, that is, when I could do so. I was officially re-

quested to attend just as though I were a national committee member.

Q. Did you attend most of the meetings? A. Yes, I did.

Q. Did Browder give you any reason why you should not be officially a member of the committee? A. Yes, sir. He stated that it might be advisable from the legal
13823 viewpoint to set up the plea that the Daily Worker and the Communist Party were separate entities, and that is why the Freedom of the Press Company, Inc., had been established, with three gentlewomen as alleged owners, and if I were not on the National Committee I could plead that I was closely connected with the Communist Party functioning apparatus.

Q. Was there any difference between the National Committee and the Political Committee and the Politburo? A. Yes, indeed. The Politburo is actually the governing body of the Communist Party of the United States. It is technically the Executive Committee of the National Committee, with power to act in between the sessions of the National Committee, but actually it makes statements in the name of the National Committee and directs the National Committee in its work. It is the directing body of the Communist Party.

Q. During this period 1940 to '45 did you attend the meetings of the Political Committee or the Politburo? A. Yes, sir; from time to time as I was requested or as the necessities of the Daily Worker required, and also I came in to Chicago occasionally and attended these politburo meetings when it was thought necessary that I should do so in order to be informed.

Q. To what extent were your duties on the Daily Worker supervised by the Party leaders, if at all? A. They were very definitely supervised. First of all, there was a liaison overseer or directing representative of the Political Bureau who met as a rule every day with the editorial board of the Daily Worker, and then in addition to that we had a direct internal telephone up to the Political Bureau's head-

quarters and consulted them frequently all during the day. I did, and those associated with me did.

Q. In connection with the publication of the paper? A. In connection with publication of the paper, carrying out of the Communist Party line, and the particular slant to be taken on individuals or on movements or on committees or on any other thing of that sort where such advice was necessary.

Q. Was it customary to slant news items?

. . . . . .

THE WITNESS: The news items had to be in conformance with the Communist Party line during every period, definitely.

MISS MCHALE: Mr. Paisley, at this point do you mind if I ask a question.

Was this an accepted policy by the three women who supposedly financed the paper?

THE WITNESS: Yes. They did not appear around the paper at all, except once a year, and had nothing to do with
13825 the paper whatsoever, actually. They were just used for the defense of the paper during the period of the Hitler-Stalin Pact and for some time thereafter.

MISS MCHALE: Was the paper in this period when you were the manager considered the official medium of communication? I mean by "official," official for the Communist Party.

THE WITNESS: Yes, it is and was then the telegraph agency for instruction or directions to the Commies. In the agreement which these ladies drew up—it was a complicated legal process—they became the owners and then they delegated by power of attorney all their power to three of us, that is, to myself as president, to Ben Davis who was variously treasurer, secretary or vice president, and to Howard Boldt, who also alternated in one of the other positions.

. . . . . .

THE WITNESS: What I was coming to there, so I can explain that and give the background, what I was coming to was that in the agreement which was made between them and as ostensibly, it stated that we must follow the line or
the policy that the Daily Worker had followed be-
13826 fore, in other words, the Communist Party dictation.

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By MR. PAISLEY:

Q. There came a time, did there not, Mr. Budenz, when the Communist Party, USA, changed its name to Communist Political Association? A. Yes, sir, that occurred in 1944.

Q. Did you become a member of the Communist Political Association? A. Yes, sir. All members of the Communist Party were turned over to the Communist Political Association, automatically.

Q. Was there any substantial difference in the leadership of the Party during that interim when the Communist Political Association was in existence?

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THE WITNESS: No, sir, there was no substantial change. The same personalities appeared. There may have been slightly different functions, but that occurred even during the Communist Party period. Earl Browder became the
President instead of the General Secretary, but he
13827 was still the leader.

By MR. PAISLEY:

Q. Do you remember the circumstances of the formation of the Communist Political Association? A. Yes, sir.

Q. Just tell the Panel in your own way exactly what happened in so far as you were able to observe it. A. The definite mention of the Communist Political Association officially to be made was made at a national committee meeting around January 1944.

Q. That would be a national committee meeting of the CPUSA? A. Of the Communist Party, yes, sir. There was first a preliminary meeting of the National Committee to acquaint us with what was going to happen. Browder told

us that it was necessary to dissolve the Communist Party and form an association in order to assure American acquiescence in a Red China and a Red Poland. Then we had the official session in which Browder brought forward formally the proposal that the Communist Party cease to exist as a party and become a political association.

Q. Was there a convention of the Communist Party, USA, which followed this discussion you just mentioned? A. The National Committee, if I remember correctly, voted unanimously at that time in favor of Browder's proposal and called for a convention in May to form the Com-
13828 munist Political Association.

Q. Was it formed at that convention? A. Yes, sir; it was formed at that convention.

Q. Do you remember when these national committee meetings took place, approximately? A. Do you mean with regard to Communist Political Association?

Q. Yes. A. I know so far as I remember it was early in 1944. I think it was in January. The exact date I don't recall at the moment.

Q. But it was May before the convention and that change took place? A. In May. I think the convention opened in the latter part of May, if I remember correctly. It was in May, at any rate.

(Document produced and marked for identification Petitioner's Exhibit No. 433.)

By Mr. Paisley:

Q. I show you what has been marked Petitioner's Exhibit 433, Mr. Budenz, an issue of The Communist for February 1944. Do you recognize that as the Communist? A. Yes, sir, I do.

Q. Are you familiar with that decision in the
13829 National Committee published there on page 107 and 108? A. Yes, sir. It was known as the Teheran Resolution in the Communist Party because it was based on Browder's conclusion that the agreement at Teheran had made this move possible to dissolve the Communist Party.

Q. Are you familiar with this exhibit? Have you read it? A. Yes, I have read it before, not recently, but I have read it before on a number of occasions.

. . . . . .

Q. Mr. Budenz, did you attend this second meeting held in February 1944?

. . . . . .

13830 MR. PAISLEY: I thought he said there were two meetings.

THE WITNESS: No, I haven't spoken about the February meeting as yet, Mr. Paisley. I referred to a meeting just held the day before the January meeting, and then the May meeting. There was a February meeting, but I didn't refer to it specifically.

MR. PAISLEY:

Q. There was a meeting in January? A. That was the National Committee meeting official session which passed unanimously this resolution.

Q. That is the one which is published there in the last exhibit? A. In the February 1944 issue of The Communist.

Q. Was there a meeting of the National Committee in February 1944? A. There was an informal meeting of the National Committee members and others called together hurriedly in response to a letter written by William Z. Foster to the members of the National Committee or to the National Committee, rather, as a body. It wasn't written to the members, but to the National Committee as a body.

Q. Did you attend that meeting? A. No. I couldn't because of my duties. I was either out of town or I couldn't be there. I was told to be there, but I couldn't be.

13831 Q. Did you talk to any of the members who did attend that meeting? A. Yes, sir; several of them, notably Benjamin J. Davis.

Q. Do you remember your conversation with Davis about it? A. Quite well, yes, sir.

Q. Will you tell the Panel about it?

. . . . . .

Q. First, what was Ben Davis' position in the Party when he was talking to you? A. He was a member of the Politburo.

Q. All right, now tell us what he said. A. He came to the Daily Worker office where he was secretary-treasurer. I was working. He told me about the meeting that had taken place, at which Foster had got a good shellacking. They had upheld Browder's position on the Communist Political Association, with only Sam Darcy and Foster being opposed. Foster had changed the unanimous vote here, but it had been of no avail. He also stated to me that the Foster letter was ordered suppressed, that is, not to be given to the National Committee members nor to the membership 13832 at large.

Q. Did you see a copy of the Foster letter? A. Yes, sir; I did; I think a few days later.

Q. To whom was it addressed? A. It was given to me by Eugene Dennis. I had asked Mr. Dennis if I shouldn't be permitted at least to know the substance of the discussion because it would guide me on the Daily Worker, and he agreed that that was the case, but he said he could not permit the letter to remain in my possession. He permitted me to read it and took it away.

Q. Had you talked to Ben Davis about the letter before you talked to Dennis? A. Yes, sir.

Q. Had Davis told you in substance what the letter contained? A. Rather generally. I got the general idea.

Q. What was the general idea as he related it to you?

. . . . . .

THE WITNESS: The general idea was that the proposal for the Communist Political Association and the ending of the Communist Party was not in line with the revolutionary position of Marxism-Leninism and therefore should be rejected, that Foster after consideration had come to that conclusion.

. . . . . .

13833 Q. As I understand it, you went to Dennis and asked him why you couldn't see it, at least? A. He came down always. He was the representative of the Politburo who came down to the Daily Worker and in the course of our normal discussions I asked him if it would not be a good idea for me to see the letter since it would aid me in my work.

Q. What did he say? A. He said that I should see the letter and he showed it to me, but he said he couldn't leave it in my possession.

Q. Did you read it? A. Yes, sir. He also said—May I add to that?

Q. Yes, go ahead. A. He also said it had been suppressed and should not be given to Party members; knowledge of it should not be given to Party members.

Q. Thereafter at a meeting of the Communist Party the Communist Political Association was formed?

. . . . . .

13834 THE WITNESS: The convention of the Communist Party which met in May 1944, turned itself over into a convention of the Communist Political Association, Earl Browder making the motion, and it being unanimously adopted.

By MR. PAISLEY:

Q. You attended the convention, did you? A. Yes, sir.

Q. Did you participate in the deliberations of the convention? A. Yes, sir; I spoke there. I was a delegate.

Q. As a delegate? A. Yes, sir.

Q. To what extent were the officers and functionaries of the Communist Political Association the same as the officers and functionaries of the CPUSA?

. . . . . .

THE WITNESS: It was practically the same. There were shifts. I have said that Earl Browder was made
13835 president instead of general secretary. Foster, who

had been national chairman, was made vice president. But by and large the same personnel appeared.

By Mr. Paisley:

Q. Then it remained as the Communist Political Association until some time in 1945, did it not? A. That is correct.

Q. How was your work on the Daily Worker affected by this change?

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The Witness: It wasn't affected at all. The procedure remained the same, the directives remained the same. The control by the Politburo remained the same.

By Mr. Paisley:

Q. Did the physical location of the plant remain the same? A. Yes, sir; on the eighth floor.

Q. The physical location of the headquarters of the CP remained the same? A. Yes, sir, the Communist Political Association merely took over the same offices.

Q. Did you remain as president of the Freedom of the Press Company during that period? A. Yes, sir.

Q. You were managing editor of the Daily Work-
13836 er? A. Yes, sir.

Q. Do you recall the conference in San Francisco when the United Nations was being organized? A. Yes, I do.

Q. Approximately when was that? A. That was in the early part of 1945. I think it began some time in February. I wouldn't be absolutely certain. It ran over into March.

Q. Did the Daily Worker have any representatives or correspondents covering that conference? A. Yes, sir.

Q. Who were they? A. Frederick Vanderbilt Field and Joseph Starobin.

Q. Were they members of the Communist Party, USA? A. Yes. Mr. Field was a member of the Communist Party and also had written a column for the Daily Worker for some time and was active in Far Eastern Affairs for the Communist Party. Joseph Starobin at that time was foreign editor of the Daily Worker.

Q. Did you from time to time receive communications from either of them? A. Yes, sir. We steadily received communications, both letters and also we received of course their news reports and comments.

13837 Q. Do you recall any particular communications from Starobin? A. Yes, I do recall a special delivery communication addressed to the editorial board, care of my attention.

Q. Did you receive it yourself? A. Yes, sir, I received it and opened it.

Q. Did you read it? A. In part, yes.

Q. What were the circumstances? A. I opened this letter from San Francisco, which was a statement that D. Z. Manuilsky—

Mr. Abt: Just a moment, Mr. Chairman. I object to the witness testifying to the contents of the communication. The question was the circumstances under which it was received.

By Mr. Paisley:

Q. Yes. Give us the physical surroundings. You said you opened the letter. A. I received the letter at the Daily Worker and was reading it when Jack Stachel came in.

Mr. Abt: May we have the date, Mr. Chairman?

The Witness: It was some time in May 1945. I think it was between the first week in May and May 22. I place that because of certain events. I was reading the letter and had got partly through when Stachel came in and I said

13838 to him, "Look at this important communication we received from Starobin." He glanced at it and said, "Oh, I must take this to the ninth floor immediately." And he took it from me and went upstairs with it, and I never saw it after that, the rest of it.

By Mr. Paisley:

Q. Did you try to see it after that? A. No, I didn't make any effort. That is not the way Co nmunists act.

Q. What do you mean by that, Mr. Budenz? A. Things that are referred to the ninth floor, unless the ninth floor refers them back to you you leave it to their discretion.

Q. How much of this letter did you see? A. I saw the beginning of it.

Q. How was it addressed? A. It was addressed to the Editorial Board, my attention as the Managing Editor.

Q. How much of the contents do you now recall?

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13839 THE WITNESS: In this letter Mr. Starobin stated that D. Z. Manuilsky upon his arrival in San Francisco had expressed indignation at the fact that the American Party had not criticized the American leaders,
13840 that is, in the government, more severely, and that The American Party should observe more carefully the guidance and the counsel of the French Communists.

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13844 Q. Had the Duclos article been published in the United States at the time that article appeared in the New York Times on May 6? A. No, it had not.

Q. Was any one else present when Stachel took this letter away from you? A. No. It was prior to the editorial board meeting, and we were alone.

MR. PAISLEY: Give me Exhibit 208, please, Mr. Turner.

By MR. PAISLEY:

Q. Do you recall whether or not you read the Duclos article in Political Affairs? A. Yes, sir, I read it in Political Affairs and also in the Daily Worker.

Q. I show you, Mr. Budenz, what is already in evidence as Petitioner's Exhibit No. 208, purporting to be the Duclos article in Political Affairs. Do you recognize it? A. Yes, sir.

Q. Was it also published in the Daily Worker? A. It was published in July 1945 Political Affairs. It was published in the Daily Worker the latter part of May of that year. I attended to its publication. That is, it was given to me to publish.

13845 Q. Did you have anything to do with putting it in the Daily Worker? A. Yes, sir. It was handed to me by either Dennis or Stachel and I was asked to proof read it to make sure that it was correct; that is, that it was accurate, it was such an important document. Browder also advised me the same, although the document was handed me by either Stachel or Dennis.

Q. Did they tell you to publish it in the Daily Worker? A. Oh, yes, and to be very careful of its publication because of its importance.

Q. Do you see in that exhibit 208 any quotations from the Foster letter which had been suppressed? A. Yes.

Q. You have previously read this article, I take it, rather carefully, have you, Mr. Budenz? A. Yes, some time ago.

Q. At the time? A. I did on a number of occasions.

Q. At the time it came out I take it you read it rather carefully? A. That is right.

Q. How did the Foster letter as quoted in that Duclos article compare with the letter which you had seen and which had been taken from you?

. . . . . .

13846 THE WITNESS: It was the same letter, that is, of course, I don't know word for word that it is the same letter.

By MR. PAISLEY:

Q. Do you know how Duclos got it?

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THE WITNESS: No, I have no idea.

. . . . . .

Q. You were not allowed to keep a copy of it? A. No member of the National Committee was allowed to keep a copy, and as a matter of fact the first time it was handed around to the National Committee members was after the Duclos article appeared, that is to say, at the National Committee meeting in June 1945 when Browder was deposed.

Then mimeographed copies were handed out. Even then the members of the Communist Party as such did not know about it until it was published in Political Affairs.

Q. Did you attend this National Committee meeting of the Communist Political Association in June 1945? A. Yes, sir, I was there all three days. That was the middle of June.

Q. What do you mean when you say that the rank and file of the Party didn't know anything about it? A. They were not supposed to know that this letter existed until
13847 it was finally published in Political Affairs.

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Q. Was there any discussion in this National Committee meeting about the extent to which the letter should be publicized to the Party membership? A. The National Committee meeting to which we refer is June 1945?

Q. That is right. A. There Foster declared in the course of his remarks at that three-day session that his letter had been suppressed and that he agreed to the suppression because otherwise he would have been expelled from the Party and that now the letter should be made available to the whole membership. Several other participants in that discussion spoke up and said make the letter public to the whole membership, as they had seen it only to hold it in their hands in mimeographed form there at that session.

Q. Did Foster give any other reason other than
13848 his likely expulsion from the Party? A. Yes, sir.

Q. What did he say? A. He said he had been advised that Browder's position was upheld from abroad and that consequently he bowed before that decision.

Q. How did you as a Communist interpret the words "from abroad"?

. . . . . .

THE WITNESS: From the Communist International apparatus, namely, from Moscow.

. . . . . .

13850 Q. Mr. Budenz, when we recessed for lunch we were talking about the reconstitution of the Party. I believe you stated that the vote in the National Committee was finally unanimous. A. Yes, sir, in support of the Political Committee's resolution which would have restored the Communist Party.

Q. Did you ever have any discussion with any of the Communist Party leaders as to why Hudson changed his vote? A. Yes, both Stachel and Dennis and some others, as a matter of fact, discussed it.

Q. Can you recall what they said?

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THE WITNESS: Yes. They said that they had represented to Hudson that in order to carry out the Communist or revolutionary purpose he should conform to the resolu-
13851 tion which condemned revisionism and return to the Marxist-Leninism path of the Party, that is, to the revolutionary path, and that it was his obligation as a Communist to join with the others in that attitude.

By MR. PAISLEY:

Q. Was there a so-called discussion period following these committee meetings? A. Yes, sir, a discussion period was ordered and was carried out in the Daily Worker and also discussions in different branches and discussions in different sections of the Party and in the different staffs of the Party publications.

Q. Tell us about the discussion period so far as the Daily Worker staff was concerned. A. The Daily Worker held a discussion which lasted three weeks in the Summer of 1945. We had three days a week, three hours a day for about three weeks.

Q. What would take place? A. There was an initial report, as the Communist custom, made in this case by Jack Stachel, and then there was a discussion by the staff members in regard to the evils of revisionism and opportunism which had been condemned in the Duclos article, with state-

ments as to how they could carry out better the tasks assigned to them as a result of the necessity of getting rid of revisionism.

Q. Did anybody talk to the staff members other
13852 than Stachel? A. Oh, yes. As a matter of fact, most every one participated. The chief discussion was a debate between Stachel and James Allen.

Q. Who was James Allen? A. Well, he had been foreign editor of the Daily Worker but at that time was foreign editor of the Sunday edition of the paper and a sort of adviser on foreign affairs to the Daily Worker. He was therefore a member of the staff in that respect.

Q. Did they take the same view of the situation? A. Allen held that there should be a logical following out of the condemnation of Browderism, that the United States was a hopelessly capitalist country, and that the Duclos statement against revisionism and for rejection of class peace should be interpreted in this case that socialism could be obtained with the help of the Red Army.

Q. That was Allen's position? A. That was Allen's position, yes, sir.

Q. Do you mean he took that position at an open meeting? A. Yes.

Q. In the discussion period? A. Yes, where the staff was present and also certain members of the Politburo or leading Communists such as occasionally Trachtenberg, John Williamson. Dennis even looked in, and V. J. Jer-
13853 ome once or twice.

Q. Do I understand— A. These men were not present at every session. They came occasionally.

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Q. Did anyone take issue with Allen in the need for the Red Army to intervene, and so on? A. Stachel opposed that on the grounds that it was not in line with the Duclos article specifically and that it would expose the Party. However, he eventually at the conclusion of the discussion stated that Allen's position was permissible.

Q. Who stated that? A. Stachel.

Q. Thereafter did you discuss the matter with Stachel as to his change of position? A. Yes, sir, I discussed it with him.

Q. What did he say? A. I asked him why it was that he had made this change in his attitude, at least to the degree that he had.

Q. What did he say?

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13854 THE WITNESS: He said that there was danger of complacency toward Browderism and that there were dangers in some of his arguments and attitudes that might tend to support Browderism, and that in addition it had been decided by Hans Berger, the Communist International representative, that this was permissible.

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Q. When was that, approximately? A. This discussion took place in June or July, the first part of July 1945, I should judge. It was before the National Convention.

Q. At that time had the Communist Party USA withdrawn from the Communist International? A. Oh, yes, it withdrew several years before.

Q. A couple of years before, at least, wasn't it? A. Yes, sir.

Q. And as a matter of fact, the Communist International had been dissolved, had it not, or did that come later? A. I am not sure just when it was dissolved, at the moment.

Q. Was Berger still in this country? A. Oh, yes.

13855 Q. Stachel indicated to you that he had discussed this matter with Berger?

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THE WITNESS: Yes, sir. He discussed the matters with Berger frequently.

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Q. Did you know Berger? A. Yes, sir.

Q. At that time? A. I had not met him under the name of Hans Berger, but I knew who he was.

Q. Who was he? A. He was Gerhart Eisler.

Q. You had met him? A. I had met him under the name of Edwards when he was in the National headquarters of the Communist Party. He was there when I first joined the party.

Q. How did you know he was a CI representative?

MR. ABT: I object.

MR. BROWN: Overruled.

THE WITNESS: As Edwards I knew he was CI representative because first he told me and then I had been so advised by others of the Politburo. So far as Berger is concerned, I was advised that he was the equivalent of the CI representative by Eugene Dennis. That was in approximately 1942.

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By MR. PAISLEY:

Q. Was this discussion period preliminary to the convention of the Communist Political Association in the summer of 1945? A. Yes, sir, preliminary to the convention which took place in July 1945.

Q. Was there a meeting of the National Committee of the Communist Political Association prior to the convention? A. That is the one I spoke of, the one in June, which lasted for three days. That was the only one that was held. That was when Browder was desposed and the decision was made to hold the convention.

Q. Did the Communist Political Association also have a national Board? A. It had a national board. The National Board was the name at that time for what is popularly known as the Politburo, which was its original name, or Political Committee, the National Board of the Communist Political Association, and later on then it became the National Board of the Communist Party. Its name has been changed several times, but its functions remained the same.

13857

Q. I take it that the Board was composed of fewer members than the committee? A. Yes, both of them changed in number according to circumstances, but normally the National Committee was approximately 60 members, whereas the board, the maximum was 14.

Q. Were you on either one? A. I was on the National Committee, as I have stated. I was not on the board, although I regularly attended sessions due to my being on the Daily Worker in an executive position.

Q. You remember this committee meeting, do you, in June 1945? A. Very well. Considering the time that has passed, I remember it very well.

Q. Where was it held? A. It was held on the third floor of the Communist Party building at 50 East 13th Street. A new hall had been made there out of what was formerly the Workers School. We held it there in that hall.

13858 Q. Will you tell the Panel the name of some of the leaders of the Party who you recall were present and who participated in the meeting?

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THE WITNESS: William Z. Foster made the report, Eugene Dennis, John Williamson, Louis Weinstock, Doxey Wilkerson, Julius Emspak, Alexander Trachtenberg, Alexander Bittleman, Sam Donchen, also known as Sam Don, and a number of others. There were 80 present altogether, 60 members of the National Committee and 20 leading Communists.

Q. Suppose you, Mr. Budenz, in your own way, tell the Panel what happened on that occasion, what took place. A. There was a three-day discussion. The first report was made by William Z. Foster, who based his statements on the Duclos article and stated—

. . . . . .

THE WITNESS: Foster referred to the Duclos article, which he supported, and stated that it showed that Browder had been guilty scandalously of revisionism and deviation

13859 which could not be permitted in a revolutionary party, that it was the sense of it that the Party return to the path of Marxist-Leninist revolutionary ideology and action; that it had been prevented from doing that by Browder; that in addition to that it would have to steel itself and prepare itself to become a true Communist Party organization with no remnants of revisionism or opportunism in it. He declared even that Browder had been guilty of revisionism in the withdrawal of the Communist International, but at that point Stachel interrupted him to say that was an action of the Communist International itself, let the Communist International alone. Then Foster concluded by a declaration that there had not been democratic centralism in the Party, that there had only been centralism, referring to his having his letter suppressed, and they declared that the career of the Party under Browder or at least Browder's career in the Party was an example of deviation which certainly had to be wiped out.

By Mr. Paisley:

Q. At that particular moment, Mr. Budenz, what was Browder's position in the organization? A. Browder was still technically general secretary.

Q. Of the Communist Political Association? A. Yes, sir.

Q. Was he present? A. He was present, yes. He was present, but not on the platform. He sat down in

13860 front.

Q. Do you remember who followed Foster? A. Yes, I remember the main reports. That is, Eugene Dennis followed Foster.

Q. Are you able now to recall the substance of the position taken by Dennis? A. Yes, I am, because it stood out. Dennis referred to the fact that Foster had said that he had been one of those who had shown a tendency toward opposing revisionism. He declared that this had not been the case, that he also had been guilty of revisionism and that he wished to express his determination to oppose it from then

on. He particularly recommended in order that the Party should be thoroughly steeled for its work, that there be a thorough return throughout the Party to the Marxist-Leninist classics, particularly to the writings of Stalin, the History of the Communist Party of the Soviet Union, Foundation of Leninism, and Dimitrov's Report to the Seventh Congress, which dealt with the true nature of how to conduct the United Front while forwarding the Communist revolutionary aims.

Q. Do you recall who followed Dennis? A. I can't recall them in succession. I know those that stood out. For example, Robert Minor's report was one very early.

Q. What position did Minor take? A. Minor
13861 took the position that he had been close to Browder but that he had actually opposed Browder. One of the reasons he was maintaining such cordial relations with Browder was in order to oppose him and to defeat his revisionist tendencies. This caused quite a few groans among the assembly. He went so far as to say that Browder had consulted six Senators in Washington in regard to whether the Communist Political Association even should not be ended and just the Daily Worker left as the representation of the Party or the representative of the Party.

Q. Minor said that he had discussed the matter with six Senators or that Browder had? A. That Browder had. But Stachel cut him off there and said leave the six Senators alone. He said not to discuss that matter.

Q. Did Browder take the floor at any time during the meeting? A. Yes, Browder took the floor.

Q. What did he say? A. Browder apologized for not having a formal statement. He formerly had formal reports. His position was that there was no other policy that could be pursued on the basis of the Teheran agreement, that is, between Stalin, Roosevelt, and Churchill, that there would be generations of peace, that this meant that there would also be class peace, and any other position would
13862 have looked forward to the possibility of conflict

between the United States and the Soviet Russia at the end of the war. He stated that the Duclos-Foster position actuall, was a war position, and he declared that he would be willing nevertheless to accept the resolution if there was an amendment put in in regard to eliminating any suggestion that the Party would fight for curbing of American foreign trade.

Q. Do you remember whether or not Foster indicated one way or the other whether or not his course of action had been approved from Moscow?

. . . . . .

THE WITNESS: He did not do so specifically. He merely called attention to the fact that Browder in introducing the Duclos article in the Daily Worker had stated that it represented the opinion of the leading Marxists in Europe.

By MR. PAISLEY:

Q. I probably misled you there. I believe I used the word Foster. I meant Browder. When Browder was talking did he indicate to the persons assembled there whether or not his course in forming the CPA had had the approval of Moscow.

. . . . . .

13863 MR. PAISLEY: I am asking if he indicated one way or the other. Maybe he did, maybe he didn't. I don't know. I haven't talked to the witness about it.

THE WITNESS: He stated that it followed the Teheran policy laid down by Stalin, the Teheran policy of generations of peace, and that there was only one conclusion that could be drawn from that. He based his argument on Stalin's acts and Stalin's words.

By MR. PAISLEY:

Q. Do you remember whether Jack Stachel took a position in the meeting? A. Yes, Stachel did. Stachel supported the resolution, that is to say, he attacked the revisionism of

Browder, pointing out that the Duclos article had been written before the death of President Roosevelt, that therefore it was also a criticism of the Communist Party for its tail-ism in regard to Mr. Roosevelt. That is, that it followed in the wake of Roosevelt policies and did not assume a critical attitude, that this was evidenced by the fact that the article had appeared in April in Paris, had been prepared before that, and therefore before the death of Mr. Roosevelt. He warned the Party against further tail-ism, that is, hanging on to the coattails of any political leader, except the Communist political leaders.

13864 Q. Do you remember John Williamson being present? A. Yes, John Williamson was secretary of the conference.

Q. Do you remember any position he took? A. He spoke at great length to the effect that this policy had to be supported as laid down by Duclos and also recommended the reading of Marxist-Leninist works, State and Revolution, and other classics which he claimed had been neglected during the period from 1944 to 1945, and that there must be a return to the raising of the ideological level of the Party so that it would avoid hereafter revisionist errors such as Browder had led them into.

Q. Was Elizabeth Gurley Flynn present? A. She certainly was.

Q. Do you recall anything that she said? A. She made an extensive talk in which she particularly criticized Robert Minor for his having been more Browderite than Browder. She said he was an example of revisionism, that his statements were not up to what a Communist should have made. She declared further that during all the time that she had been on the Politburo she had not been permitted an independent thought or act, that every time she made proposals she was bowled over with the statement that she didn't understand Marxist-Leninist theory. She hoped that from now on there would be the possibility of expression within the Politburo which would not be met with that sort of

sweeping argument. She condemned Browder very
13885 severely for having misled her and others into an incorrect path.

Q. You say Foster made the main report. Do I understand by that that he led the discussion, led over the convention or whatever you call it? A. That is correct. That is the Communist method of procedure. There is no parliamentary debate in Communist meetings. There is a report by a reporter, and then there is discussion, and then the reporter concludes in a summary, and what he says, the leader, becomes what is agreed to. Foster, because he said he was partly ill and unprepared, allowed Dennis to make part of the main report. That is, the two were together. That is the reason I remember them distinctly.

Q. How long did this discussion last? A. It lasted three days.

Q. Do you recall whether or not Foster took the rostrum, or however you might express it, on the third day? A. Yes, he did. He proposed on the third day that the conference send wires to the strikes that were occurring and to other trouble spots where strikes were contemplated, urging them to strike and to hold out for strikes. He said that was in line with the new attitude that the Communists should take.

Q. Just what was the situation historically at that time, Mr. Budenz, with reference to the war? This was
13866 in the summer of 1945. A. June 1945.

Q. Do you recall whether or not Germany had been defeated at that time? A. Certainly we were still at war with Japan.

Q. What was this that Foster was proposing about a strike?

. . . . . .

THE WITNESS: The extension of strikes by the encouragement of them through the Communist Party.

By Mr. Paisley:

Q. What happened as a result of his proposal? A. Two Communists who are connected with the United Electrical Radio and Machine Workers Union, Julius Emspak and Ruth Young, immediately had a hurried conference with Foster which I overheard, in which they urged him to withdraw this statement, that it would injure the Communist infiltration, of the unions and was not at all a timely procedure on that account. He agreed to do that, and in the afternoon session, some time later, he got up and withdrew his suggestion.

Q. So were these telegrams dispatched? A. They were not, because of the objection of Emspak and Ruth
13867 Young.

Q. What conclusions, if any, were reached by this National Committee? A. They condemned revisionism, drew up a program which was based on the Duclos letter and demoted Browder as general secretary.

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13870 Q. I notice that Foster in the letter uses such terms as "opportunistic error" and "revisionism." Will you explain to the Panel just what those terms mean?

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13871 The Witness: "Opportunistic error" is a well-known term in the Communist documents and in Communist discussions. Opportunism is the blurring over or killing off of the revolutionary Marxist-Leninist objectives of the Communist movement, by any tendency or deviation which makes the Communists forget that their goal is the violent shattering of the bourgeoise state as set down by Lenin and Stalin.

By Mr. Paisley:

Q. What about "revisionism"? A. "Revisionism" is generally applied as a term to opportunism from the right. It is Kautskyism that is based on the fact that Karl Kautsky differed from Lenin in regard to the Bolshevik revolution

and likewise it is a blurring of the revolutionary class war objectives of the Communists so that they can not fulfill their function as Communists and lose sight of the goal of shattering violently the bourgeoise states. From this revisionism there flow a number of other errors which apply to immediate work, that is to say, for example, confusing reforms which the Communists adopt for tactical reasons with objectives. Therefore, this is considered a very serious deviation. The term arose from the attempted revision of Marx by Edward Bernstein, an alleged socialist, but it now has come to mean any deviation from the Communist objective as set down by Lenin and Stalin of the violent shattering of the bourgeoise state, anything which takes away the fact that this Communist Party is not a
13872 party of a new type and not a party which rejects civil peace.

Q. Was Trotskyism regarded as opportunism? A. Trotskyism in general is opportunism from the left. Trotskyism is accused also of blurring the objectives of the Communists, but with left phrases and left objectives. The revisionism is rather applied as a rule to what I call opportunism from the right. It is Kautskyism as distinct from Trotskyism to that extent.

Q. After this national committee meeting about which we have been talking there followed a national convention of the Communist Political Association, did there not? A. Yes, sir, in New York City.

Q. Do you recall when it was held? A. It was held about the middle of July at the fraternal club house.

Q. Did you attend? A. I attended only a few sessions. I was very busy on the Daily Worker.

Q. Was the general public and representatives of the press admitted? A. No, they are never admitted to a Communist Party convention proper.

Q. What happened at the convention of the Communist Political Association?

. . . . . .

13873 Q. As editor of the Daily Worker and from any sessions which you did attend, did you learn what took place? A. Yes, sir, most decidedly.

Q. What did take place?

. . . . . .

THE WITNESS: The Communist Political Association was changed back to the Communist Party. That is the same convention which met as the Communist Political Association convention became the Communist Party convention.

By MR. PAISLEY:

Q. To what extent was the leadership changed?

. . . . . .

THE WITNESS: In substance the leadership was not changed. Browder was not in the picture, but
13874 Foster was national chairman, and eventually Dennis became secretary, though there was a secretariat set up at that time of which he was a member.

. . . . . .

13877 Q. Mr. Budenz, the Party when it was reconstituted in 1945 adopted a constitution, did it not? A. That is correct.

Q. It was not amended until after you left the
13878 Party, was it? A. It wasn't amended while—

Q. It wasn't amended while you were in the Party.

A. No.

MR. PAISLEY: May I have the 1945 constitution?

MR. DENUNZIO: That is Exhibit 329.

By MR. PAISLEY:

Q. Are you familiar with that constitution? A. Yes. I received it as soon as it was printed.

Q. I direct your attention, Mr. Budenz, to the preamble to this constitution, the first sentence of which reads as follows: "The Communist Party of the United States is the Political Party of the American Working class, basing

itself upon the principles of scientific socialism, Marxism-Leninism."

As a member of the Communist Party what meaning did that sentence have for you?

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13879 THE WITNESS: Marxism-Leninism is a well-known and historical term in the Communist documents and discussions. It is that interpretation of so-called scientific socialism based on the writings of Marx, Engels, Lenin and Stalin, and which holds as the goal of the Communist Parties of the world the necessity for the violent shattering of the bourgeoise states in order to set up in their place a completely new state machinery, the dictatorship of the proletariat. This shall be achieved under Marxism-Leninism through the Party of the new type, the Bolshevik Party under Bolshevik discipline, which rejects the concept of class peace.

By MR. PAISLEY:

Q. Did the Communists in the United States at that time regard the American Government as a bourgeoise state? A. It did, yes, according to the Communist concept it is a bourgeoise state. It is a matter—Well, I can't add to that unless you ask a question.

Q. Now I call your attention to this sentence in the same preamble: "The Communist Party upholds the achievements of American democracy and defends the United States constitution and its bill of rights against its
13880 reactionary enemies who would destroy democracy and popular liberties."

Can the two sentences be reconciled?

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THE WITNESS: The statements can not be reconciled. The dedication of Marxism-Leninism is the dedication historically and categorically to the violent shattering of the bourgeoise state as the necessary step toward progress, and this other language in the light of that, since Marxism-

Leninism principles prevail, is merely a window-dressing for legal protective purpose. It is part of the Aesopian language recommended by Lenin.

By Mr. Paisley:

Q. Did the words "reactionary enemies" have any particular meaning in Communist circles?

. . . . . .

The Witness: They do.

By Mr. Paisley:

13881 Q. What interpretation do they have? A. Reactionary enemies are those who are seeking to curb the Communist conspiracy. The term "Fascist" is used likewise as an alternative. It runs through all Communist literature. The reactionary enemies are those who are seeking to curb the Communist conspiracy.

. . . . . .

13884 Q. Mr. Budenz, I call your attention to the sixth paragraph of the Preamble to the Constitution of the Communist Party adopted in 1945, reading as follows: "The Communist Party, therefore, educates the working class, in the course of its day-to-day struggles, for its historic mission, the establishment of socialism."

As a member of the Party and as a result of your
13885 experience in the Party, what was meant by that language?

. . . . . .

The Witness: The historic mission of the working class was laid down by Lenin and Stalin specifically, and understood throughout the Communist movement. It is the establishment of the dictatorship of the proletariat through the smashing of the bourgeois states and the setting up of a so-called dictatorship of the proletariat, Soviet dictatorship.

By Mr. Paisley:

Q. In this same constitution, Article IX, Section 2, which reads:

"Adherence to or participation in the activities of any clique, group, circle, faction or party which conspires or acts to subvert, undermine, weaken or overthrow any or all institutions of American democracy, whereby the majority of the American people can maintain their right to determine their destinies in any degree, shall be punished by immediate expulsion."

Were you familiar with that provision of the con-
13886 stitution? A. Yes, sir.

Q. What meaning, if any, did that language in the constitution have for you?

* * * * * * * * * *

Q. Particularly in the light of the first sentence of the preamble, about which we have already had testimony. A. That was what I was about to say, Mr. Paisley. In light of the dedication to the principles of Marxism-Leninism and the reiteration of this in the mention of the historic mission of the working class, which are well defined, historically worked out terms in the Communist movement, especially by Lenin and Stalin, this is merely protective language in order to protect the Communist Party and at the same time enable it to go forward in advancing the principles of Marxism-Leninism. It is Aesopian language recommended by Lenin.

Q. Is this word "Aesopian" a word which you, yourself, have coined, or is that a word which had meaning in Communist Party circles when you were a member? A. It is a word that had a meaning in the Communist Party circles, having appeared in the preface to the Russian edition of Lenin's "Imperialism."

Q. I want to go back for a moment to the time
13887 when you were in Chicago, Mr. Budenz. Do you recall a visit out there by Eugene Dennis in the fall

or winter of 1939-1940? A. Yes, sir. That was during the Hitler-Stalin Pact period, when the party was going underground.

Q. What do you recall about the particular visit of Dennis out there? A. There was a meeting called of the chief functionaries of the Communist Party in Illinois, or at least in Chicago, very hurriedly called together and held in the basement of a building in Chicago, at which Dennis appeared. He had been underground or partly underground, and he came there. There were present at this meeting a number of the leading functionaries, including Morris Childs, the district organizer, William L. Patterson, who was then associate editor of the Midwest Daily Record, that is, associate with me, and was also on the State Committee, Ed Brown, who was the organization secretary of the district, Jack Martin, and a number of other functionaries.

Q. Did Dennis address the meeting or discuss any Party matters with you? A. The meeting was very brief. At that meeting, Dennis declared that he had come for the purpose of giving us directives as to the urgency of the complete underground existence of the Party, that is, we had already had instructions about dividing into groups of five and having no public records. He reiterated this again,
13888 and at the same time he declared that we should be prepared in case the United States joined with Great Britain against Hitler, to turn the imperialist war into civil war as Lenin had advised. He stated that his purpose was to prepare us for eventualities of that character, and also that we should prepare the Party and its organization work for eventualities of that character.

Q. Did he give you any specific instructions as to how you should proceed? A. He emphasized the urgency of what was already contemplated, and that was of real diligence and expedition in the breaking down of the Party units or branches into groups of five, and going underground and destroying Marxist literature. In other words, going on a completely war basis.

Q. Did you always use your own name while you were in the Party? A. Yes, sir.

Q. Was there any practice in the Party with reference to assumed names?

. . . . . .

THE WITNESS: There were Party names. I presume that is what you mean. There were Party names.

By MR. PAISLEY:

Q. To what extent was that prevalent? A. It was
13889 common in the case of concealed Communists, that is, people who were functioning as non-Communists publicly but who were actually Communists. With open Communists the practice was less. For example, a man like William Z. Foster, so far as I know, never had a Party name. But I know a great number of other people who did have Party names.

Q. Did Dennis make another visit out there? A. Not to Chicago.

Q. Or to any other city? A. Yes. I met him in Milwaukee in the fall, late summer or fall of 1940. I had gone then from the Daily Worker out to Milwaukee, and Dennis said that he would see me there.

Q. Did you see him there? A. Yes, sir. We met at the home of Mrs. Meta Berger.

Q. At that time, had Hitler invaded Poland yet? A. Oh, yes. He had quite a time before. This was in the fall of 1940.

Q. Had he attacked Russia? A. No, he had not.

Q. The Hitler-Stalin Pact was then still in effect? A. That is right.

Q. Tell us what happened at this home of this woman, who was present and what was said? A. This was a very
small meeting, attended by about six or seven
13890 people—Ned Sparks, who was the district organizer for Wisconsin, who brought me out to the place; Fred Bassett Blair, who was the leading functionary in the Communist Party in Wisconsin; and Sigmund Eisenschur,

who had been Midwest Daily Record representative in Milwaukee but was a Communist functionary; also Harold Christoffel, who was a concealed Communist and the president at that time of the local union at the Allis-Chalmers plant. There were two or three others, but I don't recall them.

Q. Did Dennis have anything to say at this meeting? A. Yes, sir.

Q. Will you tell the Panel in substance what he said? A. He stated that the meeting had to be very brief because he was underground and had to go away rather quickly. There were three things that he placed on the agenda. One of them was the bolshevization of the Party; another, the Allis-Chalmers situation; and the third, the Socialist Party in Wisconsin which the Communists were penetrating.

On the first point, very briefly summarizing it, he had in his hand a typewritten copy of an article that he had written for The Communist, and which was published, I believe, in May 1940, at least during that year, on the bolshevization of the Party. He wanted to stress the bolshevization of the Party, the necessity of being more vigorous in the underground organization of the Party, in steeling the
13891 comrades to the possibility that the imperialist war would be turned into civil war.

In this connection, his main emphasis was the urgency of a wider reading of the works of Stalin in particular, and of certain works of Dimitrov, but the works of Stalin, particularly the History of the Communist Party of the Soviet Union, and Foundations of Leninism, in order that the comrades would not be lost in this underground work but would understand their goals, so the Party would be steeled for any shock. That was his first mission. He reviewed the scene much more widely than that. In fact, he referred to the "Roosevelt war." He declared that Earl Browder had stated officially at the last convention that Roosevelt was another Hitler, and that we should realize that in opposing the Roosevelt policies we were fighting the

Fascistization of the United States, and should put, therefore, every energy into it. That was the general introduction.

On the second point, on the Allis-Chalmers situation, he declared that it was essential that war production in Great Britain be halted in order to forward this campaign against the Roosevelt program, and in that connection the Politburo had decided that there should be a stoppage at the Allis-Chalmers plant. He did solicit Christoffel's views on this matter, and there was a discussion in which Christoffel participated briefly.

13892 Q. Who was Christoffel? A. He was the president of the local union at that time of the United Automobile Workers in the Allis-Chalmers plant. He is not so any longer.

Q. Was he a Party member, to your knowledge? A. Yes, sir. I met him as such on several occasions.

Q. Did you testify in his trial here in the District? A. Yes, sir, in two of them.

Q. What was Allis-Chalmers making at the time, do you know? A. I do not know the specific material, but it was considered to be a key part of the aid to Britain, and the general defense build-up of the United States.

. . . . . .

13894 Q. Was there a strike on at the time? A. No, sir, there was no strike at the time.

Q. Do you know whether a strike took place after this meeting? A. I wasn't there. I know that Christoffel there agreed that a strike should be called, and that
13895 grievances could be filed which could bring about such a strike.

Q. Was this before Germany invaded Soviet Russia? A. Oh, Yes.

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Q. How long before, approximately?

. . . . . .

THE WITNESS: This was in the fall of 1940. It was almost a year, I should say nine months before the invasion.

By MR. PAISLEY:

Q. Do you know whether or not a strike took place?

. . . . . .

THE WITNESS: As Editor of the Daily Worker, I know, but I wasn't on the scene. I know a strike took
13896 place in the early part of 1941.

. . . . . .

Q. Did Dennis give Christoffel any instructions in your presence?

THE WITNESS: Yes, sir. He specifically stated that the Politburo required a stoppage at the Allis-Chalmers plant. He said they had chosen that place as being one where such a stoppage should take place because of the Communist leadership there in that local at that time.

. . . . . .

13898 Q. Mr. Budenz, did the Daily Worker customarily have staff meetings while you were Managing Editor? A. Yes, they had staff meetings.

Q. To what extent? A. They weren't what you would call regularly arranged for any particular time. They were called whenever it was essential to bring up some outstanding political topic. Therefore, we would have them once or twice a month, and then two months might go by.

Q. Who would attend the staff meetings? A. Normally, the members of the Daily Worker staff. I say
13899 "normally," because on one occasion of this special discussion there were more of the leading functionaries there than was usual. Then generally some leading Party functionary, member of the Political Bureau as a rule, would make a report on this topic. It might be national affairs with Eugene Dennis, or it might be a report on the work of the State of New York by Gil Green, various topics, in order to keep the Daily Worker members on their toes.

Then, of course, this was always intertwined with political discussion, because it was for political purposes that it was held. I mean "political" in the Communist sense, political education.

Q. You referred to the various so-called classics, including the History of the Communist Party of the Soviet Union. Were those books used by you in your work, and by the other members of the staff, up to the time you left the Party?

. . . . . .

THE WITNESS: Yes, sir, they were used, and they were also very freely quoted in the staff education meetings, if you want to call them that, staff meetings which were held.

By MR. PAISLEY:

Q. Throughout your time in the Party, was there
13900 ever an instance, to your knowledge, when there was any criticism of the Soviet Union published in the Daily Worker?

MR. ABT: I object. We have had this question over and over again, Mr. Chairman.

MR. BROWN: Overruled.

MR. PAISLEY: We have not.

MR. ABT: May I finish, Mr. Paisley?

The Panel has previously ruled it is an improper question.

MR. BROWN: Overruled.

THE WITNESS: Not only was there never any criticism of the Soviet Union, but there was always praise of the Soviet Union and its leadership. That was a "must" rule.

By MR. PAISLEY:

Q. Would the answer be the same with reference to Political Affairs, as far as you were able to observe? A. Yes, sir, the same rule applied to Political Affairs.

Q. Where the policies of the United States differed from those of the Soviet Union, which side would the Daily Worker take, if any?

. . . . . .

13901 THE WITNESS: Always with the Soviet Union; and there are very many examples of that, particularly during the Hitler-Stalin Pact period, which could be drawn upon if time permitted.

By MR. PAISLEY:

Q. Do you know of any exceptions to that proposition?

. . . . . .

THE WITNESS: None whatsoever. It was not permissible to have an exception to that rule.

. . . . . .

13905 Q. After the disaffiliation, so called, of the CPUSA from the Communist International, did you ever see this man Gerhart Eisler in the United States? A. Yes, I saw him.

Q. Where? A. Once at Jacob Golos' funeral in the latter part of 1943, and once across the street from a meeting of the National Committee.

Q. When was that? A. My remembrance is that it was in 1942.

Q. Are they the only two times that you actually saw him? A. Yes. He stayed away from national headquarters.

Q. Did you talk to him on either occasion? A. I did not, no.

Q. Did he talk to you? A. He did not, no.

Q. Did you ever discuss his activities in this country after the disaffiliation of the CPUSA from the Communist International with any of the leaders of the Communist Party USA? Answer yes or no. A. Yes.

Q. With which members? A. Several. Earl Browder, Jack Stachel, Eugene Dennis.

13906 Q. Do you now recall anything that any of those leaders of the Party had to say about the activities of this man in this country?

. . . . . .

THE WITNESS: I have mentioned the fact that Eugene Dennis in the latter part of 1942 stated that Hans Berger was the equivalent to the representative of the Communist International, that he was fulfilling those functions, that his real name was Gerhart Eisler and that I was to receive any communication from him as being that of the C. I. Rep. Dennis at that time was liaison officer with the Daily Worker but was going down to Washington for several days, maybe two weeks. He told me I was not to confuse Eisler's integrity as a Communist leader with the fact that he had a sister who was a Trotskyite. That is the case of Dennis. Although he mentioned this again on several occasions, that is a specific case I can recall.

In regard to Stachel, his references to Eisler were constant during 1943 and '44, rather to Berger, Eisler as Berger. He mentioned meeting him in order to get directives and in order to discuss problems. He brought him money from the Daily Worker. He had me arrange with Bill Browder to get money for him. He also arranged
13907 for certain articles to be printed in the Daily Worker under the name of Hans Berger.

By MR. PAISLEY:

Q. Who was Bill Browder? A. Bill Browder was business manager of the Daily Worker.

Q. A brother of Earl Browder, was he? A. That is correct.

Q. Did you have any discussion with Foster concerning this man Berger? A. I don't recall any specific discussion with Foster along this line.

Q. Do you recall whether or not Berger actually contributed any articles to the Daily Worker? A. Oh, yes, very many. They appeared week after week in the Daily Worker, and also some in The Communist. As a matter of fact, it was Stachel who emphasized Berger more than anybody, because Stachel was the representative of the Political Bureau who dealt with the Daily Worker over several years.

Q. Did you know this man Golos, whose funeral you attended? A. Yes, sir, I knew him rather well.

Q. When did you meet him? A. I first met him away back in the twenties when I attended a Russian-American
13908 corporation which was being organized at that time, but I didn't see him from that period on until I joined the Communist Party.

Q. What was his first name? A. Jacob Golos. He was supposedly the head of the World Tourist Agency, and did function from there in the Flatiron Building in New York. I have been to his office and conferred with him there. He has been to my office and conferred with me. He has been in touch with me a great number of times, particularly from, we will say, 1936 on until his death.

Q. What kind of business was this World Tourists, if you know? A. It was a tourist agency in regard to making arrangements for tourists into Soviet Russia and also sometimes into other countries. But it also was connected, as I know, with the Soviet espionage agency.

. . . . . .

Q. Was he a party member? A. He was chairman of the control Commission of the Communist Party for a number of years. That was the most powerful commission in the Party, having to do with the discipline of the mem-
13909 bership. Each Communist is compelled to file his biography with that, and that is the commission that watches after the Communist integrity of the membership.

. . . . . .

THE WITNESS: The fact is that when he died, because he was an alien Browder asked me to write that he had never been a member of the Communist Party, although a friend of the Party, whereas he had been chairman of the Control Commission for at least a number of years.

By MR. PAISLEY:

Q. Did you write such an article? A. That is my remembrance. I know we discussed it and I am sure it appeared.

Q. Do you think it was published? A. Yes, that is my remembrance.

Q. How often would you see Golos during the period of time that you were on the Daily Worker? A. It was irregular. He first saw me in order to introduce me to members of the MVD or Soviet secret police operating in this country. Then from time to time he was the source of getting in touch with me by them. Then when I was out at Chicago he used to call me up on the long distance phone in regard to the same matter. A relationship of that kind, though not in the same degree, continued down to 1943.

13910 Q. What would be the occasion for his introducing you to the various members of the Soviet Police?

. . . . . .

Q. Did I understand you to say that he did introduce you? A. Yes, sir.

Q. What would be the occasion for that? A. Not to various members. He introduced me to one member first, and then afterwards he was the go-between for other members. The occasion?

. . . . . .

Q. To what individual did he introduce you? A. He introduced me to a man who went by the name of Richards.

Q. Did he introduce you to any others? A. Yes. That is, I became acquainted in the same way from Richards to a man named Roberts whom I met several times in the presence of Golos and who I now know was Dr.

13911 Gregory Rabinowitz, the head of the Russian Red Cross, supposedly, but he went by the name of Roberts with me.

Q. Did you meet Elizabeth Bentley? A. Yes, sir. I was introduced to Miss Bentley, by Mr. Golos, who stated that she was a trusted comrade who was engaged in very important underground work and that anything that I wished to tell her in that respect I could tell her. He could not see me as much as he had wished to before because he had recently pleaded guilty, yes, pleaded guilty to having violated

the foreign agents' act, and he didn't want to be seen too much in contact with me or other known communists.

. . . . . .

Q. Give him the time and place, if you can. A. The meeting with Richards occurred in 1936, early 1936, as a result of my being called upstairs to the ninth floor by Jack Stachel and re-introduced to Golos and then Golos took me down the street to a restaurant and introduced me to Richards. The meeting with Roberts took place approximately a year later.

Q. Can you give him the place? He wants the place. A. At Childs Restaurant on upper Broadway. That was with Richards introducing me to Roberts, however.

13912 Subsequently, I met from time to time on until 1939 off and on with Golos and Roberts, who I say I now know to be Dr. Gregory Rabinowitz. We met on one occasion in 1938 in the Office of the World Tourists on a Saturday afternoon in this Flatiron Building.

Q. Now give him the time and place on your meeting with Elizabeth Bentley. A. That was early in 1943, as I recall, about that time.

Q. And the place? A. The place was in front of the Daily Worker Building. Mr. Golos had seen me several times in my office about a matter which he wanted me to take care of in underground work, and then one day he came to me and asked me if I would come downstairs and he introduced me to Miss Bentley not far from the 13th Street entrance to the Daily Worker Building.

Q. Did you know Alexander Trachtenberg? A. Oh, yes, for many years.

Q. What position, if any, did he hold in the Communist Party, USA? A. He was the head of the cultural commission, which has charge of the direction of the Communist cultural activities, the schools, the entertainment field, publications, and also has charge of the infiltration of cultural activities outside of the Communist Party.

. . . . . .

13913 Q. Was he active in the Party during the time you were in the Party? A. Yes, sir, he was very active and a very important communist.

Q. Did he ever have anything to do with these publishing houses about which we have heard so much? A. He was in charge of the general publishing field. Specifically, though, he was head of International Publishers, in New York City. He also helped to direct what was called the Workers Library Publishers and then was changed to the New Century Publishers. But his specific first job, I should say, was that of head of the International Publishers, which gets out all the Marxist-Leninist classics.

Q. Did you have occasion to discuss mutual matters, matters of mutual interest? A. Many times, yes, sir. We discussed many times the question of publications. He was very much interested in our newspapers, the Daily Record and the Daily Worker, and in pamphlet publications also. In 1938 he announced to me when I came into Chicago that he had obtained the authorized Marx-Lenin edition in English of the History of the Communist Party of the
13914 Soviet Union which was to be published in English.

It had already been published in Russian. The English edition was going to be available.

Q. Did you ever have any discussion with him as to whether or not his activities or the activities of these publishing houses were supervised in any way or controlled in any way?

. . . . . .

THE WITNESS: Mr. Trachtenberg stated many times, not only to me but in the Politburo sessions, that he had obtained authorized translations from Moscow. He was not permitted to issue any Marxist literature, especially the classics, without the authorization of the Marx Institute in Moscow and was in touch with them repeatedly in that regard.

By Mr. Paisley:

Q. During your activity in the Party did you come to know this man J. Peters, who wrote the Peters Manual? A. Yes, sir; I knew him rather well, too. I saw him very often.

Q. What position, if any, did he have in the Party? A. He was introduced to me by Jack Stachel, as organization secretary of the Party, although Stachel said at the same
13915 time he was much more important than that. To my own knowledge in dealing with him and from his own statements to me, he was liaison man between the Communist International apparatus here and the Soviet Police operating in America.

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Q. How often did you come in contact with him? A. In my first year in the Party, or two, I was frequently in contact with him, maybe as much as two or three times a week, if not more. Then later on when I went to Chicago that tapered off, except when I saw him in New York, and then when I returned he was for the time being largely underground and I didn't see him much, but I saw him later after, we will say, 1943 or so.

Q. Was that his real name? A. No, it was not. I don't recall his real name now. He had many different names.

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13933 Q. Mr. Budenz, what news services did you find that the Daily Worker was a subscriber to when you first became associated with the Daily Worker? A. They had a purely commercial relationship with the United Press, and then they also received news from the Runag News Agency.

Q. What was the Runag News Agency? A. The Runag News Agency was the agency which under various names, that is, I mean to say, various language names, furnished information out of Moscow to the Communist Party and their organs.

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Q. Upon what service did the Daily Worker depend for news items from Moscow?

. . . . . .

13934 THE WITNESS: It depended for the main political items; these items were sent over in great volume by cable and wireless to the Daily Worker directly from Moscow through the Runag News Agency, and they contained articles translated from Soviet papers and pronouncements of Stalin and other Soviet leaders which were used in Daily Worker and also were sent up to the ninth floor.

. . . . . .

Q. What were the sources of your information concerning this arrangement for the receipt of news by the Daily Worker from Moscow? A. In the course of my work on the editorial board it was there discussed and also the Politburo.

Q. Did it come up for discussion frequently or otherwise? A. Not frequently, but it came up occasionally. It was a well-established service. They had had it there for some time.

Q. When the matter first came to your knowledge, when you first went to work there for the Daily Worker,
13935 just exactly what was the arrangement whereby the Daily Worker received this information from Moscow?

MR. ABT: I object. No foundation.

MR. BROWN: Overruled.

THE WITNESS: It received it free of charge from Moscow and, as I say, it came in to the Daily Worker direct.

By MR. PAISLEY:

Q. Did you have occasion to talk to Earl Browder about it from time to time? A. Yes, not frequently but I have talked to Browder about it.

Q. What were the physical arrangements for the receipt of this information? A. There was in the Daily Worker a telegraph room, and in that telegraph room there were placed special machines for this service from Moscow.

. . . . . .

13936 Q. Do you know whether these were direct wires to Moscow? A. They came from Moscow, yes.

. . . . . .

Q. Was the material received in the English language? A. Yes, sir. The prepositions were left out and had to be filled in, but otherwise the entire material was there in the English language.

Q. Give the Panel, Mr. Budenz, some idea of the extent of this information which came to you through the Russian news agencies? A. It was irregular in its contents, that is to say, sometimes it was not so large as others, but it was whole articles from the Soviet publications, statements by Soviet leaders, the approved statements by Stalin, for example, in English translation. Then on other occa-
13937 sions when there was the Trotskyite Bukharin trials, for example, a great deal of the questions and answers, in fact, the whole trial, substantially, was sent over by cable or wires.

Q. Were these operators on the same floor that the Daily Worker occupied? A. Yes. That is, when I say the Daily Worker I mean the editorial department of the Daily Worker. There was the linotype department on the seventh floor and the presses below in the basement, but I am speaking of the editorial offices.

Q. That was on the eighth floor? A. Yes, sir.

Q. And the headquarters of the Party were on the ninth floor? A. That is correct.

Q. What use customarily was made of this information which came to you? A. A great deal of it was published in the Daily Worker, and all of it was sent up to the ninth floor, that is, a copy of it.

Q. Were any directives from Moscow ever received through this system?

. . . . . .

13938 THE WITNESS: These articles all contained directives. That is to say, the Communists looked in

these articles from Moscow for the directives and the line that was to be pursued, the attitude that should be taken.

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Q. What did the Daily Worker pay for this service? A. Nothing.

Q. Do you know who did pay for it? A. I do not know directly.

Q. Did you ever discuss it with any of the Communist Party leaders? A. Yes, sir. It was discussed extensively both before I was managing editor and after I was managing editor.

Q. By "extensively" what do you mean and with whom? A. With Grace Maul Granich, with Earl Browder, and some occasions with Joseph Brodsky.

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13939 Q. Let me ask you this: At the time you discussed the matter with Browder, what was his position in the Party, if any? A. He was general secretary, that is, head of the party.

Q. What did he tell you about the arrangement? A. He stated that this was free service from Moscow which we received, both for the benefit of the Party leadership and and for the benefit of the paper. Later of course other questions arose about this service.

Q. What were the questions that arose later? A. After the passage of the Foreign Registration Act of 1938,
13940 if I remember that year, the questions came up about how to handle this service, and while the service continued, a corporation was formed, the Intercontinent News, with the idea of finding some way of handling the service independent of the Daily Worker to all appearances.

Q. Who formed that corporation? A. That was formed by discussions between Browder, Grace Maul, and Brodsky, and approved by the Politburo, so far as I know.

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Q. Were these people you named, Mr. Budenz, all functionaries of the Communist Party when these matters were discussed? A. Yes, sir.

Q. All of them. Every one. Just tell the Panel in your own way what was decided and what was done about this matter. A. There were various steps. In 1938 or 1939 when I came into Chicago I attended a conference where I was invited to be present between Earl Browder and
13941 Grace Maul Granich and Joseph Brodsky, at which this matter was taken up, and the formation of the corporation was discussed and also its conduct.

Q. What was Brodsky's position in the Party? A. He was attorney for the Communist Party. The Daily Worker had another attorney, but he was attorney for the Communist Party.

Q. Was there any change made in the actual physical receipt of the news? A. There was eventually, yes.

Q. Tell it in your own way. A. By 1941 it was decided that Grace Granich should take over as the alleged sole proprietor or owner or director of this Intercontinent News Corporation, and she first operated for a few months at least, maybe a little bit longer, in the Daily Worker Building, that is, on the ninth floor, and then moved over to 799 Broadway. That was in 1941.

Q. Do you know the purpose of her moving? A. Yes, sir.

Q. What was it? A. The purpose of her moving was to indicate that she was a separate corporation from the Daily Worker and therefore the Daily Worker would not have to file as a foreign agent.

Q. Were those operators and machines moved
13942 physically from the premises? A. The machines were moved. One or two machines continued to receive news at the Daily Worker direct from certain correspondents that we had through the country and even one or two foreign countries.

Q. I mean the receipt of news from Moscow. A. They were moved out of the Communist Party Building.

Q. Did there come a time when the Department of Justice was insisting that the foreign propaganda be filed and labeled as such?

. . . . . .

THE WITNESS: Yes, sir. The Department of Justice took over the matter of conducting the foreign registration act. Before that it was in the hands of the Department of State. They requested the Intercontinent News Corporation to register and also to label its corporation Communist propaganda or foreign propaganda according to the Act.

Q. Were the requirements of the Foreign Agents Registration Act a subject for discussion among you people? A. Oh, yes indeed. In fact, Grace Maul Granich was over at my office a number of times discussing the matter in various states of its development.

Q. Did she comply with the request that she label this information?

. . . . . .

13943 THE WITNESS: No, sir. That was the point. That was the thing that wanted to be avoided.

. . . . . .

Q. What was the final determination in the matter, Mr. Budenz?

. . . . . .

THE WITNESS: The final determination was that the Intercontinent News Corporation ceased operations because of this demand of the Department of Justice.

By MR. PAISLEY:

Q. And then what did the Daily Worker do for news direct from Moscow?

. . . . . .

THE WITNESS: We got a correspondent in Moscow and also began to use the Soviet Bulletin here of the Embassy and established certain correspondents in certain other for-

eign countries, Latin America and the like, but the correspondent in Moscow was supposed to endeavor to
13944 cover as much as possible of the whole international scene.

Q. Do you remember over what period of time Grace Granich resisted the efforts of the Department of Justice—

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Q. (continued) —to require her to file foreign propaganda and label it as such?

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Q. Approximately. A. The Department of Justice?

Q. Yes. A. About two years or a little less.

Q. Do you know from your discussions with her and other leaders whether she was finally required to comply by labelling the material she received—

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THE WITNESS: Would you repeat that, please?

(The pending question was read by the reporter)

THE WITNESS: Yes, sir, she was supposed to.

13945 By MR. PAISLEY:

Q. Is that when she dissolved this Intercontinent? A. That is right.

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Q. Did you have any discussions with her or the Politburo or Browder or any other leaders of the Party as to why they did not wish to comply?

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THE WITNESS: Yes, sir. That was a matter of extended discussion, I mean extended time. The reason was that they did not wish to register as foreign agents and also a very disturbing element was that when the Department of Justice came into the scene they did not wish an examination of the financial structure since they stated that it would show that the amount of money the Intercontinent News got from the

Daily Worker and Freiheit was inconsequential compared to the cost?

. . . . . .

Q. What was the importance of this service, if any, to the Communist Party of the United States?

. . . . . .

13946 THE WITNESS: It was of very great importance, not merely to the Daily Worker which thereby received day to day indications of the line which should be followed and the interpretation of the line, but also, as I have stated, copies had to be sent up to the ninth floor and they were considered by the leadership of the Party as part of the directives they received.

By MR. PAISLEY:

Q. Did any other publication in the United States receive this service direct? A. No. The Daily Worker sent a copy to the Freiheit, that is, when it was Runag. A copy was also reserved for the Freiheit. That was the daily paper which was also in the same building with the Daily Worker. Later on the Intercontinent News distributed it to the Daily Worker, Freiheit, and several other Communist controlled papers.

Q. To your knowledge, Mr. Budenz, did the Communist Party resort to any strategy to conceal its control of the Daily Worker?

. . . . . .

13947 THE WITNESS: It was to separate the Party technically from the Daily Worker that the Freedom of the Press Company, Inc., was established.

By MR. PAISLEY:

Q. That is the company of which you became president? A. That is right.

Q. Was Granich in the Party up until the time you left? A. Yes, sir.

. . . . . .

13953 Q. Do you know who had control of Party finances?

. . . . . .

THE WITNESS: They were in the control while I was there of a commission headed by Weiner, assisted by Lement Upham Harris and the late Charles Krumbein. They supervised all finances of the Party and also decided on the needs of the various divisions of the Party.

Q. Did that include control of the Daily Worker finances? A. It included supervision of the Daily Worker finances.

Q. How about the finances of the International Publishers? A. It included the control of all organizations under the control of the Party, even including a number of Communist front organizations. That is, they were supervised by Weiner, assisted by Lement Upham Harris, and the late Charles Krumbein.

. . . . . .

MISS MCHALE: May I ask two or three questions?

13954 How much freedom, Mr. Budenz, did you feel that you had, if any, as managing editor of the paper or of the publication with respect to composition, et cetera?

. . . . . .

THE WITNESS: The execution of things, that is, the assignment of things to be done was in the hands of the managing editor, but the complete control of the tone of the paper, its political attitudes, and even the leading articles was in the hands of the political bureau, and their representative conferred, as I have stated, I should say on the average of once a day, particularly during the latter part of my managing editorship, in addition to frequent discussions over the telephone and frequent visits upstairs to go over matters.

MISS MCHALE: How was this done in the day? Was the copy for the press read and checked?

THE WITNESS: Yes. That was done as in a regular newspaper by copyreaders, but also on important matters the managing editor or the assistant managing editor, whoever was there in the evening, went over it. However, by

13965 that time the tone of the paper, the editorial policy and everything else had been decided.

Miss McHale: Did you have any recourse in the event you didn't agree with some of the decisions? To whom could you go?

The Witness: You had to agree with every decision. It would cause you to be expelled for some deviation if I disagreed.

Miss McHale: The other question is this: During your time with the Daily Worker, with the Communist Party, did they ever employ you on their headquarters staff in any capacity as a non-Communist?

The Witness: They did not. That is, when you say headquarters staff I judge you mean the personnel of the Party itself and the secretaries and telephone operators. They of course had to have some non-Communists among the printers, because the union insisted on certain rules in that respect. So far as I know these telegraph operators sent in by the outside agencies were non-Communists, but the entire staff, including telephone operators, secretaries, and everyone else had to be communists. In fact, you had to get their biography during a period of time for the control commission and examine them very carefully before putting them on, at least after a probationary period.

Miss McHale: This is my last question: In respect
13956 to the fealty oath I get the impression that not all groups had to take it, that it was optional at a particular time, but that some of the leaders had to take it. I would like to have that clarified.

. . . . . .

The Witness: This was presented to me as something that it was essential that I accept. I was told by Stachel that this was what all Communist functionaries had to have as their basic pledge and loyalty. There was no oath of that kind or pledge given to mass Communist members. At one time there was a pledge given which included very strong words in regard to attachment to Soviet Russia, but this

pledge to Stalin was one which was given to party functionaries and leaders.

Miss McHale: Over a period? There was no particular concentration of emphasis?

The Witness: No. It occurred after the 1935 Congress, but all through the Communist directives and literature there is constant hailing of Stalin as the leader, teacher and friend. That is repeated over and over again in Political Affairs and The Communist.

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13957 Cross Examination

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By Mr. Marcantonio:

14055 Q. You testified about a meeting held in a basement in Chicago in the fall or winter of 1939-1940. You so testified here. A. That is right.

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14057 Q. You have testified here that at that meeting Dennis said the Party should be prepared in case the United States joined with Great Britain and against Hitler to turn the imperialist war into a civil war as Lenin had advised. That was your testimony here. A. That certainly is correct.

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Q. Are you sure, for example, that Dennis said in so many words that the Party should be prepared to turn the imperialist war into a civil war? A. He made two statements. He first said that we should be prepared to
14058 turn the imperialist war into something else, and then at the conclusion of the discussion he said we should turn the imperialist war into civil war, that we should be prepared if the United States joined Great Britain against Hitler.

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14059 Q. You wrote about this meeting in This is My Story? A. That is right.

Q. Did you say there that Dennis talked about turning the imperialist war into a civil war? A. I may not have.

Q. As a matter of fact there you say that he said that the imperialist war would have to be turned into something else. A. Yes, I probably did.

Q. On cross-examination you say that Dennis made two statements. A. Oh, yes.

Q. The two statements, according to you, were, one, the imperialist war had to be turned into a civil war, and two, that the imperialist war had to be turned into something else. On direct examination you didn't say anything about Dennis making two statements. You attributed only one statement to him, did you not? A. I didn't give
14060 a whole resume of his statement there. That was the thing that I had most in mind at that time.

Q. But you were talking about this statement, this meeting in a basement, on direct examination, were you not? A. Oh, yes, I was but you don't cover everything that is said. I may remember in a few minutes something more that was said because you just don't cover everything in a statement. That is just known. I put down that he said turn the imperialist war into civil war, which he did, if the United States joined Great Britain.

Q. But you had gone over that particular meeting in the basement, this basement meeting, this so-called meeting that took place in Chicago—you had gone over that with Mr. Paisley before you testified about it? A. Yes, I did rather hurriedly.

Q. Hurriedly? Were not the question and the answer to that written out? Written out hurriedly, would you say? A. I don't know whether that was written out or not. I can't recall that particular matter.

Q. When you wrote about this episode—and I have your book before me, This is My Story, page 195—didn't you say as follows with reference to Mr. Dennis' statement?

"Gene Dennis was there from New York and gave a

brief report. In almost sepulchral tones he said the
14061 time was approaching when we would have to 'turn the imperialist war into something else.' That was plain enough; it meant to be prepared to do anything to wreck American loans to aid Britain, either directly or indirectly."

Do you recall writing that?

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Q. Yes. I started reading from here (indicating). A. Yes, that is what I wrote.

Q. You testified that in 1939 you made a trip from Chicago to New York with Morris Childs to secure some money for the Midwest Daily Record. That was your testimony here? A. That is correct. It may have been the latter part of 1938, but it was in that period. My memory is that it was in early 1939. That is very correct. We had made several of those trips.

Q. Your memory isn't too good on dates, is it? A. Yes, it is good on dates, particularly some that stand out. But that was one of a series of trips made back and forth on this question. Weiner was out in Chicago on the money
14062 question, and Childs and I on several occasions were in New York on it.

Q. You testified that you and Childs conferred in New York? A. That is correct.

Q. And you conferred with one Robert Weiner? A. William Weiner, yes.

Q. That Childs asked Weiner if he couldn't get some money from abroad? A. That is correct.

Q. And your testimony here is that Weiner answered that he could normally but channels of communication abroad had been broken for the time being. Was that your testimony? A. That is right.

Q. You testified here that "abroad" meant financial aid from Moscow? A. That is correct.

Q. Mr. Witness, you have had occasion to write or testify about the sources and nature of the finances of the Com-

munist Party in your two books, is that right? A. To some extent.

Q. You did write about that subject matter, did you not?

A. Yes, I did.

14063 Q. In your public testimony before various committees as well as in deportation proceedings and in court proceedings and in various other writings you have had occasion to discuss or narrate with reference to the source of Communist Party finances, have you not? A. Yes, sir.

Q. You testified this morning, did you not in one of the early questions I asked you, that you didn't say anything here that you hadn't said anywhere else publicly or that you hadn't written somewhere else publicly? A. That is my remembrance.

Q. That was just this morning. Do you remember being asked that question and making that answer? A. I say that was my remembrance this morning, that I had.

Q. You answered that question that you had not said anything here that you had not either published or about which you testified anywhere else, isn't that right? A. That was my remembrance.

Q. Publicly. Have you ever in any of your books or writings or in your published testimony related this alleged conversation between yourself, Childs and Weiner? A. It is my remembrance that I have somewhere. I certainly have told the Federal Bureau of Investigation about it.

Q. I didn't ask you about that. I didn't ask you

14064 what you told the Federal Bureau of Investigation. That is private. I asked where in your writings in your books which have been published or in your public testimony, where you have publicly testified and where the record of your testimony is available, have you testified relating this particular incident that you have related here that is alleged to have taken place between yourself, Childs and Weiner. A. I can't recall for the moment.

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14069 Q. Did you testify about it in a proceeding before the subcommittee on Immigration and Naturalization of the Committee on the Judiciary, 81st Congress, in May 1949? A. I don't know.

Q. Did you testify about finances in that proceeding? A. I did in part, yes.

Q. Didn't you make this statement? Page 240:

"The Party has a bigger treasury than you think. It can go out, and finance all the meetings, and it gets the money back, you understand."

Were you asked this question by the Chairman?

"Where does this treasury come from?"

And did you make this answer: "Of my own knowledge I can not say, but it certainly is supposed to come in part from Moscow."

Did you give that answer? A. I may have.

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14070 Q. I will show it to you and ask you whether or not you did, starting here (indicating).

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THE WITNESS: Yes, sir, that is correct.

By MR. MARCANTONIO:

Q. You did make that statement? A. That is of my knowledge.

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14096 Q. You testified that the Starobin letter was received by you in May 1945, is that right? A. I testified it was received in May because it was received after Manuilsky arrived and before the Duclos article was printed or made public.

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14108 Q. Did you make this statement in your book. I am reading from page 278 of your book entitled This is My Story:

"To a very inner group there had been a hint, of course, that the Soviet views were about to change. The most sensational by-product of the San Francisco conference was never published: the whispered orders of D. Z. Manuilsky, boss of the Communist International, to the American Party via the French Comrades. We got wind of this at the Daily Worker through a letter from Joseph Starobin, foreign editor of the paper, sent post haste from the conference scene in California. Manuilsky's indirect command did not censor Browder in any way, but it did bluntly order that Stettinius must be fought. However, this was supposedly in order to forward the pledge of Teheran—and so it was conveyed to us. There was not the slightest indication that Manuilsky intended any such drastic operation within the Party as Browder's political execution, though
14109 sharpshooting against the United States officials was not exactly the way Browder had talked. Naturally, the Daily Worker leaped to follow the Manuilsky command and increased its slurs and shouts against the Secretary of State."

Did you write that statement? A. I said here via the French Comrades.

Q. That is through the French Comrades. That is what you said, right? A. That was involved in the matter. That didn't necessarily require that I put in everything that was in the letter there. I mentioned the French Comrades there.

Q. I didn't ask you whether it was necessary or what was necessarily required. I asked you whether or not that is your writing. A. That is correct, Counsellor, but the French Comrades were mentioned there, Manuilsky is mentioned there, Starobin's letter is mentioned there.

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14110 Q. You say you don't remember your testimony before the UAC, the Un-American Activities Committee, on this subject? A. No, not in detail.

Q. You don't remember whether you testified about it or not, do you? A. I don't know.

Q. I will try to refresh your recollection on that by showing you your testimony. At page 34 did you make this statement:

14111 "As a matter of fact, right on the eve of the Browder business, Joseph Starobin, the foreign editor of the Daily Worker, wrote a very indiscreet letter to the editorial board of the Daily Worker, from whence it was snatched and immediately travelled to the ninth floor. And in that letter he said toward the end of the San Francisco conference, that the French Comrades, who were used largely to beat the Americans, asserted that there should be more of an attack upon Stettinius by the American Communists. He added that this was 'likewise the opinion of Comrade Manuilsky.' This letter was very quickly taken by Stachel and it travelled to the ninth floor and disappeared. This was an instance before Browder's deposition showed how things were going.".

Did you make that statement? A. Yes.

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14123 Q. Was your report to the FBI about the Starobin letter the same as your testimony before the Un-
14124 American Activities Committee? A. I cannot recall now, counselor. I have given report after report to the FBI. I have answered questions they have asked me, and there have been many, many questions.

Q. Can you tell us whether or not the date that you gave them as to the receipt of the letter with respect to the beginning or the end of the conference, was the same as you gave to the Un-American Activities Committee? A. No, I can not.

Q. Or did it follow your description of the incident in "This is My Story"? A. I think it probably followed the description of the incident in "This is My Story," although there may have been more factors to it than that. I know, as I say, that the various items covered in the book were gone over with the FBI either before or after the book was published.

Q. Let me ask you this question specifically, if you remember: Did you tell the FBI that the Starobin letter was received toward the end of the San Francisco conference? A. I do not recall that. I do not recall their questioning me about the details of the matter. That is, I can not recall the details as presented to them.

Q. Do you recall whether or not you told the FBI that Starobin wrote that it was the French Comrades
14125 who said there should be more of an attack by the American party on Stettinius? A. I told them, yes, that, and that that was what Manuilsky said, also.

Q. You remember telling them just that? A. I don't remember specifically, but I know I gave them the substance of this material that we have had before us, that is—

Q. Do you remember specifically whether or not you told them that Starobin wrote that it was the French comrades who said that there should be more of an attack by the American party on Stettinius? Did you specifically give that report to the FBI? A. I gave the report that this flowed from Manuilsky. I don't know the exact phraseology in which I made it. I also referred to the French comrades.

Q. But you don't know whether you specifically made this statement? A. Oh, I couldn't remember that today, no.

Mr. Art: If the Panel please, on the basis of the witness' testimony, we move that the Panel direct the petitioner to produce all reports made by this witness to the Federal Bureau of Investigation dealing with the so-called Starobin letter.

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14132 Mr. Brown:

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You have argued your motion at length on the production of the Bureau reports, and your motion is denied.

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By Mr. Marcantonio:

14150 Q. While you were connected with the Daily Worker did it ever carry an article or editorial

written by you—and you were the managing editor for a time—which advocated the overthrow of the Government by force and violence? A. Not directly or specifically, no. That was not the line of the Party then. It had changed as a result of the People's front. Before that the Daily Worker did, but during our time these references were made through references to Marxism-Leninism, the Leninist classics, and the like.

Q. During your time—you were connected from when to when on the Daily Worker? When did you begin? A. 1935 to 1945.

Q. So in 1935 to 1945 did you at any time write any article in the Daily Worker advocating the overthrow of the
14151 government by force and violence? A. No, I did not, not specifically.

Q. While you were with the Midwest Record did you or anybody else publish in that paper anything which advocated the overthrow of the government by force or violence? A. No, sir, except by reference to the works which stand for that program, but it was not the line of the Party at that time to publicly do that.

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14152 Q. When did Edwards tell you that he was a C. I. representative? A. He told me that in the latter part of 1935 or early 1936, or rather it was first told in his presence.

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14155 Q. Was it on just one occasion that he told you that or was it on other occasions that he told you? A. That I do not recall.

Q. But you distinctly remember one occasion that he told you that he was the C. I. Rep? A. That is right.

Q. You mentioned another occasion when somebody else in the presence of Edwards told you that he, Edwards, was a C.I. Rep. When was that occasion? A. Well, once Bittelman mentioned it, and I don't know whether this was in the presence of Edwards. I remember Bittelman mentioning it in his presence.

14156 Q. Going back in your testimony didn't you tell us here that there was another occasion when someone in the presence of Edwards told you that he was a C.I. Rep? A. Yes, I say Bittelman did on one occasion.

Q. But you now say it was not in the presence of Edwards? A. Oh, yes, it was. I am trying to recall whether Harry Raymond said it in his presence or not.

Q. But you do recall and you are certain, you say, that Bittelman in the presence of Edwards did say that he, Edwards, was a C.I. rep? A. That is right.

Q. When did that take place? A. That was in the spring of 1936.

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14160 Q. Was Harry Raymond a member of the Political Bureau? A. No, he was not.

Q. You were a witness in the trial, the United States v. Eisler, in the United States District Court for the District of Columbia, were you not? A. That is right.

Q. That testimony of yours took place in July 1947, did it not? A. That is substantially right, yes, sir.

Q. You testified for the government? A. That is right.

Q. Do you remember who the prosecutor was? A. Mr. Hitz.

Q. In this trial Eisler was charged with having made false statements in an application to the State Department for permission to leave the United States, isn't that

14161 right? A. Yes.

Q. One of the alleged false statements was that he had stated that he was not a member of or affiliated with any organization, although in fact, it was alleged, he was a member of and affiliated with the Communist Party, is that right? A. That is right substantially.

Q. And another alleged false statement was in answer to a question what names he had used, he had written only Gerhart Eisler, whereas it was charged that he had in fact used among others the names Edwards and Hans Berger, isn't that right. A. That is right.

Q. Before taking the stand of course you discussed your testimony with the prosecutor in that case, did you not? A. Yes, sir.

Q. You were informed of the nature of the trial, what the trial was all about? A. Yes, I was.

Q. You were fully aware of the accusations made against the defendant in that case? A. Yes, sir.

Q. You had informed the prosecutor the testimony you would give was testimony that would bear on the charges on these charges that we have recited here? A. That
14162 was the supposition, yes, sir.

Q. The prosecutor told you, did he not, that one of the things he was trying to prove in the trial, that is, one of the issues, was that Eisler had been a representative of the Communist International? A. I do not recall that.

Q. You don't recall that? A. No. I recall the general charges against Eisler, that is, the ones on which he was tried as having misrepresented himself as being not a Communist when he was one.

Q. Don't you recall the prosecutor charged Eisler with being a representative of the CI? A. I do not.

Q. As a matter of fact, you were in the courtroom at the time the prosecutor opened up the case, were you not? A. No, I wasn't.

Q. You were conversant with the prosecutor's opening up and the charging that he made, were you not? A. I came in late and I wasn't there when he made the charges. I wasn't particularly familiar with them.

Q. You knew about the case from the beginning? A. Yes, I did.

Q. You followed the case from the beginning? A. Yes, to some extent.

Q. As a matter of fact, you read about the case in
14163 the press during that period, did you not? A. Oh, yes.

Q. You say now that you don't know that the prosecutor charged Eisler with being a representative of the CI, that that was part of the Government's case and that it was

so charged? A. I don't recall it. I recall the charge that Eisler was technically arraigned on as I understood it, that is, that he had misrepresented his Communist Party affiliation.

Q. Those were the charges that he was technically arraigned on, and you were aware, were you not, that those charges did involve his being a CI representative? A. I suppose they did.

Q. You supposed at that time that they did, didn't you? A. I should say so.

MR. ABT: If the Panel please, so that there may be no doubt about this question that Mr. Marcantonio has raised on cross-examination we request the Panel to take judicial notice of the opinions, both the majority and the dissenting opinions, in the case of Eisler v. the United States before the United States Court of Appeals for the District of Columbia, which appears in 176 Fed. 2d. page 21, and we direct the Panel's attention particularly to two brief statements in the opinion which I would like to point out. First, the following statement in the opinion of the major-
14164 ity of the court, and I quote:

"In spite of this, the Appellant claims prejudicial error because the prosecuting attorney outlined in his opening statement the broad sweep which his proof would take concerning Eisler's activities as a Communist and as an agent of the Communist International."

That appears at page 23 of the opinion.

Then the following statement, which appears at page 25 of the dissenting opinion, Judge Edgerton's dissent, and I quote:

"The prosecutor in his opening statement told the jury that the Appellant 'was a representative of the Comintern and that his real purpose for coming to this country * * * was for the purpose of disrupting the economy of the United States, to further the ends of Moscow.' There was testimony that he had been 'the head of the Comintern' and was to direct the Communist Party in this country. He

was represented as having taken a leading part in Communist activities here and abroad. The prosecutor in his closing argument told the jury that Appellant was 'Anti-Government.'"

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By Mr. Marcantonio:

14169 Q. Isn't it a fact that in that trial you stated that you related everything that you could recall about your meetings with Eisler in the 1930's. A. I don't know. It may be that I did.

Q. It may be that you did. So now you say that you may have said to the court and jury in that case that you had related everything that you could recall about your meetings with Eisler in the 1930's? A. It may be.

14170 Q. Since you say it may be, I ask you whether or not you were asked this question and whether or not you gave this answer: I am now calling the witness' attention to his testimony at page 1286 in the transcript of the proceedings, United States of America v. Gerhart Eisler. Were you asked this question and did you make this answer?

"Now have you related everything that you can recall about your meetings with Eisler in the 1930's?

"Answer: That is all that I recall."

Did you give that answer to that question? A. Yes, I did. That was all I could recall then, probably.

Q. That was all that you could recall at that time? A. That is right.

Q. That was in 1947? A. That is right.

Q. Is it not a fact that never in the Eisler trial did you testify that Eisler or Edwards had ever told you that he was a representative of the Communist International, as you have testified here? A. That may be. I took it for granted that everybody knew he was a CI Rep. I mean in my own mind.

Q. In your own mind. A. Sure. The whole course of Eisler, the Batory, the Red Polish ship and all that indicates that he was.

Q. So the reason that you did not state at that
14171 trial that Eisler had told you that he was a CI Rep, as you have testified here, is because you assumed that everybody knew about Eisler's being a CI Rep? Is that your testimony now? Is that your explanation? A. I didn't recall the conversation and didn't think it necessary, probably.

Q. So you say now that the reason you did not make mention of it in that trial was because you did not recall the conversation and you didn't think it was necessary, is that it? A. That is right.

. . . . . .

14172 Q. Did you anywhere in that trial testify that anybody told you in the presence of Eisler that Eisler or Edwards was a CI Rep? A. I don't recall having done so.

. . . . . .

14328 Q. I show you Exhibit marked for identification CP-68, which is a pamphlet entitled "Red Baiting: Enemy of Labor," and ask you who wrote it. A. I wrote it.

Q. When? It states on the back cover. A. 1937.

Q. October, wasn't it? A. That is right.

Q. At that time you had been in the Party for about three years, is that right? A. That is right.

Q. You were then labor editor of the Daily Worker? A. That is right.

Q. I call your attention to the last page, which reads as follows:

"That is why the Communists place themselves in the front line trenches of the fight for trade unionism and democracy, along with other progressive trade unionists.

"That is why the Communists strive so zealously to build the unions and to preserve their unity from disruption."

. . . . . .

14380 Q. You testified here that after the passage of the Foreign Agents Registration Act of 1938, there was a discussion on how to handle the Runag service. A. That is right.

Q. You also testified that after the Department of Justice took over the registration of foreign agents from the State Department, the Department of Justice requested Intercontinent News to register, and also to label its material as foreign propaganda; wasn't that your testimony here? A. That is right. That was 1942, though.

14381 Q. You also testified that the reason why Browder and the other party leaders did not want to comply with the Act was because they did not wish to register as foreign agents and did not wish an examination of the financial arrangement by the Department of Justice. Was that not your testimony here? A. That is right. That is what Mrs. Maul Granich said several times.

Q. But that was your testimony here? A. That is right.

Q. Didn't you also tell us here that in 1941, Intercontinent News moved out of the Daily Worker office to separate itself from the Daily Worker so that the Daily Worker would not have to file as a foreign agent? Wasn't that your testimony here? A. That is right. The Intercontinent News was to be an independent corporation in appearance.

Q. Is it not a fact that the Daily Worker did register under the Foreign Registration Act? A. It registered, and denied it had foreign—as I remember, it registered, but denied it had foreign agents.

Q. But it did register, did it not? A. That is right.

Q. As a matter of fact, didn't you personally sign and swear to a registration statement under the Act?

14382 A. That is right.

MR. ABT: Will you mark this?

(Document marked for identification CP Exhibit No. 70.)

BY MR. MARCANTONIO:

Q. I show you Communist Party Exhibit No. 70 for identification. That is a statement dated September 5, 1941, is it not? A. Just a moment. (Witness examining document.) That is right.

Q. It was filed with the State Department on that day or the next day, on or about that day, isn't that right? A. Yes.

Q. That statement was made by you as President of Freedom of the Press Company, Inc.? A. That is right.

Q. This statement refers to a prior statement dated October 10, 1940, does it not? A. That is right. I don't know.

Q. October 18. A. It states here October 18, 1940.

* * * * * * * * * *

14387 Q. In the October 1940 statement, which is CP Exhibit 71, reference is made, is it not, to a Registration Statement contained in CP Exhibit 72, which is the Registration Statement of March 1940? A. That is right.

Q. That is clear, isn't it? A. Yes, sir. But these statements were not made to avoid registration. They were to avoid registration as foreign agents. They deny they are foreign agents.

Q. These statements that you have, CP 70, 71, and 72, were all filed with the State Department, were they not? A. Yes, sir.

Q. And they are forms for registration under the Foreign Agents Registration Act, are they not? A. That is right, but they deny they are foreign agents. That is the point.

Q. Now I call your attention to Question 12 on Exhibit 72, which is the first statement that was filed, on March 29, 1940. Question No. 12. We have there the following question:

"Identification of all contracts of employment or other documents submitted herewith to indicate in com-
14388 plete detail the nature of the employment of registrant and the terms and conditions thereof. If contract is oral, a full statement of the terms and conditions thereof must be submitted herewith and identified herein."

Will you read the answer to that question? A. This is one that I had not made myself. This is a previous statement.

Q. That is right, but it was referred to. A. "Photostats of contract with the United Press attached hereto. The registrant receives the regular telegram and mail news service covering events all over the world for publication in newspapers and the United Press, under the contract, is entitled to the use of all news in our two newspapers for transmission to other parts of the world.

"No written or oral agreements have been made between the Daily Publishing Company, Inc., and the Rundschau, Delta Verlag AG, or the Agence France-Monde. Further answer to No. 12 on rider attached hereto marked 'A'."

Q. Will you read the answer in the rider? A. The rider is an insert, but it is under "A."

"12 (continued): We send to the Rundschau, Delta
14389 Verlag AG and Agence France-Monde, or direct to the newspapers receiving their service, news concerning current events in the United States and we receive from both Rundschau, Delta Verlag AG and the Agence France-Monde news of events in Europe.

"We receive these news services as a contribution given by Mr. Earl Browder, who is General Secretary of the Communist Party, U.S.A. Mr. Browder informs us that he arranged the service by agreement made in April 1936 with Mr. Julius Alperi, care of France-Monde, Paris, France, whereby the accounts for this service would be offset by (a) contributions to the news and press articles sent from the United States to Europe, to offices of newspapers designated by the Rundschau, Delta Verlag AG and Agence France-Monde, and (b) payment of account balances periodically to an agency of the Rundschau, Delta Verlag AG or of the Agence France-Monde, by means of publication rights abroad of the writings of Mr. Browder, William Z. Foster and others. This arrangement was established before the Daily Publishing Company, Inc., came into existence, and was continued by it as a matter of routine."

That, however, was a device used in order to escape the Foreign Agents Registration Act.

Q. But they did register under that Act? A. They
14390 registered in order to say they had no foreign principal.

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14530 REDIRECT EXAMINATION

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By Mr. Paisley:

14542 Q. With reference to this news service about which — you testified and about which you were cross-examined, as I understand it both the State Department and the Justice Department were communicating with both Browder and Mrs. Granich during the period from this arrangement which was made by Mr. Browder right up through 1944 in an effort to get them to register as foreign agents, is that correct?

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14543 The Witness: Yes, sir.

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Q. How frequently did you discuss the matter of this effort of the State Department and the Justice Department to have these people register as foreign agents, as agents of a foreign principal? How frequently?

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14544 The Witness: I had frequent discussions of the matter, particularly with Mrs. Granich, who came over to my office almost once a week to discuss the matter, not that frequently, maybe twice a month, and then as 1942 to 1944 came about, that is, after it, I had a number of discussions with her some of which were quite close together, because at that time she contended that the Department of Justice was pressing very hard in regard to the necessity of labelling this material as propaganda. That was becoming more and more the insistence of the Department of Justice during that two-year period.

By Mr. Paisley:

Q. Do you remember now approximately when the Department of Justice finally ruled and so informed her that this material must be labeled?

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The Witness: It was around 1944, the early part of 1944.

By Mr. Paisley:

Q. Up to that time had there been any change or diminution whatsoever in the receipt of this news from Moscow?

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14545 The Witness: No. It came in in approximately the same volume. Of course just as at the time of Runag, there were periods when it was more intense, but it was approximately the same thing, translations of Soviet publications and other information from throughout the world gathered through Moscow.

By Mr. Paisley:

Q. In other words, did the pressure from the State Department and the Justice Department cause any change whatsoever in the transmission of this information to you?

. . . . . .

14546 The Witness: Not in the contents of the material up until about May 1944, when Intercontinent News was discontinued. During the time between Runag and Intercontinent News there was the same transmission of news except it came through Intercontinent News, and then in May 1944 Intercontinent News had to suspend.

Mr. Paisley: These next two documents, Mr. Chairman, if received in evidence, are rather short and could be read into the record. I don't have photostats. They are originals so I don't want them marked. I want to show them now to the witness and see if he can identify them.

Mr. Brown: Very well.

Mr. Paisley: If he does I would like the privilege of reading them into the record.

Mr. Brown: Show them to the witness, if you will, for identification, and then to Respondent's counsel.

(Respondent's counsel examining documents)

Mr. Abt: No objection.

Mr. Marcantonio: No objection, Mr. Chairman.

Mr. Brown: Very well.

MR. ABT: To save time, Mr. Paisley, we concede 14547 authenticity.

By MR. PAISLEY:

Q. Are you familiar with Grace Granich stationery? A. Yes, I saw this letter.

Q. Did you also see this notice sent out? A. Not only did I see it but it was given to me as a sample of what they were sending out.

MR. MARCANTONIO: We are not questioning the authenticity of that and we are not objecting to its going in.

MR. PAISLEY: I understand that. I am a little obstinate myself once in a while. I wanted the witness to identify it.

This letter is on the stationery of Intercontinent News, 207 Fourth Avenue, Room 902, New York City. Grace Granich, editor, cable address INCONTNEWS. American representative: Universal Press Service, Moscow, USSR. Dated May 16, 1944. Addressed to Mr. James R. Sharp, Chief, Foreign Agents Registration Section, War Division, Department of Justice, Washington 25, D. C.:

"Dear Mr. Sharp:

"Enclosed herewith is a copy of a communication which I have sent today to all my subscribers.

"Until it is definitely ascertained whether the new ruling of the Attorney General applies to me, and I have
14548 obtained legal advice as to further procedure, I am issuing no more bulletins, nor disseminating in any way the cabled news service which I received from Universal Press Service in the USSR.

"In this connection I repeat again my conviction that the law in question should not apply to me since I represent a bonafide news agency in an allied country, which agency is not owned or controlled by either a foreign government or a foreign political party. As I told you when we discussed the matter in Washington in January of last year, I considered the application of this law to an agent of an unofficial news agency in the Soviet Union a discrimination against the Soviet Union, since the act specifically excludes from its pro-

visions news agencies, privately owned, in friendly or allied countries.

"Yours very truly, Grace Granich, Editor, Inter-Continent News.

"Copy of Notice to subscribers."

Those words are typed at the bottom of the first page.

The enclosure is a mimeographed letter signed Editor, Intercontinent News, dated May 16, 1944, addressed "To All Subscribers."

"We regret to inform you that on May 15, 1944,
14549 we temporarily discontinued the news service supplied by this agency.

"We have been compelled to take this step because of a ruling of the Attorney General of the United States, which demands that the news supplied by Universal Press Service, Moscow, and distributed to you by this agency be labelled 'political propaganda.'

"Since we are unwilling to label the news received from the USSR as 'propaganda'—which it is not—and since we are seeking legal opinion in this matter, we have no other recourse but to discontinue our service, until such time as the situation may be clarified.

"If your failure to receive the service supplied by Intercontinent News works a hardship upon you, we can only refer you to the Department of Justice.

"Very truly yours, Editor, Intercontinent News."

At this time I ask the Board to take judicial notice of the provision of the Foreign Agents Registration Act, which, as I understand, makes a matter of public record all these registration statements that were filed with the Justice Department. I say that because we were accused here the other day of suppressing evidence. These documents that they put in evidence were matters of public record available
to each side, and I hardly see how we can be justly
14550 accused of holding and secreting evidence.

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MR. BROWN: Do you want to refer to certain specific sections of that act?

MR. ABT: We submit, Mr. Chairman, that the Panel can take judicial notice of the entire Foreign Agents Registration Act.

MR. BROWN: Very well. There being no objection, the Panel will do so. Let's proceed.

By MR. PAISLEY:

Q. After that date you ceased to get this news service from Intercontinent News? A. It ceased completely.

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14660 **John Gates** called as a witness on behalf of Respondent having been first duly sworn, was examined and testified as follows.

DIRECT EXAMINATION

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By MR. MARCANTONIO:

14662 Q. Do you hold any offices in the Communist Party at the present time? A. Yes.

Q. What office do you hold? A. I am a member of the National Committee of the Communist Party.

Q. When did you first become a member of the National Committee? A. Of the Communist Party?

Q. Yes. A. In July of 1945.

Q. Will you state the circumstances under which you were made a member of the Committee? A. Well, there was a Special Emergency Convention of the Communist Party at that time. I was not present at the Convention, I was a member of the United States Armed Forces. I was in Germany at the time. I was elected by that Convention to the National Committee in absentia.

Q. Had you, prior to that time, been a member of the National Committee of the Communist Political As-
14663 sociation? A. Yes. At the Convention of the Communist Political Association in 1944, I was elected to the National Council of that organization, also in ab-

sentia. At that time, I was in the Aleutian Islands in the United States Armed Forces.

Q. When did you take office as a member of the National Committee? A. When I returned from the Army, in, roughly, February, 1946.

Q. Have you been a member of the National Committee continuously since that time? A. Yes.

Q. You were re-elected? A. I was re-elected in the National Convention of 1948, and again elected in the Convention of 1950.

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14720 Q. Prior to your departure to Spain, did you make an application for a passport? A. I did.

Q. Under what name? A. Under the name that was on my birth certificate, Isriel Ragenstrich.

Q. The name on your birth certificate? A. Yes, sir.

Q. Did the application call for a listing by you of the countries to be visited? A. It did.

Q. Did you list Spain as one of the countries to be visited by you? A. I did not.

Q. Why not? A. Because at that time the Government of the United States of America did not permit anyone to use a passport for traveling to Spain, although it did permit passports for traveling to Fascist Germany and

14721 Italy.

Q. On your arrival in Spain, did you serve with the International Brigade? A. I did.

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14759 Q. Now, what are the objectives of the Communist Party? A. Well, we divide the objectives of the Communist Party into two parts, the immediate and ultimate objectives of the Communist Party.

Q. What do you and your associates mean by the terms ultimate and immediate objectives? What is the ultimate objective?

First, what is the immediate objective? A. The immediate objectives of the Communist Party—

Q. Just a moment. Before you give us the meaning of the ultimate and immediate objectives, will you first tell us what is the difference between the two?

MR. PAISLEY: You mean as far as the Communist interpretation as applied to the United States?

14760 MR. MARCANTONIO: That is right, of the United States.

THE WITNESS: By immediate objectives, we mean all of those interests of the American people arising out of the every-day effects of the operation of the capitalist system on their struggle for existence to make both ends meet, from the economic point of view, all of those issues arising out of the improvement of their democratic rights, preservation and extension of those rights, and the peace of the American people and the world.

Generally, these immediate objectives have to do with those issues that can be solved within the framework of the capitalist system, that is, they can be won, they can be achieved.

The ultimate objectives refer to the cause of these evils, the operations of the capitalist system, and have to do with those measures that bring about a final solution, a radical solution, a solution that strikes at the roots of the evil of the capitalist system. That is, a revolutionary change. That is the ultimate objective.

By MR. MARCANTONIO:

Q. Now, what do you mean by a revolutionary change? A. By a revolutionary change I mean the superseding of the capitalist system, which is a system of the ownership of the mines, mills, factories, means of communications, by a few capitalists and operated for profit on the basis 14761 of the exploitation of the many, the superseding of this system by a socialist system, namely a system in which these means of production, that is, the factories, mines, mills and so on, pass over into public ownership from private ownership, and are operated under a government of the majority of the people led by the work-

ing class, and in which the goods that are produced by the mills and factories and so on under this public ownership are produced for use and not for the profit of any few individuals. And a system in which, therefore, the exploitation of man by man is limited.

Q. Now, what do you say, then, is the ultimate objective of the Communist Party of the United States? A. The attainment of socialism in the United States.

Q. And socialism is what you have defined here a moment ago. A. Yes, sir.

Q. Now, specifically what are the immediate objectives of the Communist Party of the United States? A. Well, as I said, they fall into the categories of promotion of the economic interests and welfare of the American people, the preservation and extension of the democratic rights and liberties of the country which specifically also deal especially with the problems of the Negro people of the United States, and lastly all those questions having to do with the peace of the nation.

14762 Q. Now, what means does the Communist Party of the United States of America advocate to achieve these objectives, both immediate and ultimate? A. Peaceful and constitutional means.

Q. Just exactly what does the Communist Party mean when it says by peaceful and constitutional means? A. It means the exercise of the constitutional rights of the American people, freedom of speech, freedom of assembly, freedom of views, freedom of the press, to place our views before the American people on all of the matters that modern industry has created in order to do that, within these constitutional safeguards.

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Q. Are these objectives of the Communist Party stated in any official document of the Party? A. Yes, they are stated in many official documents of the Party. They are first of all stated in the constitution of the Communist Party of the United States, and they have always

14763 been stated in the constitution of the Communist Party of the United States. They have also been stated very often in the main resolutions adopted by various conventions, national conventions, of the Communist Party, national committee meetings, meetings of all types, resolutions, main speeches made by leaders of the Communist Party and so on. Throughout our literature of the Communist Party of the United States, these things are stated.

Q. And you say these things are stated in the constitution? A. Yes, that is the basic document of the program.

Q. That constitution is distributed widely among the membership? A. Yes, it is distributed widely among the membership and it is also distributed to non-members of the Communist Party.

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14900 Q. Tell us about the national board, how the number of its membership was determined and what its
14901 functions were, and how it was elected. A. Yes. By the way, I should mention that the constitution prescribes that the National Committee shall meet at least four times a year. The 1945 convention of the Communist Party elected a national committee of some 55 members and these were from all over the country. This created a great problem of how to conduct the work of the party in between meetings of the national committee. It was not practicable for 55 members of the National Committee to come together every week to conduct the every-day affairs of the Communist Party. So a national board was elected by the National Committee consisting pretty much of resident members of the National Committee, resident in New York, which was the headquarters, national headquarters, of the Communist Party.

The National Board was elected by a meeting of the National Committee that took place after 1945. At the 1948 convention, due to the fact that the size of the national committee was reduced sharply from 55 to 13, there was no provision for the election of a national board, and this

new national committee met much more regularly than national committees in the past.

Q. How was this board elected at that time? A. By the National Committee of the Communist Party, by a majority vote.

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14927 Q. Will you state what this term or what understanding of this term democratic centralism you and your associates in the Communist Party had? A. Democratic centralism is that principle which governs the party organization and function. Democratic centralism means, first of all, the broadest democracy in the operation and functioning of the party. The constitution of the Communist Party of the United States lays down a number of principles to fulfill this concept of the broadest democracy, and that every member of the Communist Party not only has the right but the duty to participate and discuss the formulation of all party policies and programs.

All policies of the party are democratically arrived at. And I might say that the functioning of the Communist Party, its procedure at conventions, and so on, is a million times more democratic than the way the Republican and Democratic Parties function in this country.

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14928 The Witness: The centralism part of the concept has to do with, once the policies of the party are formulated, democratically, in the manner that I have described, by majority votes at conventions and so on, with delegates democratically elected, that once party policy or decisions are made by majority vote, then each and every member is obligated to carry out that decision as long as it remains in force, or until that decision is changed. This is our position because ours is a serious political party. We are not just a discussion organization or just a talking shop. We are a party that is interested in bringing about an improvement in the welfare of the American people, and

in finally achieving socialism. Therefore, after the broadest operation of democracy, we finally decide upon policies, and then we proceed to carry out those policies as effectively as we can. That is why we have this principle of
14929 centralism; that once policies are decided upon by a majority vote, that all members are obligated to carry out that policy.

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14969 Q. Now, Mr. Gates, at any time since January 1946, when you took office as a member of the National Committee, has the Communist Party been affiliated with any other organization? A. It has not.

Q. I beg your pardon? A. It has not.

14970 Q. Has the Communist International been in existence at any time since the date that you took office on the National Committee? A. It was not in existence at anytime during that period.

Q. Do you know of an organization known as the Communist Information Bureau? A. I do know of such an organization.

Q. Is the Communist Party affiliated with that organization? A. The Communist Party of the United States is not affiliated to the Communist Information Bureau.

Q. Does the Communist Party pay any of its money, dues money or any other money, to the Communist Information Bureau? A. Well, we have never contributed so much as one cent to the Communist Information Bureau.

Q. Does the Communist Party pay or contribute any funds or give any financial assistance, direct or indirect, in any manner, shape or form to the Communist Information Bureau? A. None whatsoever.

Q. When and how did you first learn of the organization of the Communist Information Bureau? A. From
14971 Capitalist newspapers, reading it in the New York papers, the Times and Tribune and Daily News and so on, at the time that this was formed.

Q. Can you tell us approximately when that was? A. I believe it was some time in 1947 but I can't place the date more closely than that.

Q. After you learned through the New York papers, was there any discussion of this organization, that is, the Communist Information Bureau, was there any discussion of that organization in the National Board of the Communist Party of the United States? A. There took place some informal discussion, based on the reports that had appeared in the capitalist newspapers. But we withheld any official or formal discussion until such time as we were able to see the official documents of that event, the formation of the Communist Information Bureau.

Q. When you say official document, specifically what do you mean by that? A. I mean the reports that were made at that founding conference and the resolutions that were passed at that founding conference.

Q. Contained in what? A. They were contained in various publications that were published in Europe, and when those publications arrived in this country they were
14972 translated and made available to us.

Q. These were publications published for the public consumption, is that right? A. These were Communist Party publications in Europe, openly published. It is the same as our Political Affairs is published here in the United States.

Q. And that is what you meant by official documents when you said you waited to see the official documents?

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14973 THE WITNESS:

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When I said official documents what I meant was the reports which appeared in the capitalist press we did not consider to be authentic. They were just excerpts and were not complete. We didn't know whether they were garbled or not. We wanted to see the actual speeches, the actual text of

the speeches, and so on, that were made there. That is what I meant by official documents. Official of the Communist Information Bureau. That is what I meant.

14974 By Mr. Marcantonio:

Q. After you received the publications, the Communist publications, which officially reported the news of the organization of the Communist Information Bureau, did the National Board have any further discussion? A. Yes, we did.

Q. What was the result of that discussion? A. The result of that discussion was the issuing of a statement signed by Mr. Foster, the Chairman of our party, and Mr. Dennis, the General Secretary of our Party, as to our position on the formation of the Communist Information Bureau.

Q. I show you Petitioner's Exhibit 368, in evidence, which is an article entitled "United States Communists decided not to join nine-party body," contained on page 2 of the Daily Worker of New York, Monday, November 3, 1947, and I ask you if that is the statement that you referred to when you said that the National Board voted and issued a statement. A. Well, what this is, it is a news story reporting the action taken by the Communist Party, and in the course of the news story it then gives the text of the statement of the Communist Party.

Q. I ask you to look at that text, and I ask if that is the accurate text of the statement issued by the Com-
14975 munist Party. A. It is, but there appears to be a typographical error in the paper which I regret, having been the editor of the paper at the time. But it is the statement, outside from that typographical error.

Q. Now, was that policy set forth in that statement carried out by the Communist Party? A. Yes.

Q. Has there ever been any change in that policy? A. No, there has not been.

Q. Did any representative of the Communist Party attend the meeting of the Communist Information Bureau referred to in Exhibit 368? A. You mean of the Communist Party of the United States?

Q. That is right. A. There was no representative of the Communist Party of the United States there attending any meeting.

Q. Has any representative of the Communist Party attended any subsequent meeting of the Communist Information Bureau? A. No.

Q. So that we will have the record clarified, when I say Communist Party, I mean Communist Party of the United States. I will try to say Communist Party of the
14976 United States but sometimes I inadvertently leave it out. So when I say Communist Party I mean Communist Party of the United States. Has any representative of the Communist Information Bureau visited the United States? A. I don't know whether any representative has ever visited the United States. I know that no representative has ever visited the Communist Party of the United States. That I know.

Q. Has the Communist Party received any written or oral directives or instructions from the Communist Information Bureau? A. We have never received any directives or instructions from the Communist Information Bureau.

Q. Has the Communist Party of the United States received any written or oral directives or instructions from any representative of the Communist Information Bureau? A. We have not.

Q. Has the Communist Party of the United States received any written Communications of any kind from the Communist Information Bureau? A. We have not.

Q. When you say "We have not," you are talking, of course, of up until the date you went to prison, is that right? A. Yes, I am talking about the entire period that I was a member of the National Committee until the
14977 time I went to prison. Of course, dating from the formation of this organization.

Q. And you are talking of the entire period during which you were in a position to have knowledge? A. That is right.

Q. Which ceased after you went to jail. You were then no longer in a position to have any knowledge, is that right? A. Aside from what I read in the newspaper I get in prison, the New York Times.

Q. Now, has the Communist Party received any written communication of any kind from the Communist Information Bureau? A. No.

Q. Prior to your imprisonment, did you read "Lasting Peace"? A. I did.

Q. Did you read it regularly? A. As regularly as I could. I may have missed some issues.

Q. Did Lasting Peace contain any directive or information to the Communist Party of the United States, instruction, rather, directive or instruction to the Communist Party of the United States? A. I never read any
14978 issues of Lasting Peace in which I saw any instructions or directives to the Communist Party of the United States, and the National Committee of the Party, during this period I am speaking of, never understood that it was receiving any such instructions or directives from Lasting Peace.

Q. Now, did you or your fellow associates, fellow members, of the National Committee of the Communist Party of the United States consider any of the contents of Lasting Peace as constituting a directive to the Communist Party of the United States? A. We did not.

Q. What was your purpose in reading Lasting Peace? A. My purpose was to gain information on world affairs. First of all as editor of the Daily Worker, I naturally was greatly interested in what was going on in the world, and was very desirous of gaining as broad a knowledge and as wide information as possible, and I considered many of the things that appeared in Lasting Peace very informed articles on the state of affairs in the various countries of the world, and very valuable to my own information and knowledge.

Furthermore, I was interested as a member of the National committee of the Communist Party in the affairs of other Communist Parties of the world. This news-
14979 paper, Lasting Peace, served as a medium for the publication of information as to what was going on within various communist parties throughout the world.

Q. What is the source of your knowledge of policies and activities of the Communist Information Bureau? A. The source of my knowledge is entirely from this newspaper, Lasting Peace, which publishes news about the Communist Information Bureau, and Communist parties throughout the world.

Q. Did you receive any information with respect to the Communist Information Bureau through any other press? A. Well, something may appear in a capitalist press. This newspaper, Lasting Peace, is publishing in Bucharest. During the years that we are speaking of there were reporters for capitalist newspapers in Bucharest. When this paper would come out on the streets they would get a scoop on the Daily Worker. They would get news of this before we would get copies of the Lasting Peace in New York. They would sometimes print excerpts in their newspapers in New York. So sometimes we would sort of get advance notice in the capitalist press as to what was to come in Lasting Peace when it finally arrived in the United States. Lasting Peace arrived in the United States sometimes several weeks after it was published, in fact sometimes several months,
14980 because they were often held up by some authorities, I don't know whom, the customs office, and their distribution in the United States was delayed for a considerable time.

Q. What is the source of your knowledge of the structure and methods of functioning of the Communist Information Bureau? A. Solely from what the Communist Information Bureau publishes and states itself in its newspaper Lasting Peace.

Q. Since you assumed your duties as a member of the National Committee, has the Communist Party of the United States received any directive or instructions from the Communist Party of the Soviet Union? A. We have never received any directives or instructions from the Communist Party of the Soviet Union.

Q. Or from any representative of the Communist Party of the Soviet Union? A. Nor from any representative of the Communist Party of the Soviet Union.

Q. Or from any official of the Soviet Union? A. Nor from any official of the Soviet Union government.

Q. Or from the Communist Party of any other country? A. We have never received any instructions or directives during this period which you are asking me about from a representative of the Communist Party of any other country.

Q. Or from a representative—I asked you before
14981 —from the Communist Party of any other country, or from the representative of the Communist Party of any other country? A. Neither from the Communist Party of any other country or from the representative of the Communist Party of any other country.

Q. Since you assumed office as a member of the National Committee in 1946, January, has there been a representative of the Communist International in the United States? A. There has not been because the Communist International has not been in existence during that period.

Q. And since that date, that is, when you assumed office in the National Committee, has there been any person in the United States who was the equivalent or acted as a representative of the Communist International? A. Not to my knowledge.

Q. Do you know Gerhard Eisler? A. I know him, yes.

Q. When and where did you first meet him? A. I met Mr. Eisler for the first time some time in 1946, after I returned from the Army. I believe it was in early 1946 that I met him for the first time. I met him in the Borough of Queens

New York. He happened to live just a few blocks away from where I lived in Queens New York City. He asked to see me and I met him at his house, I believe, and we had
14982 a conversation there. What it was was that he learned that I had returned from the Army and that I had been stationed in Germany. Since he was expecting to return to Germany shortly he was very anxious to hear any news of what I had seen and what was going on in Germany.

Well, I wasn't able to tell him too much about that, but we had a little chat about Germany and what I had seen as a member of the Army in Germany, and that was the end of the conversation.

Q. Did you meet him on any other occasions? A. I met him on several other occasions since then. I once spoke at a meeting in Philadelphia, a public meeting, on the same platform with Mr. Eisler. During the trial at Foley Square, under which I was convicted, I think he visited the trial there one day and was in the audience, and I spoke to him for a moment in the corridor there in the courthouse. I believe I saw him at a reception once, a public reception, given in a hotel, for the Communist leaders who were under indictment under the Smith Act.

As a matter of fact, I think he was one of the speakers at that reception.

Those are the only occasions I have seen him except there may have been other public meetings or gatherings of this type where we may have just passed each other and said hello or something like that.

14983 Q. Did Eisler ever give you any directive or instruction with reference to the conduct of the affairs of the Daily Worker? A. He never did.

Q. Did he ever give you any directive or instruction with reference to the policies, or the affairs of the Communist Party of the United States? A. He did not.

Q. And did he ever give you any directives or instructions with reference to the activities of the Communist Party of

the United States? A. He never gave me any instructions or directives whatsoever.

Q. Did Eisler, in your presence, give any other member of the Communist Party any directive or instructions with reference to the policies and activities of the Communist Party of the United States? A. He did not.

Q. Did Eisler ever state in your presence that he was a representative of the Communist International? A. He did not.

Q. Or that he was the equivalent of a representative of the Communist International? A. He did not.

Q. Or that he was functioning as such? A. He
14984 did not.

Q. Did any of your associates, members of the Communist Party, and members of the National Committee, ever state, in your presence—or national board, for that matter—ever state in your presence that Eisler was a Communist International representative? A. No.

Q. Or that he was the equivalent of a Communist International representative or functioning as such? A. No.

Q. Did you ever hear that statement made by anyone in the Communist Party? A. No.

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14988 Q. Now, since you assumed your duties as a member of the National Committee, how have the funds of the Communist Party been obtained? A. The funds of the Communist Party have been obtained entirely from the collection of dues on the part of the members, from the members of the Communist Party. That is prescribed in the constitution. And from donations from the party members as well as soliciting donations from the public in general. We held annual collection campaigns for the collection of funds to finance our activities. From the sale of literature, although that was primarily an expense rather than an income, but income would come in on it. These were all of the methods that we had of obtaining finances in the Communist Party of the United States.

Q. Did you or the Party obtain any money from any sources outside of the United States?

MR. PAISLEY: To his knowledge.

MR. MARCANTONIO: I beg your pardon.

MR. PAISLEY: To his knowledge.

MR. MARCANTONIO: Naturally, to his knowledge. It couldn't be anything outside of his knowledge.

MR. BROWN: Let's proceed. To your knowledge, Mr. Gates.

THE WITNESS: To my knowledge as a member of
14989 the Communist Party during that period, we received no moneys, no funds from outside of the United States of America.

By MR. MARCANTONIO:

Q. Since you became editor of the Daily Worker in 1947, how has it been financed? A. The Daily Worker financed itself entirely through the sale of the paper, the sale of subscriptions to the paper, and through donations from the readers of the paper in the United States.

Q. What was the annual budget of the Daily Worker? A. Well, in the years that I was editor, the annual expenditures of the Daily Worker were on the average of—this includes Sunday Worker, the Daily and Sunday Worker—the annual expenditures were roughly three quarters of a million dollars, $750,000.

Q. Before we go further with reference to the finance of the Daily Worker, I just want to make certain of one matter. I have asked you with respect to the Daily Worker, I now ask you with respect to the Sunday Worker. How was that financed, first? Answer that question. A. In exactly the same way as the Daily Worker is financed.

Q. And second, did the Sunday Worker receive any funds from any sources outside of the United States? A. No.
14990 Q. And the same question with respect to the Daily Worker, did it receive any funds from sources outside of the United States? A. Well, there may have been a subscriber in Europe who bought a subscription, and in that sense contributed the cost of that subscription.

Q. I mean outside of a subscriber or a subscription. I mean any other sources outside of the United States. A. No.

Q. That goes for both the Daily and Sunday Worker? A. Yes.

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14998 Q. During the period of your membership on the National Committee, has the Communist Party sent any member or representative to any school, class,
14999 or institute in the Soviet Union? A. No.

Q. To any Communist School, class, or institute in any foreign country. A. No.

Q. To your knowledge, during this period, has any member or representative of the Communist Party attended any such school, class, or institute? A. A Communist School?

Q. That is right. A. No.

Q. During this period, has the Communist Party sent any member or representative to the Soviet Union for instruction or training in the principles, policies, strategy, or tactics of Communism? A. No.

Q. Has it sent any member or representative to any other country, foreign country, for that purpose? A. No.

Q. During the period of your membership on the National Committee, has the Communist Party reported its policies, plans, programs, or activities to the Soviet Government? A. To the Soviet Government?

Q. That is right. A. No.

15000 Q. To the Communist Party of the Soviet Union? A. No.

Q. To the Communist International? A. No.

Q. To the Communist Information Bureau? A. No.

Q. To any representative of the Communist Information Bureau? A. No.

Q. To any representative of the Communist International? A. No.

Q. To any agency or representative of the Communist Party of the Soviet Union? A. No.

Q. During this period, has the Communist Party sent any member or representative abroad for the purpose of making any such report? A. No.

Q. During the period of your membership on the National Committee, has the Communist Party of the United States reported to the Government of the Soviet Union? A. No.

Q. And to the Communist Party of the Soviet Union? A. No.

Q. And to the Communist Information Bureau?
15001 A. No.

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15010 Q. Were there any discussions within the National Committee with reference to the size of the club? A. During this period yes, many discussions.

Q. What was said in these discussions? A. Well,
15011 there was a running discussion with pros and cons with respect to the size of the clubs. By the way, I would like to interpolate that as long as I have been in the party, since 1933, there has been this running discussion as to what should be the size of the clubs of the Communist Party. Now, discussion was as follows: That is, that there was one group that was in favor of continuing the clubs at a size of 25, and the arguments in favor of this was that the larger the clubs of the party the more attractive they would be for members of the party as well as for potential members of the party. That is, when you have a larger number in a club you could have a better social life, more active educational life, the club would be stronger, be able to do more things than a smaller club would be able to do.

These were the main reasons why larger clubs were favored in this discussion. This was the argument that has been put forward over the years, as well.

On the other hand, the arguments against this were that when you have a large club of the Communist Party, 25 or larger, and in the history of the party there have been clubs of the party that had as many as a hundred members or more, that it is difficult for the leadership of that club, large

club, to keep in touch with all of the members, and as a result of which many of the members are inactive and the leadership loses touch with them, and you don't have
15012 the maximum activity of the membership of the Communist Party that we are interested in. We are interested in bringing about a one hundred per cent activity on the part of the membership of the Communist Party. However, we have never attained that ideal, and I don't know whether it has been attained since I have gone to jail but that is the ideal that we have been working for.

An additional factor that began to play an increasing part in our discussions during this period now that I am discussing was the fact that a severe period of repression had set in for members of the Communist Party. This created a serious problem and created a serious situation among the rank and file membership of our party, and many questions were being raised by the members of the party as to what to do about this situation. We were forced to deal with this and take whatever necessary measures were needed. It was said in the discussion that many Communists were being deprived of their constitutional rights of freedom of speech, freedom of assembly, freedom of thought, and that there was a whole series of measures instituted by government which jeopardized the means of livelihood of Communists as well as the personal safety and freedom of Communists. Among these measures were the Truman loyalty probe and purge as a result of which Communists, for mere membership in the Communist Party, and for no deeds or acts of any kind,
15013 were disqualified from working for the government, a whole series of measures that were taken in many states depriving Communists who were teachers of the right to be teachers in the public school system of the country for the mere fact of membership in the Communist Party, and not for any of their teachings in those schools; the fact that the Taft-Hartley law had been passed and interfered with the right of Communists within the unions to be elected

freely by their membership to office in those unions under penalty of losing collective bargaining rights with the National Labor Relations Board; the fact that in many plants, many factories, of the nation, workers were fired for mere membership in the Communist Party. All of these various things that had happened, then climaxed by the announcement of Secretary of Labor Schwellenbach of the intention of the Government to outlaw the Communist Party and then finally the indictment of the 11 Communist leaders under the Smith Act, their conviction, and its being upheld by the Supreme Court and the passage of the McCarran Act and its application with the ordering of the hearing in the case of the Communist Party.

Now, particularly following the conviction of the Communist leaders under the Smith Act and its being upheld by the Supreme Court, and the following statement that was made by an Assistant Attorney General, Mr. Whearty—

MR. ABT: Will you spell that?

15014 THE WITNESS: W-h-e-a-r-t-y. —before a congressional committee to the effect that the Department of Justice was ready once the Supreme Court had upheld the conviction of the 11 Communist leaders at Foley Square, to proceed against 12,000 members of the Communist Party.

Following especially these events and the passage of the McCarran Act, we were confronted with the situation in the Party with many questions of fears on the part of the rank and file that it was necessary to take the measures to protect the Constitutional rights of members of the Communist Party.

We discussed this and we said this would be entirely unnecessary, any measures of this kind to protect our members, if it were not for the fact that the members of the Communist Party were being illegally deprived of the Constitutional rights that all other Americans enjoyed. We therefore then decided to take a number of measures to bring about the protection of the lives, the safety and the means of livelihood of these members of the Communist Party.

Now, these measures that I will enumerate that we took had nothing whatsoever to do with concealing the views or the program of the Communist Party. As a matter of fact, it was because we wanted to be able to continue to reveal the views and policies and program of the Communist
15015 Party to the American people that we were determined to protect our members in their constitutional rights. We said in this discussion that the American history bore out this stand on the part of the Communist Party, that all of the great democratic and revolutionary movements in American history were forced at one time or another to resort to methods of secrecy as a result of repressive measures, repressive laws that were in operation against them, and that in all cases in past American history where these methods of secrecy were necessary, that they were not for the purpose of concealing the program of these movements but were for the purpose of protecting the people involved in these movements from the deprivation of their legal, constitutional, democratic rights.

In taking this stand about American history we referred to a number of events, we referred to the fact that the early American revolutionists in their struggle against the British Empire were forced to resort to methods of secrecy, the committees of correspondence. The very Boston Tea Party was composed of men who were forced to disguise themselves as one hundred per cent Americans. And, of course, the revolution itself.

The movement against the British Empire which was then in power in the United States in many respects, of course, had to be secret.

15016 Then, following this situation there was the situation that arose at the time of the alien sedition acts in 1798. In this particular situation the Jeffersonians at that time were driven largely underground. They were denounced as agents of a foreign power, as agents of revolutionary France, because of their opposition to those in America, to those who were then in control of the Govern-

ment, who wished to declare war against revolutionary France. The stand of the Jeffersonians was that such a war was not in the interests of the American people and they opposed such a war.

. . . . . .

15017 THE WITNESS: The Jeffersonians were forced as a result of the alien sedition acts, as a result of which many of their leaders were put in prison, to organize secret clubs, political clubs. Well, finally, as we know, Jefferson was elected and the alien sedition acts were nullified.

15018 We further mentioned the case of the abolitionist movement prior to the Civil War. They certainly organized secretly and, as a matter of fact, their main operation was called the underground railroad, and was the only means that they would have of facilitating the passage of fugitive slaves from slavery to freedom, although this was against the law at that time. And we said that history has now given its judgment as to who were the real lawbreakers of that period, the abolitionists, who were helping to create the situation of freedom, or those who passed such laws as the fugitive slave law, who propounded the Dread Scott decision and so on.

Then there was the very important historical antecedent of the trade union movement, which, in its beginning in the United States of America, had to organize entirely as secret organizations. They were declared conspiracies in the early days, conspiracies against the Government of the United States, by various judicial decisions and laws. After many decades of struggle, these trade unions won their rights. But even up until modern times and even up until the present time, the unions still have not won their full legal rights of organization.

I have already testified the other day about a period when the big industries of this country like the steel industry were unorganized, were open shop, and not until the

15019 coming of the CIO in 1935 and thereafter did these unions win legal recognition.

This situation continues in this country even now in certain areas of the South where workers remain unorganized and are forced to operate secretly in many instances in order to prevent their being blacklisted. These were all examples that we based ourselves on to show that all of the democratic and progressive movements of the past in our country had to go through this process because of illegal and unconstitutional and undemocratic obstacles that were put in their path, and that there was no attempt on the part of any of these to conceal from the American people their aims, their intentions and their purposes, only to protect their individual persons and to protect their constitutional rights.

We, on the basis of this thinking, therefore, decided to sharply reduce the size of the membership of the clubs of the Communist Party. We decided to reduce them so that there would be less possibility of penetration by either government or company spies, and the bringing about of either blacklisting of these members of the party who may have been working in industry or to bring about possible physical harm to the members of the party. We felt that with small organizations if, indeed, some spies of this type would penetrate into the organization, well, then, they could do
15020 the least possible damage. In a small club they would be able to finger just a few people, and they would only be able to damage just a few human beings. In a big club they would, of course, be able to do much more damage.

Then we took other measures as well, and this was to eliminate any lists of membership in the organization. In prior years we used to have membership lists, and we did away with these lists as well for fear—

By Mr. Marcantonio:

Q. Was there anything said in those discussions with respect to FBI informants that had been infiltrated into the Communist Party? A. Well, we knew very well that these informers had infiltrated into the party. We knew it very

well from the testimony of many of these informers at various proceedings that took place.

It was said by these informers that they would report to the FBI as long as they were present in the ranks of the Communist Party anything that would take place in the Communist Party, even if a member of the Communist Party bought a pair of shoes they would report that to the FBI. This was testified to at Foley Square in my presence. We considered this an outrageous and immoral and undemocratic invasion, to say nothing of our constitutional rights,

15021 of our privacy as human beings, the privacy of our homes and so on, that the FBI has no business inquiring into matters of this nature and we are fully justified therefore in preventing the Government from invading our privacy in this fashion.

Q. Did there ever come a time, therefore, when the club membership was reduced to a size of no more than five? A. Yes, there did.

Q. When did this occur? A. Well, as I mentioned before, after our conviction and it was upheld by the Supreme Court, and the statement by a representative of the Department of Justice before a Congressional Committee, about the 12,000 pending prosecutions, and the passage of the McCarran Act.

Q. What action was taken and by what body, to bring about this change in the reduction of size? A. The national committee decided upon a reduction in the size of the clubs. It was decided upon the elimination of membership lists. We decided—and this took place in 1949—not to issue membership books for the time being.

Q. But prior to that time? A. Well, membership books were issued in 1948 and all of the years previous to that. In 1949 we did not issue membership books. In 1950 we did not issue membership books, and in 1951, up until the time that I went to jail in July of 1951 we had not yet issued membership books.

15022 As I said before, all of these measures were taken by us as defensive measures. We felt that we were compelled to do this, that we did it under compulsion, and that we did not wish to take measures of this sort. During all of this existence of the party that is, in the time that I have been a member of the party and during this period that I am speaking about particularly now, we have tried to achieve full legality for the Communist Party of the United States. By full legality I mean the rights equal to all other political parties in the United States. We have never quite succeeded at any period in achieving that full legality. The Communist Party of the United States has always been discriminated against to one extent or another in its entire history.

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15038 Q. Are the leaders of the Communist Party subject to and do they recognize the alleged disciplinary power of the Soviet Government? A. I know of no disciplinary power of the Soviet Government over an American communist, and we recognize no such thing.

Q. Do the leaders of the Communist Party consider themselves subject to the alleged disciplinary power of the Communist Party of the Soviet Union? A. The leaders of the Communist Party of the United States?

Q. That is right. A. We recognize no such talk.

Q. Of the Communist International? A. No.

Q. And of the Communist Information Bureau? A. No.

Q. Or any agencies of the Soviet Government or of the Communist Information Bureau or the Communist Party of the Soviet Union or of the Communist International? A. No.

Q. Is there any principle or doctrine of Communism which binds the American Communists to execute the decision of foreign Communist leaders? A. There is

15039 no such principle. I know of no such decisions of foreign Communist leaders that were ever made with intent to be binding on American Communist leaders. And in any case, American Communist leaders are subject

only to the discipline of the American Communist Party, subject only to the policies of the American Communist Party.

Q. And the decisions of the American Communist Party? A. And the decisions of the American Communist Party.

Q. Does the principle of democratic centralism bind all Communists in the United States to execute decisions of the so-called world communist movement? A. No: The principle of democratic centralism is as I described yesterday, and binds American Communists to carry out only those decisions which have been democratically arrived at by the Communist Party of the United States.

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15042 Q. Now I am going to ask you a question which has been asked here by the Petitioner repeatedly. To your knowledge, has the Communist Party ever knowingly deviated from the views and policies of the Government and Communist Party of the Soviet Union?

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15043 THE WITNESS: The central and chief aim, purpose, policy, and the sole purpose of the Communist Party of the United States of America, is never to deviate from the true national interests of the American people. That is the standard by which we operated. That is the straight line that we try to walk, and from which we try not to deviate. If it is true, as it is, that in many instances, particularly in the case of world affairs, that the views of the Communist Party of the United States of America are similar to or identical with views of the Communist Party of the Soviet Union, that only goes to show that there is no difference, no contradiction, between the national interest of the people of the United States or the national interest of the people of the Soviet Union, or, for that matter, of any other people of the world. It is our position that the national interests of all peoples on earth coincide and are identical. And, therefore, it should not be surprising that

any organizations or parties of any country that base themselves on the true national interest of the
15044 peoples of their countries should come to have similar or identical views.

Now, the Communist Party of the United States of America is a completely independent, a fully autonomous organization. We formulate all of our own policies without dictation or domination or control by anyone else outside of our country. And we formulate all of those policies on the basis of a scientific approach towards world problems and domestic problems, a scientific approach which consists of the general principles of Marxism-Leninism. But these general principles of Marxism-Leninism do not constitute the program of the Communist Party of the United States of America. They are general, theoretical principles. They are general, scientific principles. But they must be applied in every situation according to time, place, and circumstances. And only that is the program of the Communist Party of the United States of America, which is the result of the application of our understanding of the scientific principles of Marxism-Leninism to the particular concrete conditions in the United States of America and in accordance with the democratic and revolutionary traditions of the United States of America.

In dealing with the scientific approach, it is not
15045 surprising that adherents of a certain science, as very often happens in the field of physical sciences, may, independently, simultaneously in various parts of the world, come to the same scientific conclusions, and that is so because science is universal. Science knows no national boundaries. The famous apple of Newton drops at the same rate of speed to the ground in the Soviet Union as it does in the United States of America.

The Communist Party of the United States of America has not always—well, let me put it this way: The views, policies of the Communist Party of the United States of America are not in many respects similar or identical to

the views and policies of the Communist Party of the Soviet Union for the very simple reason that different situations exist in two countries. In the United States of America we have capitalism in power, and the Communist Party of the United States of America has developed a program for struggle against capitalism and for socialism. In the Soviet Union you have socialism already in power, and capitalism has been abolished. The problems in this respect are very different, especially with respect to domestic affairs. For example, the Communist Party of the United States has a program and policy with respect to the Taft-Hartley Law. I don't know whether the Communist Party of the Soviet Union has a program with respect to the Taft-Hartley in that country. We stand for the repeal of the Taft-Hartley Law. The Soviet Union to my knowledge has no
15046 position on the Taft-Hartley law in their country. They long ago did away with the situation where Taft-Hartley laws were possible.

Now, in saying this, I wish also to say that the Communist Party of the United States has often agreed with the views and positions of the Soviet Union on peace. And again, this has been because of the independent analysis and independent decisions of the Communist Party of the United States, entirely formulated by itself and not as a result of any foreign domination or control. And we have agreed with these policies of the Soviet Union on peace because we have believed them to be peaceful policies, and we have believed them to be policies which are in the interest of the American people, applying our own standard, and our standard is that we are devoting all of our efforts to the cause of peace, to the cause of preventing a third world war.

We apply that yardstick to any views or positions put forward by the Soviet Union on the issue of peace and world affairs. And if we have, as we have, agreed with such views of the Soviet Union, it is because we believe that they are views in the interest of peace and therefore in the interest of the American people.

15047 I wish to state, not to repeat at length what I have already testified and on previous days, that it is our view, because the Soviet Union is a socialist country, because it is a country where capitalism and production for profits have been abolished, that there are no forces in the Soviet Union that have any interests in conducting aggressive wars against the peoples of other lands or against other nations. And, therefore, it is but natural that in a country with such an economic and political structure as in the Soviet Union, namely a socialist one, that such a country can only be interested in peace and is opposed to wars of aggression. It is therefore not surprising that we should be in agreement with such peace views.

Furthermore, we are a working class party. And just as in the United States of America the Communist Party of the United States of America always takes the side of the workers against the capitalists in the conflicts that take place daily and the struggles that take place daily between those two classes, so too on an international scale, the Communist Party of the United States takes its side on the side of labor and against capital.

To conclude on this, I wish again to emphasize what I said in the beginning, that the sole determinant of the views, the programs and the policies of the Communist Party of the United States is our understanding of, "Will it be in the interest of the majority of the American People?" That is how we judge all events that take place in the world.

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15048 Q. With respect to the question of deviation, have there been times when the Communist Party of the United States has taken a position before the Communist Party of the Soviet Union has taken a similar position? A. Yes, many times. And we take a position many times on things that, to my knowledge, the Soviet Union has never taken a position on.

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15049 Q. Is it a part of the teachings of the Communist Party that the Government of the United States is to be overthrown by force or violence? A. It is not.

Q. Does the Communist Party of the United States have any position with reference to the role of force and violence in the process of social change? I will withdraw that question and ask instead first: What meaning does the term historic mission of the working class as used in the preamble of the constitution mean to you and your associates in the Communist Party?

MR. ABT: Does the witness have the constitution before him?

THE WITNESS: I have.

The meaning of this term, the historic mission of the working class to us Communists, the leadership of the Communist Party of the United States, is the eventual establishment of socialism in the United States. We mean by this the following methods and means by which socialism is to be established in the country. The Communist Party of the United States of America advocates the peaceful and constitutional road to socialism. The communist party of the United States of America believes that the Constitution of the United States and its bill of rights is an instrument that is
15050 capable of being used by a majority of the people of the United States led by the working class in the achievement, ultimately, of socialism. There have been at various times Communists who have not understood, or have not agreed with this interpretation of the constitution. The National Committee of the Communist Party of the United States believes that such Communists are wrong. And we base ourselves on the American history, in particularly the controversy that went on in the ranks of the abolitionists prior to the Civil War. At that time there were two factions among the abolitionists, one of which said that the constitution of the United States was a slave document, and, therefore, that all those opposed to slavery should have nothing to do with the United States constitution, should not

participate in elections, and that the north should secede from the United States and leave the South to itself. There was another group of abolitionists led by Frederick Douglas which said that although the constitution of the United States at that time had made certain compromises with slavery, that, nevertheless, in the main, the constitution was a revolutionary document, was a profoundly democratic document, was a democratic instrument, and was very capable of being used by the people of the United States for the purpose of abolishing chattel slavery. We take that lesson for the present time in the United States, that the constitution which was born in revolution, which at
15051 that time was the most democratic document in the world, to which was added the bill of rights as a result of a struggle by the people, to which was added the 13th, 14th, and 15th Amendments as a result of the revolutionary struggle by the American people in the Civil War, that this constitution is a framework and presents, offers, channels, democratic channels, which, if they remain open, can be used by the American people led by the working class to establish socialism eventually.

Our position is that the issue before the American people now, or in the foreseeable future is not the issue of socialism or capitalism. It is our position that the issue before the American people is peace or war, democracy or fascism. Therefore, we lend all of our efforts and our resources towards the organization of the broadest possible coalition of class forces in the United States and of parties and organizations representing those class forces, against those who are responsible for the danger of war and aggression, against those who are responsible for the danger of fascism in our country, namely against the big trusts, monopolies, the few bankers, financiers and industrialists, who own and operate the industries, economy and the government of our country.

When I say we stand for the broadest possible coalition of class forces and the organizations that represent those

class forces, we mean all of those forces in America
15052 who are exploited by the big monopolies of this country, and we mean in the first place the working class, we mean the farmers, we mean the Negro people, and we mean also the middle-classes, professional classes, small and independent businessmen—all of these are oppressed and exploited by the big monopolies and leave conflicting interests with the big monopolies. We stand for the uniting of all those forces, regardless of their political beliefs, regardless of their agreement or disagreement with Communism which is not the issue today, as the only way to prevent war and fascism. And to secure the victory of this coalition that I speak of over the monopolies, we advocate the method of participation in the election process, not only once every four years, but through the building up of the economic and political organizations of the people in the course of the periods in between elections every four years, in the course of their struggles for the improvement of their economic welfare, for the preservation and extension of democratic rights, for equal rights for the Negro people and for peace.

We favor participation in the election process and to bring about the election of a government based upon this coalition of which I have been speaking, and which we also advocate shall take the form of a new people's party, an anti-monopoly party, a party that stands for peace,
15053 for democracy and for economic welfare.

Now, such a government in our view, when elected, will not be elected on a Communist Party platform, will not be a party or a coalition or government that favors socialism. It will be a government that stands for peace, democracy, and the economic well-being of the majority of the people. It will be a government that is opposed to the monopolies, and a government whose aim will be to restrict and to curb those monopolies in their warfare against the interests of the overwhelming bulk of the American people. But it is then our view, as leaders of the Communist Party that once such an anti-monopoly government is elected that

the monopolists in this country will not take that lying down and will not gracefully move over and accede to the wishes of the majority of the electorate.

By Mr. Marcantonio:

Q. Now, Mr. Gates, in answer to my question, is it a part of the teaching of the Communist Party that the government of the United States should be overthrown by force and violence, you answered no. Now I ask you this question: Does the Communist Party of the United States have any position with reference to the role of force and violence in the process of social change? A. Well, this is what I was—

Q. I know you were, and I wanted to interrupt you
15054 there so as to put that question in its proper place.

A. Basing ourselves upon past history, particularly upon the lessons of the American Civil War, and also upon the lessons of the Spanish Civil War of 1936 to 1938, and basing ourselves also upon the long, bloody history of the monopolies in this country, such as the violent thrusts against the workers, in the big trustified industries, it is the position of the Communist Party that the monopolists, the rich, the propertied, will resort to any means to preserve their power, and to preserve their profits, including the means of violence, to thwart the will of the American people, to prevent that will from being executed, or, failing this and such an anti-monopoly government being elected, as I said, to then use violence to bring about the overthrow of such a people's government.

Now, I said that we based this understanding upon American history. The Civil War—that was a war in which the people did elect a people's president, Abraham Lincoln, and this represented a big change in political power in the United States, transferred the political power from the slave owners to the young and growing capitalist class in the north. And the program of the Lincoln Government when it was elected in 1860, or platform of the Republican Party, was not at that time a revolutionary platform. The

platform of the Republican Party in 1860 was
15055 against the extension of slavery to the territories and to other states from the ones in which they were then operating. The Republican platform at that time did not include the revolutionary provision of the abolition of chattel slavery which the Abolitionists were very much in favor of. At that time, the abolitionists, including the Communists of that day, were bitterly critical of the Republican Party and Abraham Lincoln for not being in favor of the abolition of slavery in 1860 although nevertheless they supported Abraham Lincoln, despite this criticism. Then what happened, as everybody knows, the armed rebellion of the slave owners—

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15061 THE WITNESS: Well, I was interrupted at the very moment when I was coming to the force and violence. That is that force and violence did take place in the Civil War and it was on the part of the slave owners against the legally elected government of the United States. That is the first important lesson for us American Communists in the position that we put forward now with respect to what road the American people should take towards socialism. The second lesson of that Civil War was that this Lincoln government which had been elected on a reform basis, and not on a revolutionary basis, and which was opposed to the revolutionary method in 1860, prior to the Civil War, was forced by historic necessity, by military necessity, in the course of the Civil War, to take revolutionary measures and to become a revolutionary government through the emancipation proclamation and the abolition of chattel slavery in the United States of America. Now, our Communist Party applies that to the present period in this way: That, as I said, we favor the election of this peace government which is not a Communist Government, as Mr. Paisley stated, and I did not testify that, I said
15062 exactly the opposite—that it was not a government dedicated to socialism but was a coalition government

with a program, a limited program, of opposition to fascism and to war, and it was for curbing the monopolies and not yet for abolishing capitalism, that we favored the election of such a government just as such a government was elected in the Civil War by the people, on a reform program and not on a revolutionary program.

But it is then the position of our party that to that extent that this new peace government and anti-monopoly government that has just been elected by the American people proceeds to put into effect these measures against the monopolies to curb the unrestricted profiteering of these monopolies in the interest of the people, to curb their pro-war and pro-fascist activities, that these monopolists will begin to resist and to resist with all means up to and including violence, just as the overthrown slave owners did in the Civil War.

But it will be violence by these monopolists against the legally elected government of the United States of America. And it is the position of the Communist Party with respect to this that we would warn this new government that unless it took measures to anticipate this possible violence on the part of the monopolists that these monopolists would organize an armed rebellion against the government just as has happened so many times in history, it happened
15063 in our Civil War, it happened in the Spanish Civil War as I have already testified.

The measures that we would advocate in warning this government would be that they should remove in the armed forces, from the leadership of all the armed forces, all of those generals and admirals and so on who are sympathetic to and agents of the monopolists, and to replace them with officers who are sympathetic to the cause of the common people.

And the same thing would go for the police force. So that it would not be possible for these monopolists to use the positions that they have in the armed forces, that they have built up over so many decades, against a legally

elected government of the United States. We said that in the Civil War, in the United States, that most of the regular army of the United States Government went over to the side of the slave owners, and that in the Civil War in Spain most of the regular army went over to the side of Franco and Hitler and Mussolini, and against the legally elected government.

It is because the Spanish people's government didn't take the advice of the Spanish Communist Party, didn't clean the General Francos out of the Spanish army that he was successful in organizing a rebellion against this legally elected government. And it was our position that just as our
15064 Civil War reform government of Lincoln was forced by necessity, and finally military necessity, to take revolutionary measures, just so this peace government which we advocate the election of will be forced by necessity to take revolutionary measures in order to prevent the monopolists from trying to overthrow this peacefully elected government by force and violence.

Now, we do not predict, nor do we try to spell out in every detail the course of events with respect to the actual establishment of socialism in the United States. No one can do that, and we don't try to blueprint that. All we can do is to lay down the path that we want the American people to follow. The path that we think is the most peaceful path. The path that we think will be at the least cost to the overwhelming majority of the American people. And that path is the one that I have outlined, the path of taking the peaceful and the constitutional road towards election of a peace government, and then urging that peace government to take additional measures to thwart any attempt at armed rebellion against a legally elected government by the monopolists of this country.

Now, we state with respect to this, that this is in no way contradictory to Marxist-Leninist principles. We state that this is in no way contradictory to the principle of dictatorship of the proletariat according to which the bour-

15065 geoise state must be shattered to make way for the new worker state.

It is no contradiction because in the course of the struggle of this peace government, this legally elected peace government, against the resistance of the monopolies and the attempts of the monopolies to organize an armed rebellion against this government, that the bourgeoise state in the course of this will be shattered in the sense of the principles of the dictatorship of the proletariat. When I say that we will advocate that this government take measures to remove from the leadership of the armed forces these agents of monopoly and replace them with agents of the working class, to place in the leadership of the police forces men who are sympathetic to the people and not to the rich, that is this shattering of the bourgeoise state. It is our position that this can be done peacefully by the legally elected government in the course of events. The only violence that will or can arise will come from the efforts of a small clique, and I do not include, as Mr. Paisley said, among the monopolies and industrialists and financiers of this country the small group whose policies run so counter to the majority of the American people, the small stockholders and small businessmen of our country, and small property owners. On the contrary, it is these small stockholders and small businessmen and small property owners that are fleeced every day of
15066 the year by the monopolies.

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15069 By Mr. Marcantonio:

Q. Mr. Gates, to whom do you owe allegiance? A. I owe allegiance to the United States of America.

Q. Have you ever taken the oath of allegiance? A. I have, many times.

Q. Will you state the occasions on which you took the oath of allegiance? A. As I have testified before, I took the oath of allegiance as a child and in school, when I was in the Color Guard at this public school that I testified to; and, of course, throughout my school career.

There was one specific instance in which I led a meeting of functionaries of the Communist Party of New York City in an oath of allegiance to the flag of the United States of America.

Q. I didn't hear the last sentence, after the words "functionaries of the Communist Party of New York City." What was that? A. I led a meeting of functionaries of the
15070 Communist Party of New York City in an oath of allegiance to the flag of the United States of America.

Q. You mean in taking the oath of allegiance? A. Yes. Well, I will describe it. This was in December of 1941, immediately after I had been sworn into the armed forces of the United States of America. I was sworn in on December 17, and the Army then gave me three or four days' leave to take care of my affairs before I would actually be inducted. And in that three or four-day period, I think it was two or three days after, I don't remember exactly the date, after December 17, a meeting took place in New York of some 2500 leaders of the Communist Party in New York City. I think it was in St. Nicholas Arena of New York City. I was introduced at that meeting as having just become a member of the United States Army. I then asked the audience to stand and to have them repeat after me, and I faced the flag, the American flag that was on the platform. I saluted the flag, and I said—and they repeated after me—"I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands; one nation, indivisible, with liberty and justice for all."

And, of course, in the United States Army, I have, of course, taken various oaths as required by the regu-
15071 lations of the Army.

Q. At the times you took this oath, did you have any mental reservations? A. I had no mental reservations whatsoever. Moreover, that oath of allegiance meant much more to me as a leader of the Communist Party than it did when I was a school child taking an oath of allegiance, the same oath.

Q. Now, at this time, now, do you have any mental reservations with reference to the oath of allegiance? A. None at all.

Q. What does the oath signify to you and your associates in the Communist Party? A. It signifies that we owe our primary allegiance to the people of the United States of America. We understand by the flag of the United States of America, a flag that was born in revolution, a flag that became known to the entire world as a flag of freedom, a flag that was carried by the American people in the Revolutionary and Civil War, and to us that flag represents a flag of freedom.

There have been at various times in the history of the Communist Party of the United States, Communists who have felt that the American flag had become not a flag of freedom, but a flag of oppression. These American Communists felt this way because of the fact that on various occasions the monopolists who rule our country had made use of the American flag to cover up their own greed and selfishness, and to have the flag follow the dollar, so
15072 to speak, into other lands; and the position of the leadership of the Communist Party of the United States at the present time is that those American Communists who felt that way were absolutely wrong; that the American flag belongs to the American people, and notwithstanding the fact that there are some individuals in our country who do make use of the false cloak of patriotism to mask their own loyalty and allegiance to the American dollar, that we should not surrender this glorious flag and its wonderful traditions to these traducers and betrayers of that wonderful and glorious tradition of our American flag and the American people.

We further understood by this oath of allegiance and the phrase, "one Nation, indivisible," that we do not have in our country at the present time one nation indivisible; that this is a goal still to be achieved by the American people. And we Communists work for the achievement of that goal.

Our position is that we do not have one nation indivisible, because our nation is divided into rich and poor, into mutually antagonistic classes. We do not have one nation indivisible, because a small white ruling minority oppresses the Negro people of our country. It is our position that when socialism is established in the United States of America, and classes are abolished, and all people will work for a living,

15073 and when the oppression of the Negro people is wiped out and we have a free association of peoples on the basis of full equality in the United States, that then we will truly have "one nation, indivisible."

Furthermore, we understood by the following phrases of the oath of allegiance, the phrase "liberty and justice for all," that there does not exist at the present time in our country "liberty and justice for all;" that there is one justice in our country for the rich, and another justice for the poor; that there is one law for the white people, and another law for the Negro people; that there is one law for all Americans, and another law for the Communists.

It is our stand that when, ultimately, socialism is established in the United States of America, that we will then truly have "liberty and justice for all," one law for all.

Q. Have you taken an oath of allegiance to any nation other than the United States? A. Never.

Q. Do you owe allegiance to any nation other than the United States? A. No.

Q. Have you engaged in any activities which bear on the matter of your allegiance? A. I consider that all of my activities as a Communist for the past 20 years, and everything

15074 I have said and done in the course of those 20 years, in the two wars in which I have fought, have been in allegiance to the United States of America.

I would defy anyone to find anything in my life, anything in the deeds that I have done, which has ever run contrary to the interests of the people of the United States of America.

Q. What does "patriotism" mean to you and your associates in the Communist Party? A. "Patriotism" means to us a devotion to the best and highest interests of the American people. "Patriotism" does not mean, to us, loyalty to capitalism, and to the minority in our country which rules the capitalist system.

It is our position that the interests of this small capitalist class in our country are contrary to the interests of the majority of the American people, and that true patriotism, therefore, lies in devotion and loyalty to the interests of the majority of the people, the working people, rather than to this small group of indusfrialists and bankers.

Q. During your membership on the National Committee, did any of the teachings of the Communist Party of the United States deal with the question of patriotism? A. Yes.

Q. And during that period, what did the Communist Party teach with reference to the meaning of "pa-
15075 triotism"? A. We taught that we were in full agreement with the sentiments of Mark Twain, who wrote, in the "Connecticut Yankee," that loyalty to the United States of America does not mean loyalty to outworn institutions. He said that outworn institutions are like rags, like clothing that has become rags, and that loyalty to outworn institutions is like being loyal to rags. He said, rather, it is loyalty to speak out and to oppose any institutions that ever become outworn institutions, and that never serve the people; and that it is disloyal to the people not to speak out loud and clear when anyone has an opinion that such institutions have become inimical to the interests of the American people.

We taught further, in the words of Carl Schurz, who was a Senator from Missouri in the Civil War Days, and who was a member of President Lincoln's Cabinet, the statement of Carl Schurz in contrast to the statement made by Stephen Decatur. Stephen Decatur made the famous historical statement, "Our country, right or wrong." Carl Schurz said, in connection with this statement of Stephen Decatur, "Our

country, right or wrong. When right, to be kept right. When wrong, to be set right." And we express full agreement with this statement of Carl Schurz.

It is our position that it is not patriotism to support any and all policies of a particular Administration of the United States Government just because it is the United
15076 States Government. If those policies are wrong, they should be opposed. If they are right, they should be supported. And we have adhered to that position.

Furthermore, it is our position on the issue of patriotism that the failure of the people of Germany to follow the precepts stated by Carl Schurz, that is, the fact that the people of Germany under Hitler did follow the slogan of "My country, right or wrong," that they obeyed Hitler because he was the head of the government, whether they thought he was right or wrong—that this led the German people to disaster, and they betrayed their own interests, to say nothing of the catastrophe that they brought upon mankind.

We say, moreover, that it had been established, and we were in full concurrence, by the Nurnberg conspiracy trial of the Nazi war aggressors, the Nazi war criminals, Goering and Hess and Kuntze, in which the United States Government was an official participant, this Nurnberg tribunal laid down the principle that it was no defense on the part of anyone who was a member of a nation whose government had conducted an aggressive and criminal war, to say that, "Well, they participated in that war because they had to obey the orders of that government." The Nurnberg trial declared the complicity and the guilt of all those who took the position that they were not to blame because they were only carrying out orders.

And we understand from this, also, that if we un-
15077 derstand that a war in which our government or a particular administration might plunge our country, that if that war was an unjust war, that if that war was a criminal war, an aggressive war, that we were duty-bound, in the interests of American patriotism, as well as interna-

tional law as declared by the Nurnberg tribunal—in which our United States Government participated—that we were duty-bound to oppose such war.

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15083 Q. Are you familiar with the slogan or phrase, "Convert the imperialist war into civil war"? A. I am.

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15084 Q. During your membership on the National Committee, has the Communist Party of the United States ever advanced this slogan? A. It has not, nor has the Communist Party of the United States ever advanced the slogan in any war that the United States has participated in during the life of the Communist Party in our country.

Q. How does the Communist Party of the United States characterize the present Korean War? A. It characterizes it as an unjust and unnecessary war of intervention of Wall Street against the people of Korea.

15085 Q. Has it called for converting the Korean War into civil war? A. Never at any time.

Q. What does it advocate with reference to the Korean War? A. It advocates, has advocated and does advocate, a peaceful settlement of that war on the basis of a just and democratic peace. It advocates a cease fire around the 38th Parallel. It advocates an armistice, to be followed by the withdrawal of all foreign troops from both sides; the peaceful settlement and unification of Korea by the people of Korea themselves, without interference from outside; the return of Formosa to China; the recognition of China by the United States; and the entrance of China, the admission of China, into the United Nations, on the Security Council.

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15123 CROSS-EXAMINATION

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By MR. PAISLEY:

Q. Mr. Gates, you testified you were one of the defendants in the case of the United States versus Dennis and others, that you are now serving your sentence of five years, is that right? A. That is correct.

Q. You and the other defendants in that case were convicted of conspiring to teach and advocate the overthrow of the Government by force and violence.

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15124 Q. That in substance was the charge? A. The substance of the charge was merely our thoughts and ideas, that is correct. No overt acts.

Q. Weren't you charged with conspiring to teach and advocate the overthrow of this government by force and violence? A. Yes.

Q. Now, the other defendants in that case were all members of your National Committee, were they not? A. All of the defendants were members of the National Committee, that is right.

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15130 Q. And you say at college you learned that the capitalist system was destined to be superseded by a higher form of society, socialism, and that has actually taken place in one country on the face of the earth, is that correct? A. Yes.

Q. Now, that country, of course, is Russia, Soviet Russia, right? A. It is the Union of Socialist Soviet Republics, yes.

Q. Now, you Communists claim that they have socialism in Russia now? A. Yes.

Q. And that Communism has not yet even been attained there? A. No.

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15137 Q. Now, Mr. Gates, you will admit, will you not, that there is a world Communist movement? A. Well,

I won't admit it just like that, in terms that you understand the world Communist movement, or in the terms that the world Communist movement is stated in the allegations of your petition. I don't admit there is any such kind of world Communist movement.

Q. Do you admit that there is a world Communist movement of any kind? A. Yes, I do.

Q. You have written that many times in your own writings in Political Affairs, have you not? A. Of course.

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15156 Q. There is no doubt, Mr. Gates, about your joining the Communist Party in Youngstown in 1933, is there? A. No.

Q. Didn't you tell the Senate Judiciary Committee on May 28, 1948, that you joined the Communist Party in 1941? A. I said nothing of the kind. There is a misprint in that Senate Judiciary Committee meeting. It wasn't the only misprint in that testimony. It is ridiculous.

Q. Had you noticed that before? A. I never noticed it until it was brought to my attention at Foley Square when I testified at Foley Square, and I made the correction at that time, as I am doing again now.

Q. You did see it in the Senate reports? Did you see that answer, 1941? A. When it was brought to my attention at the Foley Square testimony.

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15160 Q. And you left Youngstown in January, 1937, and volunteered as a member of the International Brigade in Spain? A. I volunteered to fight in Spain, yes.

Q. And you had no training as a soldier? A. None whatsoever.

Q. And you say you fired three rounds of ammunition during the time you were there? A. In my period of training, before I went into combat, yes.

Q. Did you fire any ammunition in combat? A. Yes.

Q. Well, that three rounds of ammunition, you meant to restrict that to training, before combat? A. That is what I testified in answer to a question asked me by Miss McHale.

Q. And you became the top ranking officer of all Americans in Spain? A. That is right.

Q. How many Americans were over there? A. Some 3,000 Americans volunteered to fight in Spain.

15161 Q. You were in charge of instruction and training? A. With respect to those Americans. I was in charge of military instruction and training, and I was in charge of political instruction and training in the program of the Spanish Republican Government.

Q. You say the Communist Party in the United States did not send you over there? A. It did not. I volunteered to go over there of my own free will.

Q. But they approved of you going; applauded your going? A. They were very proud of the fact that I went.

Q. And you got your passport in the name of Israel Regenstreif? A. I got my passport in the name that was on my birth certificate, yes, sir.

Q. It did not list Spain as a place to be visited? A. I did not.

Q. Did you swear to this passport? A. I did.

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15162 Q. And you were willing to make a false oath on this passport in order to go over there and fight this rising Fascism in the world? A. I did make some false statements on that passport.

Q. Well, that is why you were doing it, wasn't it? Isn't that what embued you, this desire to fight Fascism? A. I have already testified several times why I went to Spain, and if you want me to I will testify again.

Q. Now, you regard the McCarran Act as a Fascist Act, don't you? A. I certainly do.

Q. Well, wouldn't you give false testimony in this proceeding under the McCarran Act if it would further the

fight on Fascism? A. No, I would not, because it is not necessary.

Q. But you did in this other instance? A. What I did in Spain in connection with my going to Spain, I am proud of.

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15167 Q. Weren't you fighting for Communism in Spain? A. No, I wasn't fighting for communism. I was fighting in defense of the Spanish Republican government.

Q. But you admit you were fighting for it in this country? A. Mr. Paisley, everything that I have done, everything that I do in defense of democratic rights, in defense of the economic welfare of the American people, in the defense of peace, is all ultimately in the interests of my ultimate objective of the establishment of socialism; yes.

Q. Isn't socialism a step toward Communism. A. It is the first stage toward Communism.

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15170 Q. There are not many people in this communist group who are quite as well educated in it as you are, are there, Mr. Gates? A. You flatter me.

Q. That is right, isn't it, without flattering you or not? A. So what. What is your point? Get to the point.

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15181 Q. Well, you were Editor of the Daily Worker when you were on the National Committee of the Communist Party and Chairman of its National Legislative Committee, weren't you? A. That is right.

Q. And you say you are still Editor? A. So far as I know.

Q. And you were Editor even after you were made Chairman of the National Review Commission? A. I have been Editor from July 1947 up until the present time.

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15183 Q. Mr. Gates, I show you the Daily Worker for Monday, April 23, 1951, being Petitioner's Exhibit

No. 14. I ask you to look at it. (Document handed to witness.) A. To look at the article, "It Must Be Stopped Now"?

Q. Yes. You were Editor of the Daily Worker at that time, were you? A. Yes.

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Q. Did you approve its publication in the paper? A. Well, as Editor of the paper, I am responsible for everything that appears in the paper. I don't necessarily approve every single line or every article that appears, but I am responsible, as Editor, for everything that appears in the paper, yes.

Q. Did you know that that particular advertisement was going to be there? A. I believe so.

Q. What? A. I believe so.

15184 Q. That was the day that the hearings in this case commenced before this Panel, was it not? A. Well, you are a better judge of that than I am. I don't recall. I will take your word for it.

Q. Did you regard that as a day in infamy, and that this was a fake hearing? A. I certainly do and did.

Q. You did and you do? A. That is correct. I think this is a farce.

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15189 Q. Physically, where are they, do you know? A. Mr. Paisley, if you are looking for stoolpigeon testimony, you ought to apply to J. Edgar Hoover. He is the keeper of the rats.

Q. Do you know where they are? A. If I knew, I wouldn't tell you in a million years.

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15233 Q. Well, they have an organization they call the Cominform, don't they? A. There is an organization that is called the Communist Information Bureau.

Q. And it is a part of this world Communist movement, is it not? A. In the sense that I have outlined, yes.

Q. The Communist International was at one time, was it not? A. The Communist International was an actual organization of the World Communist movement, and we were affiliated at one time.

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15239 Q. Have you ever denounced the Soviet Union in your life? A. Well, I can't recall whether I might have before I joined the Communist movement.

Q. Well, since you joined the Communist movement? A. I certainly have not, because I think in my experience during that period everything that the Soviet Union has done has been for the best interests of its own people and for the best interests of mankind as well.

15240 Q. Not one word denounciatory of the Soviet Union has ever appeared in the Daily Worker or Political Affairs, is that right? A. Not that I can recall, nor do I see why there should be.

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15259 Q. Name this Panel one instance when the Daily Worker or Political Affairs has supported the foreign policy of the United States government when it was in opposition to that of the Soviet Union? Give me one instnce. A. Well, we have supported the foreign policy of the Roosevelt Administration when it was for the friendship and collaboration of the United States and the Soviet Union. This has not been a contradiction to the views of the Soviet Union, I grant you. But why should it be? That was a policy that was in the interests of the American people.

Q. Can you give me one instance of the Daily Worker, either while you were editor or any other time, that has supported this government in opposition to Soviet Union? A. I can't think of any such instance because of the fact

that it is my opinion that the Soviet Union has never put forward policies which were in any way contrary to the interests of the American people, and our sole standard for judgment in this respect is a particular policy of any government, anywhere in the world, in the interests of
15260 the people of the United States of America. If it is, we support it. If it isn't, we oppose it. That is our standard.

Q. Mr. Gates, would such a paper with such an editorial policy, be permitted if the Government which you espouse would come to power in this country? A. Well, I can only answer that the same way as I already answered it, and that is that when socialism is established in the United States of America there will be no need for the type of criticism that the Daily Worker makes at the present time of the capitalist system in the United States.

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15277-A Q. Is that the same Gus Hall who was convicted with you? A. That is.

Q. He is the one who signed the answer that was filed to this Board, isn't he? A. I believe so.

Q. Well, is there any doubt in your mind about
15278 it? A. No. I just believe so.

Q. You wouldn't dispute that, would you? A. I didn't say I would dispute it.

Q. By the way, where was that answer drafted?

MR. ABT: I object, Mr. Chairman. That is immaterial, where a legal answer to a petition in this proceeding was drafted.

MR. BROWN: Overruled.

THE WITNESS: It was drafted by Mr. Gus Hall.

By MR. PAISLEY:

Q. Did you collaborate in the drafting of the answer? A. I assisted, yes.

Q. Do you subscribe to everything that is stated in there? A. Yes.

Q. Everything that was said about this Board and the McCarran Act? A. Definitely.

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15297 Q. Are you sure that copies of For a Lasting Peace weren't received over here by you Communists before they were published? Before November 10, when the first issue came out? A. We received copies of For a Lasting Peace over here before Lasting Peace was published?

Q. Before it was issued to the public. A. Well, I don't believe in the supernatural, but if you do that may have been possible.

MR. BROWN: That is unnecessary.

THE WITNESS: I can only answer a stupid ques-
15298 tion in such a way.

MR. BROWN: That is not necessary. You are here to answer the questions. Let's not have any observations or comments.

THE WITNESS: We saw no copies of For a Lasting Peace before For a Lasting Peace was published.

MR. BROWN: The question was before it was issued to the public.

THE WITNESS: That is your version. It is the reporters version, too.

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15311 Q. Has the Daily Worker or Political Affairs, or has any Communist Party leader in the United States ever denounced or criticized the Cominform or Lasting Peace? A. Not to my knowledge.

Q. Well, you would know about it, wouldn't you? A. I have answered not to my knowledge.

Q. Has the Communist Party in the United States or the Daily Worker or Political Affairs ever deviated from the express views and policies of the Cominform? A. Well, I

will answer this question again as I have answered it in the past, and that is that we try in the Communist Party, and this is a separate question and a separate answer, and we try also in the Daily Worker, never to deviate from what we consider to be the true national interests of the American people. We judge everything in the world by that standard. And if we have not expressed any disagreement with any views that have been put forward in For a Lasting
15312 Peace, that is because we believe that those views have not been in contradiction to the interests of the American people.

Q. Well, a short answer is that you have not deviated, isn't that right? A. No, that may be a short answer but it wouldn't be a truthful answer on my part.

A. The truthful answer is the answer that I have just given.

Q. Give the Panel any instances of deviation. A. I have answered the question.

MR. BROWN: Are there any instances of deviation, Mr. Gates?

THE WITNESS: I said that deviation—

MR. BROWN: I know, but can you answer my question yes or no?

THE WITNESS: The question is a loaded question.

MR. BROWN: It is not a loaded question.

THE WITNESS: You may not think so, but I think so.

MR. BROWN: Well, I think it isn't, because it obviously is not.

THE WITNESS: After all, I am the one who is on the witness stand and not you.

MR. BROWN: And we are trying to get you to act like a witness, which you have not done. The witness is
15313 here to answer questions and not make observations.

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15318 Q. And you said you did know Eisler. A. I said I first met Eisler, and met him several times afterwards, in 1946.

Q. Did you mean to tell the Panel that it was simply by chance that you met this man Eisler early in 1946, when you returned from the army just because you happened to live a few blocks from each other? Was that what you were trying to tell them? A. That is not what I testified to. What I testified to was that Mr. Eisler sent word to me that he wished to see me, if possible, in order to discuss with me my experiences in Germany while I was in Germany as a member of the United States Army. And I accepted his
15319 invitation, I accepted his invitation and since he lived only a few blocks away I visited him in his home, and we did have such a chat.

Q. And you were a member of the National Committee at that time? A. Yes.

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15320 Q. Did you publish any of his writings in the Daily Worker? A. I can't exactly recall whether we published—you are specifying of the time that I was editor of the Daily Worker?

Q. Yes.

15321 A. As editor I don't recall whether we actually printed articles written by him and signed by him. I know we carried news stories giving accounts of speeches that he had made at various times during this period. But it may have been that on some occasions we also printed articles by him. I am not certain of it.

Q. Where is he now? A. In Germany.

Q. What is he doing? A. He is, I believe, director of public information in the Government of East Germany, the People's Democratic Republic of Germany.

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15325 Q. Is it the custom in the International Communist movement for Communists in one country, when they move to another, to change their membership?

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A. I know of no such general custom. It has some-
15326 times happened. It all depends. If a man comes here to America and becomes an American citizen and wishes to join the American Communist Party, he is eligible to do so, yes.

Q. Well, did Eisler become a member of the Communist Party of the United States? A. No to my knowledge.

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Q. Was he a Communist? A. I believe he was a member of the German Communist Party.

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15330 Q. Is the fact that you considered the Soviet Union the leader of the world Communist movement have anything to do with it? A. The fact that we consider the Soviet Union to be the outstanding socialist country of the world, the outstanding force for peace in the world, had a great deal to do with it, yes.

Q. You frequently said that it was the leader of
15331 the world Communist movement, haven't you, Mr. Gates? A. We said it was the leader of the world Communist movement in the sense that I have explained it, and the outstanding force for peace—

Q. Let me ask a question. A. Let me answer your question first, before you ask another question.

Q. I thought you were through. A. Will the stenographer please read back to me where I was, so I can continue my answer?

(The reporter read from his notes as requested)

THE WITNESS: That is all. I have nothing further to say.

Q. Time and time and time again in your writings in the Daily Worker and Political Affairs, you have referred to the Soviet Union as the leader of the world Communist movement, haven't you? A. I have on several occasions, yes.

Q. Did the Daily Worker, to your knowledge, ever deviate in its views and policies from those of the Soviet Union?

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15332 THE WITNESS: On the Daily Worker we have always tried, to the best of our ability, never to deviate from what we considered on the Daily Worker to be the true national interests of the American people. That is what we try not to deviate from. Our purpose is never to deviate from anything else. That never occurs to us. Now, whether we have agreed with policies that have been put forward by the Soviet Union from time to time, we have agreed with such policies, yes, because we have considered them to be policies, yes, because we have considered them to be policies in the interest of the American people. But the fact that this takes place within our minds and in our actions has nothing to do with the question of do we deviate from the Soviet Union or from policies of the Soviet Union. That is not our approach to the problem. We don't sit down and say well, this is what the Soviet Union says, now we have to make sure that we must not deviate from what the Soviet Union
15333 says. That is not the process that takes place in our minds. That is not the way we think, and that is not the way we formulate our policies. The way we formulate our policies is: Is something in the interests of the American people. If it is, we are for it, if it is against it, we are against it.

By MR. PAISLEY:

Q. Then all views and policies of the Soviet Union of which you have any knowledge are in the interests of the American people, right? A. As far as we know, and as far as I have studied them, since they are views and policies which are truly in the interests of their own people, they are also in the interests of our own people.

Q. Has the Daily Worker ever expressed any disagreement with the views and policies of the Soviet Union? A. With the views and policies of the Soviet Union that have had to do with world affairs, particularly to my knowledge we have never expressed any disagreement. On the contrary we have expressed agreement with them because we have felt them to be in the interests of the American people.

Q. And that includes all of those instances in which the views and policies of the Soviet Union are in conflict with those of this government? Right?

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15334 THE WITNESS: I am sorry, you are going to have to give me concrete instances of where there are conflicts, where there have been conflicts between a particular administration in this country and views and policies of the Soviet Union. Then I will answer the question as to what our position was on those concrete bases.

By MR. PAISLEY:

Q. I am asking you, do you know of any instance when there was a conflict, in which the Daily Worker took the side of the United States government? A. As I said, we determine what our position is to policies of a particular administration, that is in power in the United States government, on the basis of whether we consider those policies to be in the interest of the majority of the American people or contrary to the interests of the people.

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15355 Q. Did the Communist party have any policy with regard to secrecy of membership?

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THE WITNESS: Our policy is that a member of the Communist Party has full authority to decide for himself as to whether or not he or she wants to keep their membership in the Communist Party secret or not secret, and that if a member of the Communist Party feels that it is necessary to keep his or her membership in the Party secret as a means of protecting him or her against illegal or on unconstitutional victimization or persecution, our policy is that they have a perfect right to do so.

By Mr. Paisley:

Q. You say that these measures that you took to meet the so-called repressive measures were not voluntary, that they were forced upon you by those people who rule this country, and government? A. Yes.

15356 A. That is correct.

Q. And it was not your choice? A. That is correct.

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15375 Q. Isn't it a fact that the Soviet Union is frequently and almost—well, frequently—in literature

15376 that you put out referred to as the fatherland of the world proletariat? A. I don't remember and I don't believe there has been any literature that the Communist Party of the United States has put out in the time that I have been a member of the National Committee that has stated that, although I will say that in previous years there have been occasions when that has been stated, yes.

Q. Well, that has been stated many times, has it not? A. There have been occasions when it has been stated, yes.

Q. You don't repudiate it now, do you? A. I have stated in my testimony here to which country I owe my primary allegiance, the United States of America, and I stand on that testimony.

Q. Do you regard Soviet Russia as the fatherland of the world proletariat or don't you? A. I do not regard the Soviet Union as my country and I do not owe my allegiance to the Soviet Union but to the sovereign power of the majority of the American people.

Q. Will you answer my question? A. I have answered it.

Mr. Brown: You have not answered Mr. Paisley's question, Mr. Witness.

15377 The Witness: Well, you and I, it is not the first time you and I have differed, Mr. Brown.

Mr. Brown: You are not going to lecture me, now.

The Witness: Well, don't lecture me. I have answered it.

Mr. Brown: You have not answered the question.

MR. ABT: We submit that the question has been answered, Mr. Chairman.

MR. BROWN: Very well, the record will so show, and the record will likewise show that the question was not answered.

THE WITNESS: I am content to rest on the record.

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15384 Q. Don't you know as a fact that Earl Browder takes the position that the entire national leadership of Communism had knowledge of, consent and support of all of his policies up to 1945? A. That is Browder's position, yes.

Q. And he stated that in a series of articles answering Gil Green's attack upon him, did he not? A. He stated that in a series of articles that he wrote subsequent to his expulsion from the Communist Party of the United States of America.

. . . . . .

Q. Did he not say during the 15 years of the Browder leadership of the Communist Party USA all major policies put into effect had the previous knowledge, consent and active support of the decisive international Communist leadership which thereby fully shared responsibility for those policies, including those of 1944 later challenged? Did he not make that statement?

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15385 THE WITNESS: Browder wrote those statements or that statement and these articles that he wrote subsequent to his expulsion from the Communist Party of the United States, and I have expressly denied them in a speech that I made to the 15th National Convention of the Communist Party in 1950.

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15394 THE WITNESS: First of all the reference by the question to why did Stalin have over here Commun-

ist International representatives, I deny categorically that Stalin ever had over here Communist International representatives, and I have no knowledge of such.

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15429 **Herbert Aptheker** called as a witness by the respondent herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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By MR. MARCANTONIO:

15430 Q. Will you state your formal education? A. Well, I graduated from the public and high schools in New York, and received a Bachelor of Science at Columbia, a Master of Arts at Columbia, and a Doctor of Philosophy at Columbia.

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15431 Q. In what field did you obtain your Ph.D. degree? A. The major was American History; the minor was British History.

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15438 Q. What is your present occupation? A. I am continuing as an editor of Masses and Main Stream.

Q. Have you any other occupation? A. Well, I serve also as managing editor, at the moment, of Political Affairs.

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Q. Have you published any books, other than the ones you have already mentioned? A. Yes, I have.

Q. What books, and when were they published? A. In terms of books published, that is, written by me and published by others, there are, in addition to those

15439 mentioned, a book called Essays and the History of the American Negro, that appeared in 1945. Another book was called "The Negro People in America," which is a critique of Gunnar Myral's "An American Dilemma," that appeared in 1946.

In 1948, the book called "To Be Free;" and in 1951, a two-volume work, "The Documentary History of the Negro People in the United States."

Those were the books which I have written so far.

Q. Now, what pamphlets have you written? By the way, on the book entitled, "To Be Free," on what subject was that written? A. It is in the field of American Negro history.

Q. Now, so that we may have for the record, now, who were the publishers of these books? "Essays and History of the American Negro People"? A. That was published by International Publishers.

Q. And "The Negro People of America"? A. International.

Q. And "To Be Free"? A. International.

Q. And "Documentary History of the Negro People in the United States"? A. That is published by Citadel Press, in New York.

Q. Now, you will tell us what pamphlets of yours have been published, and at the same time give us the
15440 publishing house? A. The first pamphlet of mine is called "The Negro in the Civil War." That was published by International Publishers in 1938.

The next was called "Negro Slave Revolts in the United States, 1526 to 1860," the same publisher, in 1939.

That was followed by "The Negro in the American Revolution," the same publisher, in 1940.

Then appeared "The Negro and the Abolitionist Movement," the same publisher, in 1941.

I believe that the next pamphlet, a rather long one, was "Negro Casualties in the Civil War," which was published by the Associated Publishers here in Washington.

That was followed by "The Negro in the Union Navy," in 1946, I think, also Associated Publishers here in Washington.

There are one or two more. One was called "Why Defend the Rights of Communists?" That was published by New Century Publishers in 1949.

Another pamphlet was called "The Schle ıger Fraud," a critique of his "Vital Center." That was in 1950.

The last pamphlet was called "America's Racist Laws," 1951, published by Masses and Main Stream.

Q. Do you have now any books in preparation for which publications you have already contracted? A. Yes.

Q. What are they? A. One contracted for is "A
15441 History of the People of the United States." That is due next year, if I can finish it.

Q. Contracted with whom? A. It is contracted with International.

The other is another volume in the "Documentary History of the Negro People in the United States." That is contracted by Citadel.

Another is a book of essays, which is almost done. It is called "After Reconstruction," and it is contracted for with International Publishers.

There are others scheduled, but not contracted for.

Q. Those are books that you are working on but not contracted for? A. That is right.

Q. On what subjects? A. Well, I am working on a collection of my essays in the field of Marxism-Leninism generally, and in the field of current events, which I have published in various publications.

I also was asked by Dr. DuBois to edit his letters, of which there are over 100,000, and I am actively engaged in that, for publication.

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15442 Q. Now, I am not going to ask you to name all of your articles, but can you give us an estimate of the number of articles that have been published in various publications? A. Certainly scores; possibly hundreds: I frankly—I have never counted them. Many and many score, let me answer it that way.

Q. Well, will you tell us the names of the publications in which these articles have appeared, not all, but—A. Some of them?

15443 Q. —some of the highlights. A. I have had articles and reviews in The American Historical Review; in the Political Science Quarterly; in The American Scholar; in The Journal of Negro History; the Journal of Negro Education; in the old New Masses; Political Affiairs; Masses and Main Stream; Main Stream; Opportunity, which is published by the National Urban League; Phylon, which is published at Atlanta; Pennsylvania Magazine of History, which is published by thte Historical Society of Pennsylvania; and others.

Q. Have you had anything appear in the American Scholar? A. Yes, sir.

Q. And in Political Affairs? A. Yes. I believe I named that.

Q. Now, what has been the field of these articles, in general? A. Well, in general, they have been history, economics, philosophy, sociology, one or two in psychology.

Q. Any dealing with current events? A. Oh, yes, a great many.

Q. Have you written any articles on Marxist-
15444 Leninist theory? A. Yes, articles specifically devoted to this, many, and most of the articles based upon this science or concept.

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Q. Now, will you tell us some of the places where you have been invited to lecture and on what subjects, and where you have lectured? A. I have lectured at dozens of universities in our country. Shall I name some of the universities?

Q. Yes. A. Well, I have lectured at Columbia University; Brooklyn College; Yale; Harvard; at Boston College; University of North Carolina; Wayne; University of Minnesota; of Michigan; San Francisco City College; North Carolina College for Negroes; Benedict College in South Carolina; Allen University in South Carolina; and more.

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15446 Q. Have you received any scholarly awards; and if so, what are they? A. I have received some honors of that nature.

Q. Besides the Guggenheim Fellowship. A. Well, for example, I received the History award of the Asso-
15447 ciation for the Study of Negro Life and History, in 1940. There have been such occasional awards.

Q. Have you been a teacher? A. Yes, I have been a teacher.

Q. Do you now teach? A. Yes, I do.

Q. Where do you now teach? A. I now teach at the Jefferson School of Social Science in New York City.

Q. What is the Jefferson School of Social Science? A. It is a school of adult education with a generally Marxist-Leninist orientation in terms of its faculty and the direction of its teaching.

Q. How long have you been teaching there? A. Since my return, which would be 1946; since 1946.

Q. What courses do you teach there now?

Well, let me put it this way: What courses have you taught there since 1946? A. I have taught the following: History of the American Negro People; History of the United States; A History of the Americas, which was based on Mr. Foster's Outlined Political History—of course, we use many other books; a course on The Philosophy of History, which is an analysis of current philosophies of history, and of historical materialism. There was also a course which I teach, of a somewhat advanced nature. It is a
15448 seminar course, on Methods of Writing History and Methods of Performing Research in History.

I think that covers what I have taught at the school.

Q. Where else have you taught? A. I have also taught at regular Communist Party schools; National Training Schools, State Training Schools.

Q. And what subjects have you taught there? A. A great many; many of those that I have indicated at the Jefferson School, and particular lectures that I have been invited to give before Party schools on certain aspects of Marxism-

Leninism—the theory of revolution, for instance. I have discussed that several times.

Q. Have your writings and teachings been in any particular recognized school of thought? A. Yes. Ever since I have begun writing, the orientation has been Marxist-Leninist, growingly so, I hope.

Q. Do your writings and teachings reflect the principles of Marxism-Leninism? A. Yes.

Q. Have you studied Marxism-Leninism principles and history? A. Yes, I have.

Q. And in what way have you studied the prin-
15449 ciples and history of Marxism-Leninism? A. Well, I devoted my whole life to that. I am not positive when you say "in what way." I read it, conversed about it, conferred about it, written about it, and lived it. That has been my life.

Q. Well, do you make use of Marxist literature in your work? A. All of the time.

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15480 Q. Did Marx and Engels take any steps to obtain adherents to their principles?

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15481 A. They helped organize Communist leagues, the international workman's association, clubs. They helped organize Communist clubs in this country in 1857. The first Communist club that was founded was called that, in New York City. This was founded by a man who was a friend of Marx, a Marxist, Weydemyer. . . .

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Q. What else was done by Marx and Engels in their relationship to the United States in that period? A. Marx and Engels both had close relationship to the United States throughout their lives. Both wrote for American newspapers. I think I said they corresponded, I said Marx did. Engels did, also, for the New York Tribune. Many of the leading features in the editorial pages of the New

15482 York Tribune in the 1850's were actually written by either Marx or Engels. They also wrote for German language publications in the United States. For example, one of Marx's books, "The 18th Brumaire," first appeared in print in United States. They were, both Marx and Engels, were influential in terms even of the founding of the Republican Party, directly and in terms of Marxists who were here. The Marxists who were here constituted the left wing of the young and virile Republican Party. Marx and Engels were very active, personally and through adherents here in the development of the abolitionist movement. Marx and Engels were very active indeed during the Civil War, and very influential. Let me just briefly indicate that, if I may, in terms of your question.

Marx and Engels were leaders in organizing the European working class and especially the British working class, they were living there, in resisting efforts by the reactionary governments of England and of France, the efforts of those governments to fully support the confederate government. Indeed to the point of open recognition and even war against the United States. The governments were anxious for this on the whole. The working class of England and France resisted this, and indeed said that if England and France went into such a war on the side of the Confederacy it would be unjust because it would favor slavery, and the
15483 working class said that they would not support such a war. There were great strikes, demonstrations, petitions and so on. The historic fact is that Marx and Engels led in the organization of that, through the International Workingmen's Organization, which by the way the United States Government knew and appreciated. Marx corresponded with Lincoln, Marx with Lincoln, Lincoln with Marx. The ambassador of the U. S. in London personally saw Marx and handed him correspondence from Lincoln, personally expressing gratitude on behalf of the sovereignty of our country. This is another typical example of this type of relationship.

Let me if I may mention one more, and these are by no means exhaustive, just to indicate this. As I said, Marx and Engels devoted their lives to working class activity and trade union activity. It is a fact that the trade union movement here grew very much during and after the Civil War, and Marx was especially interested in that and corresponded with the leading American labor figures and trade union figures, especially William H. Sylvis, who was the founder of the National Labor Union in this country. That was the first national federation of trade unions.

Sylvis, as a matter of fact, was moving close to the ideas of Marxism before his early death in 1869.

Now, they corresponded and they correspond especially as to the nature of trade union activity, and such things as the 8-hour demand in the movement. As a matter
15484 of fact, there is a reference to that even in Capital, and if I will be permitted to do so, I will just briefly mention it, even in this basic work. It happens to be on page 329. I noted it here where Marx refers to the Civil War in the United States and issues his classical formulation, labor can not emancipate itself in the white skin where in the black it is branded, and then he points to the developments of the trade union movement as I have just done, and he specifically mentions with pride the fact that the national labor union convention in Baltimore, in 1866, had a program similar to that of the International Workingmen's Association, which met the same year in Geneva, both of them coming out for an 8-hour day and so on.

Now, this was a reflection of the actual demands of the working class in both countries, but it was also a reflection of the interests of Marx in the United States and actually working together, and as I repeat, they corresponded with the other until Sylvis' death in 1869.

These are some examples. There are others, throughout the lives of Marx and Engels.

Q: Will you tell us something more about the American Marxists of that period? You told us about Weydemeyer.

Did he become a general later? A. He rose to the rank of Lieutenant Colonel in the Union Army under Lincoln. He was stationed in St. Louis with General Fremont.

15485 There were others, Jacoby, Sorge, a man named Douai, who was a physician, lived in Texas and other Communists. They called themselves Communists then, a hundred years ago, lived in this country, organized and took prominent part in democratic working class movements, including the formation of the Republican Party.

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15491 Q. At the time of the recess, Doctor, we had the following question. I said in their time, that is Marx's and Engels', were there any rival theories which attempted to attract the adherents of the working class, which purported to be in the interests of the working class, and what were those rival theories? To save time, if there were such rival theories, after you tell us what they

15492 were, tell us what the controversy was between Marxism and these theories.

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A. I would like to mention the names of one or two of the leaders of these movements because they directly impinge on Marxist development. For example, Bakunin, a contemporary of Marx, was an anarchist. Most, also a contemporary, was an anarchist. But Baukunin was a Russian, Most German. Another is Blanqui, a Frenchman. Another is Sorel, also a Frenchman.

Now, these men appear and reappear in Marxist-Leninist literature. The men also appear in terms of the biography of Marx and Engels, that is, they were contemporaries and they were in conflict, organizationally and ideologi-

15493 cally.

Now, the fact is that Marxism from its beginning denounced concepts of conspiracy, denounced and bitterly fought, and always has bitterly fought, against concepts of anarchism and against concepts of terrorism. This was

true in the founding of Marxism. It is one of the ways, in fact, that Marxism was founded. It came into being in opposition to such theories. And its history, throughout in every country, not least in our country, has been history of opposition to these concepts.

In terms of your question as to the fundamental reasons for the argument, what they had at issue, the fundamental point is that Marxism, from its beginnings, as is stated in the Communist Manifesto, the Communist movement, says the Manifesto, is the movement of the vast majority in the interests of the vast majority. From its very beginning it has thought of itself as a democratic mass movement. If it is a democratic mass movement, that means that you have to win the consent of the people. It means, therefore, that it not only can't advocate conspiracy, but it must fight against the concept of conspiracy. It means also from the same point of view that it must be opposed to anarchism and to terrorism, because it is a movement which is grounded in mass persuasion, in winning over the mass of the people, to their point of view.

15494 Now, if it is such a movement, obviously terrorism, anarchism, conspiracy, are not only not part of Marxism, but the point I am trying to get the Panel to see if I can, not only that they are not part of it but that Marxism is organically, philosophically, opposed and must be to concepts of conspiracy, and anarchism, terrorism and so on.

If I may just put my finger on one or two very brief citations to give some idea of this, it will take a minute. But as I say, it recurs throughout Marxist-Leninist literature. Let me give one or two examples.

I remarked that Marx wrote for the Tribune. Here is an article which Marx wrote for the New York Tribune November 25, 1851, and he says: "The times of the superstition which attributed revolution to the will of a few agitators have long passed away. Every one knows nowadays that wherever there is a revolutionary convulsion there must be

some social want in the background which is prevented by outworn institutions from satisfying itself."

Or to take another example. Here is Engels in a letter dated London, April 23, 1885. He is referring to Blanquism. I have already mentioned Louis Blanqui. Blanquism was the concept of the conspiratorial seizure of power by force. Engels' letter, which is quite typical, refers to Blanquism: "The fantasy of overturning an entire society through the action of a small conspiracy." I have one or two
15495 others. For instance, there is a well known classic in Marxist literature by Lenin which is called "What Is To Be Done." It is written in 1902. One of the main points of "What Is To Be Done" is the expression by Lenin in the time of the Czarist tyranny, where there were movements of terror, the expression by Lenin of the typical, well understood, Marxist opposition to terrorism. In this case in Russia it took the form of what was called Nihilism, and as I say, one of the points of Lenin's book, and especially if anyone wants to look at it, page 52 of this book, takes specific opposition to the ideas of terrorism.

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15505 Q. Give us a contribution to the science of Marxism and Leninism, by Foster, William Z. Foster. A. Here there have been several. Let's see if I can put this very briefly and in a nutshell. I would say that one of the greatest contributions of William Z. Foster was his genius, which is not asserted only by Communists by any means, his genius in terms of trade union organization, particularly industrial organization. William Z. Foster is an historic name in American history, not only or simply because of his leadership in the Communist movement, but, as I am confident any historian would say of any persuasion, in terms of his help in the development of the American trade union movement. Foster, of course, was the great organizer of the great steel strike of 1919. This is one.

I would say that a second great contribution of Foster, specifically in the United States, was his keen principle of

continuous resistance to any concept of exceptionalism, which has a particular hold, it still has, in the United States. That is, Foster's insistance upon the universality of Marxism-Leninism, upon its full applicability to the United States, the United States is not exceptional, and that Marxism-Leninism applies here as it does to the rest of the world.

He has a genius of persistence, of consistency, in
15506 this, and his concept of class struggle, that this is the core of society, reaches tremendous heights in terms of its devotion and selflessness, and clarity, so that tactically and theoretically Foster's contributions to Marxism-Leninism have been nothing short of remarkable.

One other instance, again as a footnote, his fight, for instance against Keynesism, a leading theoretician of certain approaches to capitalistic economics, a British economist.

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15515 Q. Does this mean that Marxism-Leninism does not distinguish between capitalist governments? A. No, on the contrary.

Q. Does it distinguish? A. Yes.

Q. Will you illustrate that? A. Well, Marxism-Leninism is filled, for instance from the very Communist Manifesto up, with great concern for the development of the rights of the people. May I just indicate, for instance: Lenin writes a letter to the American workers, it was published in pamphlet. One of the main points of his letter is to hail the American people, the American working class, because they have an advanced kind of a democratic government, bourgeois but with great democracy, and he refers to the liberating influence of our American revolution and our civil war. In other words, Marxism is partisan from principle to democracy, and the greater the rights of the people,
15516 the more Marxism loves it and fights for it and is devoted to it. So it distinguishes between bourgeoise governments.

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15537 Q. Now, you have testified concerning these changes in Marxist-Leninist theory as the years have gone by. You have told us of the various changes and given us some illustrations of the various changes.

15538 In teaching Marxism-Leninism do you have occasion to use works which antedate these changes? A. Yes.

Q. Published works? A. Yes.

Q. Well, why do you use these works that antedate these changes and how do you use them? A. They are used to illuminate the changes. For example, that is if something changes and you want to understand the nature of the change, you want to know what was it that changed. You can't just present somebody with something and say, "This is the change." Anybody with a normal amount of curiosity would say, "Well, what was it before so that I can understand it." This is one very simple usage. The other is historic. You want to have some knowledge of the whole Marxist-Leninist development. That is the very simple reason for using that.

Q. Well, can you tell us what use is made by the Communist Party during your period as a teacher in the Communist schools of the 21 conditions of the Communist International? A. Purely historic, purely historic, and that is all they are. To indicate this period, very early period—what is it, about 30 years ago or more than that?—of these conditions

15539 of the International at that time. That is the only use, basically.

Q. And what use has been made and is made by you and other teachers and by members of the Communist Party, leaders, of the Communist Party, of the resolutions of the 6th World Congress of the Communist International? A. They are studied, some elements in them have some applicability, but there has been a 7th—

Q. Seventh what? A. World Congress, and the whole content, the essence of the content of the 6th World Congress is outmoded and is not taught—certainly I never taught it in

any Communist school, in any sense very much more than an historic document of the history of the Communist.

Q. What about J. Peters' Manual? A. I never saw that. I never saw J. Peters' Manual personally. I know that I never used it in teaching. I know it has never been used in teaching by me.

Q. Do you know if others use it in the schools? A. Sir?

Q. Do others use it in the schools? A. No, it is never used. I have never seen it. I have never seen it. I have never seen it used.

Q. What about Olgin's "Why Communism"? A. The same is true. I saw that, it is not correct to say I
15540 never saw it. I saw it, although I may have glanced through it. But it most certainly was never used in schools, never used in teaching.

Q. What was the occasion of your seeing it? A. In the course of general studies.

Q. Did you teach from it? A. No.

Q. Did others teach from it? A. No.

Q. Do they teach it? A. Pardon?

Q. Do they teach it? A. No.

Q. What about Foster's book "Toward a Soviet America"? A. That is another rather early book, which, as it happens, I have not personally read, which Mr. Foster, I know, had several times to say was obsolete, and which was not used in teaching.

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15545 Q. Will you mention some of these working class parties besides the one that you have just mentioned that have taken place in the United States? A. In addition to the Workingmen's Party, there was, for example, the Labor Reform Party, of which Wendell Phillips was a leader in the post-Civil War period. There was the Union Labor Party which was led by Henry George, the writer of Progress and Poverty in New York City. There has been the Social Democratic Party, which was formed in the 1890's. This merged with other groups in 1900, as the Socialist

Party, in 1919—the Communist Party. Back in the year 1870 there was a Socialist Labor Party, which later was headed by Daniel DeLeon, 1870. There have been many workingmen's parties, as well, of course, as farmers' parties, and sometimes farmer labor parties as there are still, for instance, in Wisconsin.

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15546 Q. Now, what does the Communist Party teach are the democratic traditions of Jefferson, Paine, Lincoln and Frederic Douglass which are carried forward? A. Essentially the following: It points out that Thomas Jefferson and Thomas Paine were great leaders of the great democratic revolution. It points out, of course, that Jefferson was the leading author of an immortal manifesto of revolution, the Declaration of Independence. It points out, and I have pointed it out in my teaching many, many times and in my writing, that some of the essential traditions of Jefferson and Paine, democratic traditions, are, first
15547 of all, the urging of political freedom, the essence of no taxation without representation, the urging of the right to national self-determination. Jefferson and Paine were leaders of the revolution which had as one of its bases the coming into being of a new nationality, the American, and the democratic right of that new nationality to self-determination, to freedom, to freedom from British monarchial rule. That is the second great democratic tradition.

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15549 The point that we emphasize is a classical example of the force and violence coming from the reactionaries with a mass of the people legally, even within the constitutional limits of the British monarchy, demanding the rights of Englishmen. The crown is the one which uses the force and violence, and the people, finally, after much provocation, take up arms in defense of what? In defense of their lives, and their being and their rights of English-

men. We emphasize time after time that it is important to observe that the revolutionary demands of separation from England does not come in until July, 1776, and the battle of Lexington is fought in April 1775. In other words, it does not come except as objective conditions, and the fact that the King has sent soldiers and has outlawed these people and said if we catch Jefferson we will hang him, it doesn't come until there is no alternative, just the self-defense, this organization of resistance. This we point to as one of the contributions of Jefferson.

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15637 Q. Now, as a Marxist-Leninist scholar, will you tell us how Marxists understand Lenin's reference to aesopian language? A. Yes.

Q. Will you tell us, please? A. It occurs in a footnote, I think, in the very beginning of Imperialism, as I recall.

Q. It is in evidence. I will show you the exhibit.

MR. ABT: Exhibit 140. (Document handed witness)

THE WITNESS: Yes, it is right at the beginning.

By MR. MARCANTONIO:

Q. Go ahead. A. Marxist-Leninists understand it in the way in which it is printed here, which seems to be clear to me,

15638 and that is this way: Not in terms of deception, just as Aesop himself, from which this derived, did not write in terms of deception. In his stories he was not trying to fool anybody, he was trying rather to illuminate by the use of allegory. That is the fundamental point, to illuminate, not to confuse and not to distort but to light up.

Now, in terms of the use of this under czarist tyranny and under censorship only, and in such cases even there, and as it must be, the use, I think, specifically—For example, Lenin cites Japanese imperialism instead of citing Russian imperialism.

I think, as a matter of fact, that is the specific and only usage that he makes, which is what he is talking about.

Now, is there any distortion in this, any hiding? He is analyzing imperialism. There is the czarist tyranny. If he says Russian it will not be allowed, you cannot distribute it, you cannot get your message at all. If he says Japanese under such conditions, the analysis of imperialism is in no way hidden or distorted.

In other words, there is no substantive deception, there is no deception at all in this sense. This is what the aesopian means.

It is a means of getting through so that you can illuminate and get your message to the people notwithstanding
15639 even czarist tyrannical censorship. Not to keep the people from getting your message, or some sort of double talk, or see that you missinform them and they don't know what you are talking about—no. It is the contrary. It is to get to them and tell them what you are talking about despite this obstacle placed by the czar.

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15646 Q. How does Marxism-Leninism define imperialism? A. Marxism-Leninism puts its definition very briefly right on the title of this exhibit (Indicating) Lenin called Imperialism, in his classical work, the subtitle, the highest stage of capitalism. That is, we see it as the moribund stage, the stage where it is on its way out, the last stage. That is part of our definition.

We see imperialism in terms of our definition as the time of monopoly capitalism, this is central to our definition, monopoly capitalism. We define imperialism, then, in this way: A social order is imperialist when its basic economy, its fundamental means of production, its industry and so on, is controlled, monopolistically, by a handful.
15647 That is number one.

Number two, when the monopolistic control of industry merges with the financial control of the same industrial monopolists, that is, a heightening of the oligarchy, so that the financiers are the center of control. Marxism-Len-

inism also defines imperialism in terms of this stage of monopoly capitalism where the territory of the world is already completely divided, it is already parceled out.

This is characteristic of the era of imperialism, characteristic also of imperialism in terms of the definition is the glaring fact and the glaring necessity for the imperialists, of the exportation of capital, especially the exportation of financial capital, that is, of investments overseas.

Fundamental also to our concept of imperialism is following from this its aggressive expansionistic, fundamentally war-like nature in terms of getting colonies held by others, taking them, for power, for investment, for strategic materials.

This is the essence of the definition of imperialism, added to which ideologically are such things as typical reflections of racism and chauvanism, in imperialism.

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15668 Q. Was there ever a period when the Communists of the United States ceased to characterize the United States Government as imperialist? A. No.

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15669-A Q. Have any non-communists, Americans, taken a position on the relation of American imperialists, and the danger of war?

MR. PAISLEY: I object to that. Many people might take the same view that the Communist Party does.

MR. BROWN: Objection sustained.

MR. ABT: May I ask for the record, Mr. Chairman, because this question came up as the Panel will recall, during the cross-examination of Dr. Mosely, when we attempted to bring out the same facts, that is to say, that non-Communist Americans took the same position on one subject matter or another, one policy or another, as the Communist Party, and a similar objection was made by the Petitioner at that time. After lengthy argument, the Panel sustained the objection of the Petitioner at that time. Do I understand the Panel is making the same ruling at this time in our affirmative case

and for the reasons indicated then that it did in connection with our cross-examination?

MR. BROWN: Yes, sir.

By MR. MARCANTONIO:

Q. Have non-Communist Americans taken a position on other aspects of American imperialism similar to that position taken by the Communists of the United States?

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15670 MR. PARLEY: Same objection.

MR. BROWN: Sustained.

MR. ABT: Mr. Chairman, I think in view of the Chair's ruling we will eliminate any further questions along that line.

MR. BROWN: Very well.

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15699 **Elizabeth Gurley Flynn** was called as a witness, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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By MR. MARCANTONIO:

15750 Q. Are you now a member of the National Committee of the Communist Party? A. I am.

Q. When were you first named to that post?

15751 A. I was elected to that post in the 1938 convention of the Communist Party.

Q. Have you been a National Committee member continuously since that time? A. I have.

Q. Will you state the times when you were re-elected? A. I was re-elected at every convention of the Communist party where elections were held. I think there was one or two conventions that were emergency conventions that we didn't hold elections. But whenever elections were held, that would probably have been 1940, 1942, '44, '46, '48 and '50.

Q. Were you also a member of the National Committee of the Communist Political Association? A. We didn't call it National Committee.

Q. National Board. A. During that period it was National Board, I think, or there was some title of vice president that went along with the change, something like that.

Q. But you were a member of the National Board? A. Yes, whatever the governing body was, I was a member of it. I have been uninterruptedly a member of the governing body of the Communist Party since 1938.

15752 Q. Have you been a member of the National Board of the Communist Party? A. Yes, I have been.

Q. During what period? A. It was then called the Political Bureau, and I was elected to it in 1941, when Earl Browder went to Atlanta. I replaced him on the Political Bureau. Subsequently I was re-elected up to and including 1946. Then there was an interim period when I was not a member of the Board, and was re-elected to the National Committee which replaced the Board in 1948.

Q. What other positions have you held in the Communist Party? A. I have also been Chairman of the Women's Commission of the Communist Party since 1945, and Chairman of the Defense Commission of the Communist Party since 1948.

. . . . . .

15756 Q. Have you ever been a candidate for public office? A. Yes, I ran for Congress at large here in New York in the year 1942.

Q. On what ticket? A. On the Communist Party ticket.

15757 Q. Did you campaign? A. I campaigned very actively and energetically. Q. What was your platform? A. It was win the war. I made a special appeal for the votes of women, that there should be provision made for child care facilities for women workers. I particularly campaigned on that, because it was a burning need of the women workers in the war production industries.

Also for price control, and for the popular issue which particularly concerned women as voters, and also naturally appealing to the men as voters as well. It was a win the war year, and it was a year in which the Communist Party was identified with the struggle against fascism in every way.

Q. How many votes did you receive? A. I received about 50,000 votes.

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15761 Q. Have you ever been abroad? A. Yes, I have been abroad three times. That is abroad in the sense of going to Europe, I mean.

Q. Yes. A. Because I had been to Canada quite a number of times.

Q. Other than Canada. A. Other than Canada, yes.

Q. Will you tell us the years that you went abroad? A. The years 1945, 1949 and 1950.

Q. Did you obtain passports for these trips? A. Yes, I obtained a passport in 1945, which I renewed in 1949 and then another passport because the first one had expired in 1950.

Q. Under what name did you obtain these passports? A. Under my own name, Elizabeth Gurley Flynn.

Q. In your applications did you advise the State Department of the countries you intended to visit? A. Yes.

Q. Did you advise them truthfully? A. I did.

Q. What was the occasion for your 1945 trip? A. In 194.. I was one of a delegation, I think about 12 or 13 women, who went to a women's congress for peace in Paris.

15762 It was called by a number of women of European countries who had been in concentration camps and prisons and who issued this call, the largest number of whom were French women. A nonpartisan delegation was organized here, representing various organizations, and I went as a representative of the Communist Party on that delegation.

Q. What was the name of that organization? A. The organization that was formed there at this Congress of Women was the Women's International Democratic Federation. It was set up at that convention and conference and has continued to exist to the present time.

Q. Will you give us the name of some of the other members of the American delegation? A. Yes. Mrs. Muriel Draper, Dr. Jean Wellfish, Mrs. Gifford Pinchot.

. . . . . .

THE WITNESS: Dr. Charlotte Hawkins Brown, Miss Thelma Dale, Mrs. Jeanette Turner. There was a young newspaper woman whose name I don't remember. Mrs. Vivian Mason, and then a WAC in the Army joined us in Paris who represented the CIO auxiliaries from Los Angeles.

15763 BY MR. MARCANTONIO:

Q. Was Mrs. Frederick March on that delegation? A. Yes.

Q. And Dr. Beryl Parker? A. And Dr. Beryl Parker, 13 in all.

Q. Henrietta Buckmaster, the writer? A. Yes.

Q. Dr. Charlotte Hawkins Brown? A. Yes, I mentioned her, educator from the South.

. . . . . .

15765 Q. How long did you remain abroad that time?

A. We were gone about three weeks, maybe a little longer, because it took a long time to come back.

Q. What country did you visit other than France? A. On the way over we stopped in England overnight or from Saturday night to Monday morning. That is the only country that I visited.

Q. Did you attend a convention of the British
15766 Communist Party there? A. Yes.

Q. And how did you happen to attend it? A. It was by accident. I called up Mrs. Pollitt, the wife of the General Secretary of the Party, and she told me that there

was a Party Congress going on. So I asked the other delegates if they would like to come with me and some of them said they would and some preferred to see Westminster Abbey, so we took those who wished to go to the Congress, and we were guest visitors there for Sunday afternoon and part of Sunday evening.

Q. So that your capacity at that convention was that of what—a visitor? A. A visitor, yes.

Q. Did you see John Gates there? A. Yes, I did.

Q. Under what circumstances did you see him? A. He apparently was sitting in the gallery and he sent me down a note, "For heaven's sake, don't leave until I see you." So I waited for him in the lobby, and I took him with me to our hotel, the Ravener, I think it was, where we were meeting with a group of the British women who were also going to the convention, and he stayed for a while at the meeting of the American and British women who
15767 were assembled there.

Q. And then he left? A. Yes. He was quite embarrassed to be the only man among all this group of women. We were discussing all women's problems, so after he had asked a lot of questions about family and friends, and what is going on in the United States, he left.

Q. In France, did you meet any leaders of the Communist Party? A. Yes, I did. I think I met the top leaders of the Communist Party and quite a number of the women leaders of the Communist Party, as well.

Q. Did you meet Duclos? A. Yes. Andre Marty, Thorez and his wife, Jeanette Vermersch. She was involved in the Congress. I met quite a number of the French women who were members of the Constituent Assembly. In fact, they took us as their guests.

Q. The constituent assembly of the French Republic? A. Yes, they had not set up the final government yet. It was a temporary government.

Q. What was the occasion of your meeting these Communist leaders? A. There was a very large reception given

for the entire group of delegates to the Women's International Democratic Federation by the French dele-
15768 gation, and I met all three of them at this reception.

Andre Marty spoke English very well, and so I had a good deal of conversation with him. He introduced me to Duclos and Thorez, and I had short conversations with them because naturally other people wanted to talk to them.

Q. You say you did have a conversation with Duclos? A. Yes, I did.

Q. What was said, do you recall? A. As well as I recall, he asked me, "How is Browder's Utopia getting along in America." I said, "It is not doing so very well right now." He asked me how things were in our country, and I told him we had reconstituted our party and that our party was back on its sea legs again, and that we appreciated very much the contribution which he had made to our discussion. He looked a little surprised, and he said, "I didn't write it for you; I wrote it for our French party—"

. . . . . .

15769 The Witness: It was a very short conversation and he said, "I wrote it for our French party because they were in danger of doing the same thing—of coming up out of the resistance movement, and many comrades advocated that we should not reconstitute the Communist Party of France, but we should be a part of the United Popular Front Government. It was necessary for us to carry on a very strong polemic, and we used you as an example." I made an appointment to meet him at a later date, but he had to go away to speak some place, and I did not see him on that trip again.

. . . . . .

15770 Q. What was the occasion for your 1949 trip? A. In 1949, I went over to attend a birthday party, the 80th birthday party of Marcel Cachin, who was the chief editor of Humanite, the Communist daily of Paris. From all parties all over the world people came there, mostly Com-

munists who were connected with newspapers, although we brought the greetings of our party, too, but since he was an editor, the editors of the papers, like L'Unita, of Italy, and other papers were represented there at this very festive and gala occasion.

Q. How long did you remain? A. I stayed a week that time and returned.

Q. What did you do during that week? A. During that week I saw the leaders of the Communist Party. I don't think I saw Marty this time. I think he was away. I saw Thorez and Duclos and the women leaders of the
15771 Party. I had consultations with the women leaders.

Q. Did you visit any other country in 1949 when you were in France? A. No. In 1949 I returned immediately.

Q. What was the occasion of your 1950 trip? A. On the 1950 trip, I went to the Congress of the French Communist Party, which was held at a suburb of Paris, Glennvilliers. On all of these occasions I went to write articles for the Daily Worker. I wrote a large number of articles on all of these occasions. I also went fraternally representing the Communist Party, in a dual capacity.

Q. How long did you remain abroad? A. That visit was, I think, about three weeks, too, I believe. We were there over Easter holiday.

Q. Did you visit any other countries? A. Yes, over the weekend I went over to London, England, and again it seems coincidental, but it is a fact that there was a London Party Congress going on which I had not known about, and which they whisked me off to, a postman's holiday, and I made a speech at that Congress.

Q. What did you speak about, incidentally, at that Congress? A. I brought greetings from the American
15772 Party to the British Party, and I spoke about our common interest to establish peace in the world and spoke about some of the problems that we were having in our country which were analogous to some of the problems which they have there, of building a united front, and fight-

ing for the economic demands of the workers. They were still very bad off. They still had rationing and many grievances.

Q. When you were in Paris in 1950, what did you do? A. You mean besides the Congress or at the Congress?

Q. You attended the Congress. A. Yes, and I spoke shortly, about five minutes, greetings from the American Party to the French Party.

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15773 Q. Did you meet any representatives of the Communist Information Bureau on any of these trips? A. No, I did not.

Q. Did you make any report on the work of the Communist Party of the United States to any Communist of a foreign country on any of these trips? A. No, I would not consider my conversations were reports. They were merely an exchange of experiences, conversations like any two people would have with certain common interest, in which I asked questions and they asked questions.

Q. Did you on any of these occasions receive any instructions or in effect on any of these occasions receive any instructions or directives from any Communist of a foreign country on any of these trips or any other time? A. No, emphatically not.

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15774 Q. To whom do you owe allegiance? A. I owe allegiance to the American people.

Q. Do you owe allegiance to any foreign power? A. No, no foreign power whatsoever. I admit I have a soft spot for Ireland.

Q. Do you consider that there is any relation between allegiance to the United States of America and support of the national administration that is in power at any particular time?

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15774-A A. They are not necessarily synonymous, no. I would consider that sometimes my allegiance to the American people, to my country, might be at variance with a particular administration's policy.

Q. Do you consider that there is anything inconsistent or contradictory between your allegiance to the United
15775 States American people and your membership in the Communist Party? A. No, I do not. In fact, I consider that my membership in the Communist Party is part of my devotion to and allegiance to the best interests of the American people.

Q. Do you consider that there is anything inconsistent or contradictory between your allegiance to the United States of America and your opposition to the foreign policies of the present administration? A. No, I do not consider that there is any opposition or any inconsistency between my allegiance to the American people and the foreign policy of the Truman administration. Rather the other way around, that anyone, it would seem to me, who is truly devoted to the best interests of the American people must challenge the foreign policy of the Truman Administration and the bipartisan policy which it exemplifies at the present time.

Q. Has the Communist Party ever knowingly deviated from the views and policies of the Soviet Union?

. . . . . .

15776 THE WITNESS: I don't think that is a question that you can answer yes or no, Mr. Marcantonio. I think it requires an explanation.

By MR. MARCANTONIO:

Q. Give us the answer as you want to give it. A. It depends upon what standard one has from which there is an alleged deviation. My standard is, as I have said, whatever is for the benefit of the American people as I view it, and as my Party views it may coincide with the policies of other peoples and other governments, and if it so coincides, it is not necessarily prearranged or pre-decided, but it is because

the best interests of other peoples and the American people are synonymous.

I couldn't say whether we have deviated from everything that the Soviet Union has stood for or not, because I don't know everything that the Soviet Union stands for.

On foreign policy, it is very likely that we have not differed where the Soviet Union stood for peace and stood for the best interests of their people, it would coincide with the best interests of other peoples in the world. That is to say, I think the interests of peoples everywhere in the world are bound to be more or less identical.

. . . . . .

15777 Q. Have you completed your answer on that question? A. I could answer at considerable length. I tried to make it brief If you want me to elaborate, I certainly would be glad to do so.

My understanding of the foreign policies of the Soviet Union, as enunciated in the press, are that they are policies for peace. Our policies, that is, the policies of the American people and of the Communist Party are policies for peace. In that sense, they coordinate or agree, and I see no reason why they should not.

Other peoples, the peoples of France and Italy are also peoples who are struggling for peace, and there are many times, like on the question of quarantining the aggressors, opening up the second front, and things of that sort, where it seemed that there was agreement among the peoples of the world, including the peoples of the Soviet Union, on how best to defeat fascism.

. . . . . .

15778 Q. Did you attend the special convention of the Communist Party in 1940, at which a resolution was adopted disaffiliating the Communist Party from the Communist Internationale? A. Yes, I did. I think I was Chairman of that Convention.

Q. Was the subject matter of such disaffiliation discussed by the National Committee prior to the convention? A. Yes,

it was discussed at considerable length by the National Committee prior to this convention and the convention was called an emergency, special convention for the purpose of presenting it to the delegates of the Party from all over the country, that is, the motion of disaffiliation.

Q. Was anything said at the National Committee meeting with reference to the relations which would exist after disaffiliation between the Communist Party and the Communist International. A. It was clearly understood that there would be no further relations between the Communist Internationale and the Communist Party of the
15779 United States as a body. That did not mean that we did not have comradely feelings towards the Communist Parties of the other countries in the world and were no longer interested in anything that they were doing, but that we had no further official delegation, representation on the Communist Internationale, and that we had no further official relationships with them of any sort whatsoever. It was an open and public disaffiliation.

Q. Did Browder say at the National Committee meeting that after disaffiliation, the relations between the Communist Party and the Communist Internationale would remain exactly as in the past? A. No, he definitely did not say that.

Q. Did he say anything to that effect? A. No, he didn't say anything to that effect. But he said something that might be misinterpreted or deliberately perverted to mean something like that if one wished to twist his words.

Q. If you recall, will you give us the words Mr. Browder used? A. I recall quite clearly what he said. He said that the Communist Party of the United States still believes in international solidarity, and that wherever we were called upon we would express this solidarity for the aims and purposes of other Parties, but there was no such remark that the relationships would remain unchanged, because
15780 the action definitely changed the relationships.

Q. This statement that you are quoting of Browder was made by him where—at the National Committee?

A. At this special convention, and also at the National Committee meeting.

Q. That preceded the convention? A. Which preceded the convention, yes.

Q. Did any other leader of the Communist Party ever state in substance and effect that there would be no changes in the relationships between the Communist Party and the Communist International after disaffiliation? A. I heard no leader of the Communist Party make any such remark at any time or place.

Q. To your knowledge, what were the relations between the Communist Party and the Communist International after the 1940 special convention? A. There were no further relations, no further delegates went over there to meet in their official meetings, there was no further communication as there would be with an affiliate between the Communist Party and the Communist Internationale, and whatever we knew of them, we knew through the press.

15781 Q. When was the Communist International dissolved, do you know? A. The Communist International was dissolved, I believe, in 1942, that is, two years after our disaffiliation from them.

Q. Are you sure it was 1942 or was it 1943? A. '42 or '43. It was several years later, not too long a period later, but several years later.

Q. How did you first learn of the dissolution? A. I was traveling at the time, and I read a paper in Denver, Colorado. The newspaper reporters brought me a report and asked me to comment on it.

Q. Since 1943, which is the date of the dissolution of the Communist International, had there been any organization which has carried on the functions and activities of the Communist International? A. Not to my knowledge there has been none to carry on the functions of the Communist Internationale.

Q. Have you ever heard of an organization known as the Communist Information Bureau? A. Yes, I have.

Q. Is the Communist Party affiliated with that organization? A. The Communist Party of the United States is not affiliated with the Communist Information Bureau.

Q. Does the Communist Party of the United States pay a part of the money it receives as dues to the Communist Information Bureau? A. No, it does not.

15782 Q. Does the Communist Party of the United States pay or contribute any funds or give any financial assistance directly or indirect or in any manner, shape or form to the Communist Information Bureau? A. No, it does not.

Q. When and how did you first learn of the coming into existence of the Communist Information Bureau? A. As I say, I read of it in the newspaper when I was traveling. It was called to my attention. I think I was at a radio station.

Q. I am not talking about the dissolution of the Communist Internationale. I am now talking of when did you learn of the coming into existence of the Communist Information Bureau? A. The Communist Information Bureau, I think we first heard of that in the press somehow. I don't remember which paper, but in some newspapers.

Q. Did any representative of the Communist Party of the United States attend the first meeting of the Communist Information Bureau back in 1947? A. No, no representative of our Party attended.

Q. Has any representative of your party attended any subsequent meeting of the Communist Information

15783 Bureau? A. No, we have not attended. We have not been invited, and we have not attended.

Q. Has any representative of the Communist Information Bureau visited the United States? A. Not to my knowledge no such person has ever come to this country.

Q. Has the Communist Party of the United States received any written or oral directives or instructions from the Communist Information Bureau? A. I have never heard of such things. No, not to my knowledge. I would know as a member of the National Committee.

Q. You are in a position to know? A. Yes, I would know if there were any such communications.

Q. And your answer to my question is in the negative? A. Absolutely.

Q. Let me ask you this question: Has the Communist Party received any written or oral directions or instructions from any representative of the Communist Information Bureau? A. No, we have not, not anything that I have ever heard of.

Q. And you would be in a position to know? A. I would be in a position to know. Many requests for greetings, conventions, and things like that, and we always
15784 know exactly what they are from brother or sister parties.

Q. Has the Communist Party of the United States received any written communications of any kind from the Communist Information Bureau? A. Not to my knowledge, they have not.

Q. Do you read "Lasting Peace"? A. Quite regularly. I wouldn't say I read every issue of it, but quite regularly.

Q. Does "Lasting Peace" contain any directive or instruction to the Communist Party of the United States? A. It does not, no.

Q. Do you or your fellow members of the National Committee consider any of the contents of "Lasting Peace" as constituting a directive to the Communist Party? A. We do not. We do not, absolutely.

Q. What is your purpose in reading "Lasting Peace." A. It has news of the activities of the various Communist Parties in all parts of the world, especially in Europe. It has news of the trade unions and the working class movement. It has news of the struggle for peace. Occasionally it has news about the activities of women's organizations, and generally it has news of activities of progressive
15785 character in other countries that you would not read in the ordinary American newspaper. So it is of value to a speaker and a writer connected with our Party to read such an organ.

Q. What is the source of your knowledge of the policies and activities of the Communist Information Bureau? A. What is the source of my knowledge?

Q. That is right. A. Just the paper itself, what the paper reports.

Q. When you say the paper, you mean "Lasting Peace"? A. "Lasting Peace," yes.

Q. And with respect to your knowledge as to the structure and methods of functioning of the Communist Information Bureau? A. There are occasional reports from time to time of meetings which they hold in different countries, the representatives of approximately nine Parties, I believe, who are affiliated with it, and reports of what their discussions are and any decisions that they arrive at in connection with their organization are from time to time reported in "Lasting Peace."

Q. Since you have assumed your duties as a member of the National Committee in 1938, has the Communist Party of the United States received any directives or instructions from the Communist Party of the Soviet Union?

15786 A. No, we have not; absolutely not.

Q. From any representative of the Communist Party of the Soviet Union? A. No.

Q. From any official of the Soviet Government? A. No.

Q. From any official or representative of the Communist Party of any other country? A. No.

Q. Or from the Communist Party of any other country? A. No.

Q. Since you assumed office as a member of the National Committee in 1946, has there been a representative of the Communist Internationale in the United States? A. Not to my knowledge there has not been. I never heard of one.

Q. Since that date, has there been any person in the United States who was the equivalent of a representative of the Communist International in the United States? A. No, there has not been.

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15790 Q. Since you assumed your duties as a member of the National Committee, how have the funds of the Communist Party been obtained? A. There are two ways that funds are obtained for the Communist Party. One is through dues, and possibly an assessment around election time, that is, an election assessment, through contributions from a fund drive which is usually held once a year. Sometimes it is necessary twice a year, depending upon how many cases we have and what the needs of the Party are. It is a public fund drive to which we appeal to members
15791 of the Party, sympathizers, friends and anybody else who wants to contribute to the Communist Party's work.

Q. Since you assumed your duties as a member of the National Committee and a member of the National Board, has the Communist Party received any financial aid from the Soviet Government? A. It certainly has not to my knowledge, and I would certainly know.

Q. From any agency of the Soviet Government? A. No.

Q. And from the Communist Party of the Soviet Union? A. No.

Q. And from the Communist Internationale? A. No.

Q. Or from the Communist Information Bureau? A. No.

Q. Or any agency or representative of either the Soviet Government, the Communist Party of the Soviet Union, the Communist Internationale, or the Communist Information Bureau? A. No to all of those questions.

Q. Since the commencement of your tenure of office on the National Committee, has the Communist Party
15792 received financial aid at the direction of any of those that I have mentioned? A. No, we have received no outside financial aid whatsoever from any place outside of the United States.

Q. I will ask the question specifically. Has it received financial aid from any source outside of the United States?

A. No, it has not.

Q. Or any financial aid at the direction of any person or organization outside of the United States? A. No, it has not

to my knowledge, and I think I would be in a position to know.

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15794 Q. During the period of your membership on the National Committee, has the Communist Party ever sent any representative or member to any school, class or institute in the Soviet Union? A. Not during my membership in the National Committee no. That is since 1938.

Q. Has the Communist Party during your membership on the National Committee sent anybody to any Communist school or class or institute in any foreign country? A. No, not that I know of, not in any other country.

Q. To your knowledge, during this period of your membership on the National Committee, has any member or representative of the Communist Party attended

15795 any such school, class or institute? A. You mean Communist schools?

Q. That is right, Communist schools. A. No. Communist GI's attended a lot of schools all around the world, but they were different kinds of schools.

Q. I am talking about the Communist schools abroad. A. Communist schools, no.

Q. During this period has the Communist Party sent any member or representative to the Soviet Union for instruction or training in the principles, policies, strategy or tactics of Communism? A. No, not in the period that I have been a member of the National Committee, there has been no such transaction.

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15801 Q. When and where did you first learn of the Duclos article on the subject of the dissolution of the Communist Party of the United States? A. I think it was from a story in the World Telegram that appeared about April of 1944.

Q. Was that 1944 or 1945? A. 1945.

Q. I want to refresh your recollection. A. You jumped me a year.

Q. The period of May, 1945. A. Yes.

Q. Prior to May 1945, had you heard any discussion of the Browder policy from rank and file members of the Communist Party? A. Yes, I had. There was a good deal of discontent among many of the older members of the Party over the formation of the Communist Political Association. There was a considerable feeling on the part of the foreign born that had been told that they could no longer be members of the Party, many of whom were charter members of the Party. There was discontent among trade unionists, who felt that Browder's concept of a progressive capitalism which would solve all the problems of labor without struggle was a Utopian one, was a fantastic one. As I traveled around speaking, I met quite a good deal of difficulties in
15802 answering questions to Party members and non-Party members. I remember in Camden, New Jersey, for instance, the shipyard workers said to me, "How do you know there are going to be 60 million jobs, just because Browder said so?" "We know the shipyard owners. You don't know them."

I was in Connecticut and heard similar comments the factories are beginning to shut down, and where is this prosperity that we are so sure of. Then I heard a great deal of anxiety among women workers who are being laid off as to whether they would be all thrown out of work and the veterans replace them, and as to whether they would keep their seniority in industry which some of them had won. So there was this sort of general questioning and anxiety among Party members and non-Party members alike as we approached the end of the war, as to just what the postwar period held, and as to whether Browder's prophecies in relation to the postwar period were valid or whether it was just a lot of fantasy on his part. I think the workers had the feeling that there was a lot of fantasy connected with it.

Q. Prior to May, 1945, when you first learned of the Duclos article, were there any discussions in the National Board with reference to the Browder policy? A. Yes, there had been.

Q. Will you tell us about them? A. Yes. Several
15803 members of the National Committee — because a good many of them traveled around, John Williamson traveled around a good deal and he got the same union reactions I got, and he also was organization secretary of the Party—and he said the Party membership was falling off, that is, the CPA membership, and that there was not the same enthusiasm for the Party that there had been previously. He felt that there had to be organizationally a reevaluation of policies. Then I remember that Eugene Dennis and Gil Green, at one meeting, proposed that there should be a special gathering of the National Committee, a plenum, a large meeting of the National Committee, where the whole question of postwar prospectives would be reviewed in light of the changes that were taking place in the country. Benjamin J. Davis, Jr., the Negro leader of our Party, was very much concerned and raised the question as to the rights of the Negro people—were they being properly safeguarded, were there guarantees that they would be safeguarded after the war was over, and what would be the place of Negro people in industry after the war was over, and the returning GI's, especially the Negro GI's were a matter of great concern to Benjamin J. Davis.

I remember some questions on the part of Stachel, but
15804 William Z. Foster, the Chairman of the Party, at every meeting of the National Committee, in one form or another, raised objections to the Browder policy and questioned it.

I remember once he had a list of something like 50 questions that he said the Browder policy did not answer, and would have to be answered before our Party went into the postwar period approaching workers, Negro people, women workers, et cetera, that these questions just simply had to be answered, and that the Browder policy had not answered them.

So I would say that there was quite a ferment and at the same time because we were still in the war and there was a

question of winning the war, it was a controlled and disciplined ferment, because no Communist wanted to do anything to upset the war effort. It was projected to the postwar period, what is going to happen in the postwar period, and will the Browder policies fit the postwar period, and a scepticism, a questioning as to whether that would be possible.

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15807 Q. Were you ever told by anyone that Manuilsky had said that the Communist Party should take guidance from the French Communists? A. No, sir, I never heard of any such thing.

Q. Did anyone ever tell you that Manuilsky had used words to that effect? A. No, not until the witness said so from the stand at Foley Square.

15808 Q. When he was testifying for the government in that case? A. Yes, he was the government witness in that case against the 11 leaders of the Party.

Q. After you first learned of the publication of the Duclos article, did you receive a copy of it? A. Yes, I think first we had mimeographed copies of it, and then it was published in the Daily Worker with an introduction or something by Browder.

Q. Did you read it? A. Yes, I read it very carefully.

Q. Did you consider it a directive or instruction or an order to the American Communists? A. No, I did not. I considered it an article which had been written in a theoretical magazine in France by a leading French Communist, a leader of the resistance movement, a man who was greatly respected, and that naturally we should give it consideration. But I didn't consider it a directive to our party.

Q. And was the Duclos article discussed by the National Committee and the National Board of the Communist Political Association? A. Yes, it was. It was discussed.

Q. You attended the discussions? A. Yes, I at-
15809 tended all of the discussions.

Q. You participated in the discussions? A. Yes.

Q. In that discussion did anyone say that the Duclos article constituted a directive, instruction or order to the American Communists? A. No, quite to the contrary, it was in the spirit which I have expressed, that it was given consideration, that it was an article which was critical, it dealt with certain American policies which we should read and could accept or reject, just as we pleased. It was no directive; it was his opinion. It was one man's opinion in another country.

Q. Did anyone say that it should be considered as a directive or order to the American Communists? A. No, quite to the contrary, that it was not such.

Q. Did anybody say that it was such in that discussion? A. No.

Q. Did anyone use words that were in substance or effect that this article was to be considered as an instruction, directive or order? A. No, no such language was used.

Q. What was the significance of the Duclos article
15810 to you and the members of the National Committee or the National Board of the Communist Political Association at that time? A. As I said, there was a great deal of ferment and discussions going on in our Party, and it was of great interest to us, naturally, that in a sister Party in another part of the world that such an article should be published in a theoretical magazine, and we would give it our attention. I doubt very much if we would have given it the same attention, possibly six months before, but the changing conditions of our country as reflected in the discussions in our own Party sharpened our interest in what the leader of a sister Party had to say. In that sense, and in that sense only, was the article read and discussed.

Of course, the text of the article deals a great deal with what Browder said and what Foster said. In fact, the totality of the article is almost entirely quotations from what Browder said and what Foster said and then comment of Duclos. Included in the article was the purpose of the

article which he later, as I testified, he said to me in Paris that it was the fear that the French Party membership might go the same way and follow the Browder line, which they considered to be a great disaster to their Party and that is why they were so sharp in their criticisms. It was their own Party business that they were concerned with, that their Party should not make such a mistake
15811 as they felt that the American Party had made in dissolving the Communist Party and setting up some kind of a non-political association.

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15815 Q. Were you ever advised by anyone that Browder's position had been upheld or approved from abroad? A. No. In fact, contrary-wise we knew some parties did not approve of it, notably the Australian Party, which had gone on record as opposing the policies of Browder. Browder, I believe, had written them a letter asking them their views, and they had very sharply dissented from Browder's views.

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15848 Q. Miss Flynn, have you ever read any of the following: The 21 Conditions for Admission to the Communist Internationale? A. No, I haven't read all of those. I have heard some of them read in proceedings, but I have not read them all.

Q. The Resolutions of the Sixth Congress of the Communist Internationale? A. No, I don't know about that.

Q. Peters Manual on Organization? A. Only the sections that I have heard read in court proceedings.

Q. When you say sections read in court proceedings, what do you mean by that? A. In our trial downstairs, the government has been reading sections and sections
15849 were read in the trial of the first group of Foley Square and I have read the record.

Q. So that that is the first and only time that you have had occasion to read of anything in Peters Manual on Organization? A. That is correct.

Q. Have you ever read Odgen's book entitled, "Why Communism"? A. No, the answer would be the same. Those sections which have been read into proceedings, I have read. But the pamphlet or book or whatever it is, as a whole, I have not read.

Q. And Foster's Book "Toward a Soviet America? Have you read that? A. I have not read that in full either.

Q. In your speeches, writings and lectures at the Communist Party schools, have you made references to any of these books or pamphlets that I have mentioned? A. No, I never have.

Q. Since 1938, when you became a member of the National Committee, has the leadership of the Communist Party considered that any of these works correctly sets forth the views of the Communist Party and its policies? A. I would consider that practically all of those items which you have mentioned are considered obsolete by the leadership of the Communist Party. In fact, the book
15850 "Soviet America," Mr. Foster has himself repudiated, and as far as Peters Manual is concerned, I once asked the educational director of our Party, Miss Gannett, about it, because I heard discussion of it, and she said forget it, it is out of date.

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16016. CROSS-EXAMINATION

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By MR. PAISLEY:

16050 Q. You say you went to Europe in 1945, 1949, and 1950, under your own name and advised the State Department truthfully of the countries that you were going to visit? A. That is correct.

Q. Did you tell the State Department that you
16051 were a Communist? A. Yes, I gave my occupation, and I went as a representative of the Communist Party in 1945, when the first application was made. In fact, passports were not issued in 1945 very generally, and a bloc of passports were issued to the delegates in which I believe the French Government also intervened and made a request

to the State Department that it should be expedited.

Q. The occasion of your visit in 1945, it was to attend the Women's Congress for Peace? A. That is right.

Q. You say that Congress did not have sinister aspects attributed to it by John Lautner? A. I don't know the Lautner testimony in relation to the Congress.

Q. Why did you make the statement? A. I know it had no sinister aspects, so if he so testified, he was wrong.

Q. Why did you make the statement that he did attach to it sinister aspects if you didn't know what you were talking about? A. I knew what I was talking about, Mr. Paisley. The attorney asked me—

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16076 Q. You say that you did exchange experiences with foreign Communists on these visits over there? A. Naturally.

Q. Would that include Russian Communists? A. No, I had no discussion with Russian Communists.

Q. None whatever? A. Outside of the women. I didn't meet any other Russian representatives.

Q. How many Russian women? A. Oh, there were
16077 about 25 or 30 Russian women at the delegation.

Q. One of the prime principles of the Communist Party here and in Russia is that there shall be no male chauvinism, isn't that so? A. That is very correct, Mr. Paisley.

Q. You women want to participate 100 per cent in everything that goes on? A. That is very correct.

Q. Here, and there, too. A. Everywhere, yes.

Q. So you did talk to Russian Communists. A. I talked to Russian women, and I presume these women were Communists. I talked to Russian women. We talked about all kinds of things, child care after the war, we talked about the reconstruction of the countries, we talked about the rights of women.

Q. Were they Communists or not? A. I know that Madam Popova is a Communist. Whether every one in that delegation was a Communist or not, I don't know. There were not

all Communists in every delegation. There were people who had been very heroic in the resistance movement. I could not swear under oath that every single woman in that delegation was a Communist.

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16083 Q. Are you telling this Panel that the Daily Worker, whether you wrote it or not, or Political Affairs, has not constantly supported the Soviet Union at all times when the views and policies of that country differed with those of the United States? A. If the Daily Worker and Political Affairs articles did so support the policies of the Soviet Union, it was because the writers believed that they were correct policies, as I have tried to explain.

Q. Don't you consider that an evasive reply?

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16084 THE WITNESS: I don't think I can answer yes or no. I would like to explain my answer.

By MR. PAISLEY:

Q. All right, explain it. A. It is probably true that by and large the articles in the Daily Worker and the Political Affairs and very likely any articles which I wrote which involved specific details about the Soviet Union did agree with policies which were enunciated by the Soviet Union, because those writers and myself believed that those particular policies were right. As we see it, a socialist country is different from a capitalist country, and the policies of that country will be by the nature of things peaceful and by the nature of things for the best interests of their people.

Now, it is our opinion that a peaceful policy is then to the best interests also of the American people, and we believe that the best interests of the people of the Soviet Union and the people of this country coincide. We have never taken the position—I certainly never have in my writing—that was in any way contradictory to the best interests of the American people as I conceive them.

16085 Q. And you say that that is the reason why you can not cite a single instance when the views and

policies of the Soviet Union were criticized in the Communist press, and not because you Communists owe allegiance to the Soviet Union? A. That is correct. It is not because of this false charge of allegiance to the Soviet Union. It is because of, as I stated, the fact that we believe that the best interests of the American people and the people of the Soviet Union coincide and if our administrations acted in that spirit, there would be peace between these two great countries, and they together with England and France and China could guarantee and establish peace in the world.

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16093 Q. All right. Let us consider that that is the fact. The Party then was a member of the Communist Internationale from 1921 until the time it withdrew. A. Until the time it withdrew. That is the best of my knowledge and belief, yes.

Q. And you say the resolution of disaffiliation was discussed in the National Committee previously? A. That is right.

Q. You were then on the National Committee. A. That is correct.

Q. And you say it was clearly understood that there will be no further affiliations, but we still had comradely feelings. Did you so testify? A. Yes, that we were not disaffiliating in anger, or disaffiliating to fight the Communist Internationale. It was, you might say, a friendly divorce.

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16099 Q. You say, Miss Flynn, that to your knowledge there has never been a Communist Internationale representative in this country? A. Yes, that is correct, to my knowledge there never has been.

Q. You mean to say that Eisler was not? A. No, Eisler was not to my knowledge a Communist Internationale representative.

Q. Did you ever see him in the Communist Party headquarters building? A. No, I don't think I ever met

16100 him in the Communist Party headquarters building. I have no recollection of it.

Q. Do you know whether or not he submitted articles for publication in the Daily Worker? A. No, I don't know whether he did or not.

Q. You testified for him? A. Pardon me?

Q. You testified for him in his trial. A. Yes, I testified as to a particular point that arose in his trial on associate membership in our Party.

Q. Did you know him as Hans Berger? A. No, I didn't know him as Hans Berger. I only knew him as Gerhardt Eisler.

Q. You didn't know him as Edwards? A. No, I never heard of him as Edwards.

Q. Was he just in retirement over here in the United States? A. My understanding is that he came to the United States as a political refugee from the Nazis on his way to Mexico, and was held up here in the United States, and that he never intended to remain in the United States. He wanted to go back to his own country.

Q. How long did he stay? A. He was ready to
16101 leave and take his trip about the time he was arrested.

Q. You didn't answer my question. We can get through if you will answer my question. A. I don't know how long he stayed. I don't know the exact date of when he came and I don't know the exact date when he left. A few years.

. . . . . .

16112 Q. You say you read Gates' testimony. Did you read both the direct and the cross? A. I read it as thoroughly as I could. I mean, Mr. Paisley, I didn't read every single word of it, because it was handed to me about the day before I came here. I just could not read the whole thing, every word. I tried to get the gist of it. I tried to get the full meaning of it, yes.

. . . . . .

16118 Q. Did you write any criticism of Browder before the Duclos article came out? A. No, I don't think I did.

Q. Did you denounce him in any public speech before it came out? A. May I correct you, Mr. Paisley. There was no Duclos letter. It was an article. Did you say letter?

Q. I thought I said article. A. No, I don't think I did.

Q. Did you ever denounce him to his face before the Duclos article came out? A. We had some very heated discussions within the Executive Committee meetings of the National Committee, yes.

Q. And that was when he was general secretary
16119 of the Party? A. That is right. Well, he was President of the Communist Political Association at the time.

Q. Did any other Communist Party leader to your knowledge write anything derogatory of him before the Duclos article came out? A. The name of Earl Browder may not have been mentioned in such articles, but there were articles written by Mr. Foster which did criticize the policies of Earl Browder and which any Party member would understand were criticisms of him.

Q. Are you referring to the famous Foster letter that was suppressed? A. No, even prior to that. I recall there was an article in the magazine "Masses," in which Browder made the remark that Foster seems to be following one line and I seem to be following another, and introduced this article to the National Committee in protest.

Q. The Foster letter was not released over here to the membership before it appeared in the Duclos article, was it? A. Not to the membership. It was made known to the National Committee.

Q. And was suppressed? A. In the sense that it
16120 was not made know to the membership, yes, that is correct.

Q. And didn't Browder agree to that suppression as a tactical measure during the United Front Period? A. You mean Foster?

Q. I mean Foster. A. Yes, he so stated, not just the United Front period, not to create disunity within the Party during the war.

. . . . . .

16128 Q. Did you ever disagree with Joseph Stalin? A. Mr. Stalin has expressed opinions on a great many subjects, and I am not qualified to answer. I don't know whether I agree with him on every subject.

16129 Mr. Brown: That is not the question.

The Witness: I just don't know.

Mr. Brown: The question was not did you always agree with Mr. Stalin. Did you ever disagree with him was the question.

The Witness: No, I have never disagreed with him.

. . . . . .

16134 Q. Has the Communist Party in the United States taken a position on the charge of germ warfare made by the Russians against the United States?

. . . . . .

The Witness: I don't think that charge is made by the Russians. I think that charge has been made by an international—

Mr. Brown: The question, Miss Flynn, is: Has the Communist Party taken any position in regard to it?

Mr. Marcantonio: Just a moment, Mr. Chairman.

The Witness: I object to calling it a charge by the Russians.

. . . . . .

16137 Q. Do you take any position as to whether or not the charge is true? A. When a charge is made by so many different people in different parts of the world, it certainly is worthy of very careful investigation and not just flat denials.

Q. Do you believe it is true? A. I believe it is true, yes, I am sorry to say as an American.

. . . . . .

Q. But you have no personal knowledge of the facts? A. I haven't been in Korea, Mr. Paisley, no.

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16142 Q. Isn't it a fact that every document in writing, such as the ones I have just mentioned, which may have a tendency to prove domination and control from abroad, the advocacy of force and violence, and the purpose of the Communists in this country to bring about a Soviet America, are at this time in this day referred to by you Communists as obsolete?

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16143 THE WITNESS: I testified that in the instance of at least one of these books, I was told that practically at the time I joined the Party that the book was out of date. Mr. Foster many years ago testified before Congressional Committees that he considered his book was immature and incorrect and he repudiated the ideas in that book. That is not 1952, that is quite a long time ago.

By MR. PAISLEY:

Q. He also repudiated his statement that the Red Flag was the flag of the workers of this country, too, didn't he? A. Yes, he did. He said he thought it was sectarianism, leftism, and so forth.

Q. He at one time made the statement, did he not? A. He made the statement.

Q. When did he repudiate it? A. Before one of these Congressional Committees.

Q. When? A. I don't know the exact date, Mr. Paisley. It is a long time ago.

Q. Do you have any recollection at all? A. I think it would be in the late thirties or early forties.

Q. Late thirties? About 1939? A. Yes.

Q. About the time that Gitlow testified openly
16144 down there? A. I didn't keep track when Gitlow testified.

Q. You were on the National Committee at that time, were you not? A. Yes, I was on the National Committee.

Q. So that for 20 years in these United States, he has not openly repudiated that statement?

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Q. Is that right? A. I don't know when he made the statement in the first place. I do know he repudiated the statement. That is to the best of my knowledge.

Q. When did he write "Toward A Soviet America"? A. He must have written that a long time ago, too. I don't know. Probably in the period that I was in Oregon because I don't remember the book being published.

Q. Has the Party in the United States ever engaged in espionage directly or indirectly to your knowledge? A. It has not.

Q. Has it ever aided by furnishing any members of the Party to so engage? A. It has not.

Q. Did any Party leader, including Browder, ever
16145 furnish any members of the Party, or recommend any members of the Party, to engage in that type of activity? A. To my knowledge during the period that I have been a member of the Party I know of no such transactions.

Q. Have any members of the Communist Party in this country ever been convicted of espionage? A. No, I don't think anyone ever has been.

Q. Was Harry Gold a member of the Party? A. I don't think so.

Q. Were the Rosenbergs members of the Party? A. I think not.

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16148 **Herbert Aptheker** was recalled as a witness, and hav-
16149 ing been previously duly sworn, was examined and testified further as follows:

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CROSS EXAMINATION

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16246 Q. You wouldn't even state that at the time the policy of self-determination of the Negro people and the Black Belt was enunciated by the party that it was the policy advocated by the majority of the Negro people, or even a majority of their leaders, would you? A. No. No, not in the developed sense in which the party put it forward. It still isn't.

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16252 Q. If the Communists were successful in gaining control of government in these countries which currently have Bourgeois governments, would opposing political parties be allowed to exist and publicize their
16253 views? A. They would.

Q. For how long? A. For as long as different classes existed. With the existence of different classes there are different parties.

Q. But it would be the purpose of the Communist Party if it had control of such a government to stamp out all classes but the working class, would it not? A. What do you mean by "stamp out"?

Q. Eliminate by any means by which they might be able to exert power? A. No, that is wrong. The way you put it is false.

Q. Would the Communist Party share the leadership with any other political party? A. When?

Q. If it were able to get into a position of leadership in a country, would it be willing to share that leadership with some other party? A. Not only would it be willing, it is willing. It shares it now, for instance, in China. Five or six or seven or eight parties are a part of the Chinese government at this point. The same is true in North Korea.

Q. Parties independent of the Communist Party?
16254 A. That is right.

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16259 Q. Would an anti-Communist Party press be permitted to exist once the Communist Party has gained

the position of leadership in a country? A. Yes. There are anti-Communist press—I won't say anti—there are non-Communist presses which exist in, are and continue to exist, though the Communist Party is in leadership. By the way, this happened in the Soviet Union.

Q. Would an anti-Communist Party press be— A. Yes, I would say it would, and it did in the Soviet Union for a time.

Q. For how long? A. For how long?

Q. Yes. A. Until there developed a sufficient unanimity on the part of the social order and of the people that it became clear that this press was a press in the pay of the interventionalists and counter-revolutionary. It is then that it is not permitted. It is exactly the same as after the American Revolution. During the American Revolution, for 10, 12, 14, years, no Tory press was permitted in any area controlled by the American revolutionists, because this was not a difference of opinion, this was an expression of clear and open treason at the moment's crisis.

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16331 Q. All right, do they have democracy in the Soviet Union? A. In the Soviet Union they have what they call democracy, proletariat democracy, that is, the democracy commensurate with a socialist society.

Q. Democracy as used in the United States includes such concepts as freedom of the press, freedom to maintain religious institutions without the control of the government, freedom to maintain political parties, whose objectives are to vote out the men holding national office and vote in different men, freedom to advocate a change in our economic system by constitutional means, freedom to oppose the policies of duly elected leaders, such freedoms as that, does it not? A. Is that what democracy means in the United States, is that what you are asking?

Q. I am asking you democracy as used in this country, when we talk about the term "democracy," democratic rights, we are speaking about such things as I enumerated;

now, would you like me to enumerate them separately so you could say yes or no individually? A. Well, it doesn't matter whether you do it; we are speaking about a
16332 Bourgeois democratic republic in which such rights have been achieved by the people after generations of very bitter struggle. That is what we are speaking about, yes. That is what I am talking about.

Q. Do these freedoms exist in the Soviet Union?—would you like me to take them separately? A. Sure.

Q. Freedom of the press, does that exist in the Soviet Union? A. Yes.

Q. Freedom to maintain religious institutions without the control of the government? A. Yes.

Q. Freedom to maintain political parties whose objective is to vote out the men holding national office and vote in different men? A. Impossible to exist; again, freedoms of—are not nebulous, freedoms are concrete. Such a freedom is impossible to exist because there is one class. Parties reflect classes. If you have one class, a Mr. Calhoun knew in 1828, practically every other political economist from Aristotle up knew if you have one class you are going to have one political party, therefore this freedom is not applicable to a socialist society such as, for example, the freedom to own slaves is non-applicable to our society. Nobody is free to do that. They used to be, but they are not any more.

16333 Q. Freedom to advocate a change in the economic system by constitutional means? A. Well, not really; again, it is academic. Of course, if you speak of the movement of socialism and Communism, which is a great economic change, you are not only free to advocate; everybody is doing the best he can to bring it about.

Q. Freedom to oppose the policies of the duly elected leaders? A. By all means, with the most severe criticism.

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16346 Q. What position does Mr. Molotov hold? A. I am not positive, but he holds a high position.

Q. How about Manlenkov? A. I testified yesterday that I don't know his title.

Q. You know that both of these gentlemen hold positions of great authority, do you not? A. Yes.

16348 Q. But you deny that the government of the Soviet Union is in the form of a dictatorship of a political party? You deny that? A. That is right. It isn't a dictatorship of a party. It is a dictatorship of a class.

16389 Q. Members of the Communist Party are urged very strongly to read the Daily Worker regularly, are they not? A. Yes, they are.

16420 Q. As a witness in this case, do you stand disinterested as between the parties? A. No, I am not disinterested.

16421 Q. Would you say that you are profoundly interested in the outcome of this case? A. Yes. All Americans are.

Q. You so testified in Baltimore, did you not, when you testified in that case for the Communist defendants? A. Yes. I said I was profoundly interested in the case.

Q. Did you not testify that your interest in that case was that the democratic way of life was at stake, that the fact of freedom, that the fact of peace, everything you valued, more than your life, you thought was involved there?

16422 Did you so testify? A. I think that is an accurate quotation, Mr. Paisley.

Q. And is your interest in this case on the same level? A. Yes, I am profoundly concerned about this case.

16440 Q. Were you consulted about the answer that the Communist Party filed in these proceedings? A. The answer?

Q. Yes, A. Do you have it? That would refresh me.

Q. I have a copy of it here, if you want to look at it. A. Just so I can know exactly what you are talking about, Mr. Paisley.

Q. It is filed by Gus Hall. A. Just so I can see what it is.

Q. It is called an amended answer. (Handing to the
16441 witness). A. I see. Yes. Yes, I was asked to pitch in, make some suggestions of a historical character. I said, yes, immediately as I saw page 4, where there is a quotation from Metternich, for instance. I remember very distinctly that I offered that, because I thought that that was to the point.

Q. How long were you employed in working on the answer? A. What do you mean by employed? Was I paid? Is that what you mean?

Q. How much time did you devote to it? That is a very simple question. A. I appreciate the simplicity. That again would have to be a very approximate answer. I don't know. I'd say a few hours. It might have been three and a half or four and a half hours dispersed over evenings.

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16455 Q. You spoke about imperialism. I want to get this straight. Do you Communists in the United States contend that the United States is a leading imperialist nation of the world? A. Yes.

Q. And that the Soviet Union is not? A. The Soviet Union is not an imperialist nation.

Q. That's exactly what the Soviet Union contends,
16456 isn't it. A. I believe so.

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Q. Yes. Have you ever written or said anything
16457 that is opposed to the views and policies of the Soviet Union? A. Opposed to what?

Q. Of the Soviet Union? A. I don't think so. When I have written on subjects which were pertinent to that, I don't

think that there has been a clash of views, because of the fundamental precept of Marxism-Leninism in each case.

. . . . . .

16458 Q. Now, at the trial in Baltimore, didn't you state at one time in your testimony that the Party had never stood for the overthrow of government by force and violence? A. I am confident that I did, because I believe that.

Q. When you were confronted with a quotation from Foster's book, "From Bryan to Stalin" as follows: "We need look only to the fascist terror in Germany, Italy and Spain to realize the correctness of this whole anal-
16459 ysis of Lenin's analysis of the futility of the social reformists' plan of bringing socialism through purely parliamental acts," did you not then say that the first part of that quoted sentence was an illustration of the Marxist-Leninist concept of violence and terror coming from Fascist minority, and that the second part of the sentence would not have been asserted by Foster for the past 13 years? A. That's right.

Q. So on one day down there you said that the party had never advocated force and violence, and then a day or two later, when you were under cross examination and were confronted with that quotation from Foster's book, you practically admitted that the Party at one time did so advocate? A. No, Mr. Paisley, that is not correct. Do you want me to explain that?

Q. Yes, I would like to know what you meant, that Foster wouldn't have asserted that for 13 years. A. Because objective conditions have changed so that it is the belief now, which has been developing in the whole Communist movement, that the forces of Socialism are so strong and are going so strong and that with the whole policy of the United Front and Popular Front and people's government, that you can get sufficient strength to hold off the organizaion
of counter revolutionary force and violence—Fas-
16460 cist elements, as in Italy and Spain and Germany, in that quotation, so that you would not have to

have resistance to this counter revolutionary force and violence. Do you see my point?

Q. What was the significance of your statement there about the past 13 years that he wouldn't have asserted that for the past 13 years? A. Because the analysis of the world situation has changed because of the change in objective conditions, and the feeling now is very prevalent amongst Communists that you have greater and greater possibility of the peaceful transition into Socialism, because the capacity of the reactionaries to organize forcible repression to the will of the people is constantly being undermined. That is the point.

Q. But prior to the 13 years ago, using your own words, the Communist Party in this country did advocate force and violence? A. No, sir.

Q. Won't you admit that? A. No. I state again what I have stated just now to you in the past five minutes. Shall I do it again?

Q. No. You don't need to do it again. I just wanted you to explain your position. A. All right. I have done the best I can.

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16464 Q. All right. Then I'll ask you this question. Did not the Daily Worker publish an article on February 17, 1930, entitled "Lovestone—State's Witness" containing the following language: "This record is valuable—" A. Pardon me. May I interrupt. Have I been asked to identify this in any way?

Q. I am asking you if the Daily Worker didn't publish this article? If you don't know, you can say so.
16465 If you do know, you can say so. A. Do you want me to answer that question now?

Q. No, I want to read it to you.

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16466 Q. Now, I am quoting: "This record is very valuable, not only in properly evaluating political role of Lovestone as a right wing enemy of the Communist

International and the Communist Party of the United States, but also as an object lesson for all comrades of the kind of attitude toward the courts which is absolutely impermissible in a party member. It is the duty of Communists to throw every possible obstacle in the way of conviction of their fellow party members in the courts, to defend these members by all possible means, and absolutely refuse to give testimony for the state in any form. Testimony of Communists can only be given for the defense of Communists, not for the state, and then it must be based upon uncompromising defense of the party and its program. And anyone who trades his testimony to the state for personal immunity from prosecution should be unhesitantly kicked out of the movement."

The question is, did the Daily Worker publish that article? A. I don't know, sir. I was 14 years old when that appeared.

Q. Do you deny that that is a principle of the Communist Party today? A. That is a principle, what you read.

16467 Q. What I read? A. I assert that what you read is not any different from what I tried to say here.

MR. BROWN: Please answer the question.

MR. ABT: Would you like to see the article?

THE WITNESS: It would be helpful because some of the words I didn't like.

. . . . . .

16468 THE WITNESS: I would offer objection to that article. I don't agree with it. I don't agree with its terminology, and particularly with the last sentence. I think it is too sweeping. I think the expression is rather sectarian. I personally have a feeling that that is an excerpt from an article. I don't think it is the whole thing.

. . . . . .

RECROSS EXAMINATION

By MR. PAISLEY:

16476 Q. Who in the Army knew that you were a member of the Communist Party? A. It would be easier

in terms of any contact I had with, Mr. Paisley, as who didn't. What I am trying to say, I never questioned a superior officer and said, "Now, Colonel Allen, or whoever it is, do you know that I am a member of the Communist Party?"

I did not mean to convey that. What I mean to convey and what I say is, that my views were a matter of public knowledge.

I had written under my own name always, and did while I was in the Army. I spoke freely. I delivered the orientation lectures. People knew that, and now that you ask that, this comes to my mind.

I was publicly denounced in the press in the Hearst Press, I suppose to embarrass the government, I don't know, but

I was publicly denounced by name because I was a
16477 commissioned officer overseas, and a Communist.

Now, I was overseas, couldn't come back and so forth, wasn't even asked to, but Major General Bissell, who was then Army G-2, personally appeared before the Congressional Committee Investigating Committee, I don't remember what kind it was, and he stated that he had examined my record, that the only force and violence that I ever used, I was using then in fighting Germany, and General Bissell was kind enough to say that he wished all the officers in the United States had my record.

So this was, as I say, public knowledge. It was known in the outfit, for instance, when I was overseas. In fact, the guys knew it before I did.

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16486 Q. What do you say that Lenin meant by this sentence: "We repudiate all morality that is taken outside of human class concepts"? A. Exactly what I said; that is, Marxist-Leninists are materialists, historical materialists, and they do not think that morality is something which is suspended in the clouds and has no relationship to social economic reality. On the contrary.

For instance, I will give you this example. Aristotle wrote a great deal and he lived in a slave society, but you will not find a word in Aristotle condemnatory of slavery.

The reason for that is not that Aristotle had a pygmy brain or was a moral idiot. The reason for that is that since he lived in a slave society, he acquiesced and accepted it. You and I don't.

This is an example of the fact that morality is tied to socio-economic reality. That is what Lenin is saying there. Morality is not independent of social organization. It is dependent upon social organization.

Q. Do you contend then that this quotation does not mean that if testifying falsely would serve the class struggle, it would not be immoral? A. That if testifying falsely would serve the class struggle, it would not be immoral? You have so many negatives in there, I am not sure which answer conveys my meaning.

16488 Q. Well, let me put it to you this way. If testifying falsely would serve the ends of the class struggle an effort to bring about the dictatorship of the proletariat, would you consider that to be immoral? A. You cannot abstract this from actual conditions. What I mean

16489 by that is, as a general principle, as a rule I will assert to you, yes, it is immoral to testify falsely, and means and ends are conjoined and not separate, and therefore if you have a moral movement, to serve it will not require immoral ends.

It is, however, true, as I testified a moment ago, that if you have an absolute tyrannical kind of a society, which we do not have, and I hope we will not have, but if you did have,—let me be concrete. I will give you an example in terms of my own specialty.

Douglass tried to escape slavery. He is arrested. When he is arrested he is brought before a magistrate.

The magistrate says to him, "Did you try to escape from slavery? Did you write this?"

Douglass says, "No, I didn't."

Now, if you ask me which is the immoral person in this colloquy, I will say to you that the immoral person is the magistrate, and the moral person in that case was Frederick Douglass. So again it is not absolutes that we are dealing with here.

In our society, in our life, and in my position, the position of my party, and with the remaining freedoms that we have in our country in the unity of means and ends, it is immoral to testify falsely. I have not done so. I would not do so.

16490 Q. It is? A. I say it is immoral.

Q. You say that the McCarran Act itself is an immoral piece of legislation, don't you? A. I do.

MR. PAISLEY: That's all I want to know. That's all.

By MR. MARCANTONIO:

Q. Do you believe in testifying falsely in fighting the McCarran Act? A. No, certainly not. I have said a thousand times I testified truthfully.

Q. Despite the fact that you are most seriously opposed to the McCarran Act? A. Certainly. I want to by democratic process change it.

## EXHIBITS

### Petitioner's Exhibit No. 4D

*The Communist, September 27, 1919*

Our program is clear: it calls for the overthrow of Capitalism and the establishment of a dictatorship of the proletariat. That objective will determine our actions: that goal we shall never lose sight of.

* * * * * * * * * * *

Capitalism is at the end of its historic mission; it is now the worst enemy of progress and civilization. Let the Communist proletariat answer!

Responding to the call of the Communist International, and building upon the basis of revolutionary experience in Europe, together with the revolutionary experience of the American movement, the Communist Party organizes for action.

On with the struggle! Unify the conscious elements of the proletariat! Make the Communist Party actually the party of the militant proletariat!

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### Petitioner's Exhibit No. 4A

*The Communist, September 27, 1919*

## THE PARTY CONSTITUTION ADOPTED AND ISSUED BY THE CONVENTION OF THE COMMUNIST PARTY

### I. Name and Purpose

Sec. 1. The name of this organization shall be THE COMMUNIST PARTY of America. Its purpose shall be the education and organization of the working class for the establishment of the Dictatorship of the Proletariat, the abolition of the capitalist system and the establishment of the Communist society.

**Petitioner's Exhibit No. 8**

# THESES AND STATUTES OF THE THIRD (COMMUNIST) INTERNATIONAL

ADOPTED BY THE SECOND CONGRESS
JULY 17TH—AUGUST 7TH, 1920.

Publishing Office of the Communist International
Moscow, 1920

## STATUTES OF THE COMMUNIST INTERNATIONAL.

* * * * * * * * * *

The Communist International makes its aim to put up an armed struggle for the overthrow of the International bourgeoisie and to create an International Soviet Republic as a transition stage to the complete abolition of the State. The Communist International considers the dictatorship of the proletariat as the only means for the liberation of humanity from the horrors of capitalism. The Communist International considers the Soviet form of government as the historically evolved form of this dictatorship of the proletariat.

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The Communist International is aware that for the purpose of a speedy achievement of victory the International Association of Workers, which is struggling for the abolition of capitalism and the establishment of Communism, should possess a firm and centralized organization. To all intents and purposes the Communist International should represent a single universal Communist Party, of which the parties operating in every country form individual sections. The organized apparatus of the Communist International is to secure to the toilers of every country the possibility at any given moment of obtaining the maximum of aid from the organized workers of the other countries.

For this purpose the Communist International confirms the following items of its statutes:

§ 1. The new International Association of Workers is established for the purpose of organizing common activity of the workers of various countries who are striving towards a single aim: the overthrow of capitalism; the establishment of the dictatorship of the proletariat and of the International Soviet Republic; the complete abolition of classes, and the realization of socialism—the first step of Communist Society.

§ 2. The new International Association of Workers has been given the name of The Communist International.

§ 3. All the parties and organizations comprising the Communist International bear the name of the Communist party of the given country (section of the Communist International).

§ 4. The World Congress of all parties and organizations which form part of the Communist International, is the supreme organ of this International. The World Congress confirms the programmes of the various parties comprising the Communist International. The World Congress discusses and decides the more important questions of programme and tactics, which are connected with the activity of the Communist International. The number of decisive votes at the World Congress for every party and organization is determined by a special regulation of the Congress; it is found necessary to strive for a speedy establishment of a standard of representation on the basis of the actual number of the members of the organization and the real influence of the party in question.

§ 5. The World Congress elects an Executive Committee of the Communist International which serves as the leading organ of the Communist International in the interval between the convention of World Congresses, and is responsible only to the World Congress.

§ 6. The residence of the Executive Committee of the Communist International is every time decided at the World Congress of the Communist International.

§ 7. A Special World Congress of the Communist International may be convened either by regulation of the Executive Committee, or at the demand of one-half of the number of the parties which were part of the Communist International at the last World Congress.

§ 8. The chief bulk of the work and greatest responsibility in the Executive Committee of the Communist International lie with the party of that country where, in keeping with the regulation of the World Congress, the Executive Committee finds its residence at the time. The party of the country in question sends to the Executive Committee not less than five members with a decisive vote. In addition to this, one representative with a decisive vote is sent to the Communist International from ten or twelve of the largest communist parties. The list of these representatives is to be confirmed by the Universal Congress of the Communist International. The remaining parties and organizations forming part of the Communist International enjoy the right of sending to the Executive Committee one representative each with a consultative vote.

§ 9. The Executive Committee is the leading organ of the Communist International between the conventions; the Executive Committee publishes in no less than four languages the central organ of the Communist International (the periodical "The Communist International"). The Executive Committee makes the necessary appeals on behalf of the Communist International, and issues instructions obligatory on all the parties and organizations which form part of the Communist International. The Executive Committee of the Communist International enjoys the right to demand from the affiliated parties the exclusion of groups of members who are guilty of the infringement of international proletarian discipline, as well as the exclusion from the Communist International of parties guilty of the infringement of the regulations of the World Congress. In the event of necessity the Executive Committee organizes in various countries its technical and auxiliary bureaus, which are entirely under the control of the Executive Committee.

§ 10. The Executive Committee of the Communist International enjoys the right to include in its ranks representatives of organizations and parties not accepted in the Communist International, but which are sympathetic towards communism; these are to have a consultative vote only.

§ 11. The organs of all the parties and organizations forming part of the Communist International as well as of those which are recognized sympathizers of the Communist International, are obliged to publish all official regulations of the Communist International and of its Executive Committee.

§ 12. The general state of things in the whole of Europe and of America makes necessary for the communists of the whole world an obligatory formation of illegal communist organizations along with those existing legally. The Executive Committee should take charge of the universal application of this rule.

§ 13. All the most important political relations between the individual parties forming part of the Communist International will generally be carried on through the medium of the Executive Committee of the Communist International. In cases of exigency direct relations will be established, with the provision, however, that the Executive Committee of the Communist International shall be informed of them at the same time.

§ 14. The Trade Unions that have accepted the Communist platform and are united on an international scale under the control of the Executive Committee of the Communist International, form Trade Union Sections of the Communist International. The Communist Trade Unions send their representatives to the World Congresses of the Communist International through the medium of the Communist parties of their respective countries. Trade Union sections of the Communist International delegate a representative with decisive vote to the Executive Committee of the Communist International. The Executive Committee of the Communist International enjoys the right of sending a representative with decisive vote, to the Trade Union section of the Communist International.

§ 15. The International League of Communist Youth is subordinate to the Communist International and its Executive Committee. One representative of the Executive Committee of the International League of Communist Youth with a decisive vote is delegated to the Executive Committee of the Communist International. The Executive Committee of the Communist International, on the other hand, enjoys the right of sending a representative with a decisive vote to the Executive organ of the International League of Youth. Organization relations between the League of Youth and the Communist party are basically defined in every country after the same system.

§ 16. The Executive Committee of the Communist International confirms the International Secretary of the Communist Women's Movement, and organizes a women's section of the Communist International.

§ 17. In case a member of the Communist International goes to another country, he is to have the fraternal support of the local members of the Third International.

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## I. The Substance of the Dictatorship of the Proletariat and of the Soviet Power.

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3. Under the circumstances which have been created in the whole world, and especially in the most advanced, most powerful, most enlightened and freest capitalist countries by militarist imperialism—oppression of colonies and weaker nations, the universal imperialist slaughter, the "peace" of Versailles—to admit the idea of a voluntary submission of the capitalists to the will of the majority of the exploited, of a peaceful, reformist passage to Socialism, is not only to give proof of an extreme petty bourgeois stupidity, but it is a direct deception of the workmen, a disguisal of capitalist wage-slavery, a concealment of the truth. This truth is that the bourgeoisie, the most enlightened and democratic portion the bourgeoisie, is even now not stopping at deceit and

crime, at the slaughter of millions of workmen and peasants, in order to retain the right of private ownership over the means of production. Only a violent defeat of the bourgeoisie, the confiscation of its property, the annihilation of the entire bourgeois governmental apparatus, parliamentary, judicial, military, bureaucratic, administrative, municipal, etc., even the individual exile or internment of the most stubborn and dangerous exploiters, the establishment of a strict control over them for the repression of all inevitable attempts at resistance and restoration of capitalist slavery—only such measures will be able to guarantee the complete submission of the whole class of exploiters.

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II. In What Should the Immediate Preparation for Dictatorship of the Proletariat Consist?

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In every organization, union, association—beginning with the proletarian ones at first, and afterwards in all those of the nonproletarian workers and exploited masses (political, professional, military, co-operative, educational, sporting, etc., etc.) must be formed groups or nuclei of Communists—mostly open ones, but also secret ones which become necessary in each case when the arrest or exile of their members or the dispersal of their organization is threatened; and these nuclei, in close contact with one another and with the central Party, exchanging experiences, carrying on the work of propaganda, campaign, organization, adapting themselves to all the branches of social life, to all the various forms and subdivisions of the working masses, must systematically train themselves, the Party, the class, and the masses by such multiform work.

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For all countries, even for most free "legal" and "peaceful" ones in the sense of a lesser acuteness in the class struggle, the period has arrived, when it has become absolutely necessary for every Communist party to join system-

atically lawful and unlawful work, lawful and unlawful organization.

In the most enlightened and free countries, with a most "solid" bourgeois-democratic regime, the governments are systematically recurring, in spite of their false and hypocritical assurances, to the method of keeping secret lists of Communists; to endless violations of their constitutions for the semi-secret support of White Guards and the murder of Communists in all countries; to secret preparations for the arrest of Communists; the introduction of provocateurs among the Communists, etc. Only the most reactionary petty bourgeoisie, by whatever high-sounding "democratic" or pacifist phrases it might disguise its ideas, can dispute this fact or the necessary conclusion; an immediate formation by all lawful Communist parties of unlawful organizations for systematic unlawful work, for their complete preparation at any moment to thwart any steps on the part of the bourgeoisie. It is especially necessary to carry on unlawful work in the army, navy, and police, as, after the imperialist slaughter, all the governments in the world are becoming afraid of the national armies, open to all peasants and workingmen, and they are setting up in secret all kinds of select military organizations recruited from the bourgeoisie and especially provided with improved technical equipment.

On the other hand, it is also necessary, in all cases without exception, not to limit oneself to unlawful work, but to carry on also lawful work overcoming all difficulties, founding a lawful press and lawful organizations under the most diverse, and in case of need, frequently changing names. This is now being done by the illegal Communist parties in Finland, in part in Germany, Poland, Latvia, etc. It is thus that the I. W. W. in America should act, as well as all the lawful Communist parties at present, in case prosecutors start prosecutions on the basis of resolutions of the congresses of the Communist International, etc.

The absolute necessity of the principle of unlawful and lawful work is determined not only by the total aggregate of

all the peculiarities of the given moment, on the very eve of a proletarian dictatorship, but by the necessity of proving to the bourgeoisie, that there is not and can not be any branch of the work of which the Communists have not possessed themselves, and still more by the fact that everywhere there are still wide circles of the proletariat and greater ones of the non-proletarian workers and exploited masses, which still trust in the bourgeois democracy, the discussion of which is our most important duty.

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For the struggle against this state of things the Communist parties must create a new type of periodical press for extensive circulation among the workmen:

1) Lawful publications, in which the Communists without calling themselves such and without mentioning their connection with the party, learn to utilize the slightest liberty allowed by the laws, as the Bolsheviks did at the "time of the Tsar," after 1905.

2) Illegal sheets, although of the smallest dimensions and irregularly published, but reproduced in most of the printing offices by the workingmen (in secret, or if the movement has grown stronger, by means of a revolutionary seizure of the printing offices) giving the proletariat undiluted revolutionary information and the revolutionary mottoes.

Without a Communist press the preparation for the dictatorship of the proletariat is impossible.

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## Conditions of Admission to the Communist International

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The Second Congress of the Communist International rules that the conditions for joining the Communist International shall be as follows:

1. The general propaganda and agitation should bear a really Communist character, and should correspond to the programme and decisions of the Third International. The

entire party press should be edited by reliable Communists who have proved their loyalty to the cause of the proletarian revolution. The dictatorship of the proletariat should not be spoken of simply as a current hackneyed formula, it should be advocated in such a way that its necessity should be apparent to every rank-and-file working man and woman, to each soldier and peasant, and should emanate from every-day facts systematically recorded by our press day by day.

All periodicals and other publications, as well as all party publications and editions, are subject to the control of the presidium of the party, independently of whether the party is legal or illegal. The editors should in no way be given an opportunity to abuse their autonomy and carry on a policy not fully corresponding to the policy of the party.

Wherever the followers of the Third International have access, and whatever means of propaganda are at their disposal, whether the columns of newspapers, popular meetings, labor unions or co-operatives,—it is indispensable for them not only to denounce the bourgeoisie, but also its assistants and agents—reformists of every color and shade.

2. Every organization desiring to join the Communist International shall be bound systematically and regularly to remove from all the responsible posts in the labor movement (Party organizations, editors, labor unions, parliamentary factions, co-operatives, municipalities, etc.), all reformists and followers of the "centre," and to have them replaced by Communists, even at the cost of replacing at the beginning "experienced" men by rank-and-file working men.

3. The class struggle in almost every country of Europe and America is entering the phase of civil war. Under such conditions the Communists can have no confidence in bourgeois laws. They should create everywhere a parallel illegal apparatus, which at the decisive moment should do its duty by the party, and in every way possible assist the revolution. In every country where, in consequence of martial law or of other exceptional laws, the Communists are unable to carry on their work lawfully, a combination of lawful and unlawful work is absolutely necessary.

4. A persistent and systematic propaganda and agitation is necessary in the army, where Communist groups should be formed in every military organization. Wherever, owing to repressive legislation, agitation becomes impossible, it is necessary to carry on such agitation illegally. But refusal to carry on or participate in such work should be considered equal to treason to the revolutionary cause, and incompatible with affiliation with the Third International.

5. A systematic and regular propaganda is necessary in the rural districts. The working class can gain no victory unless it possesses the sympathy and support of at least part of the rural workers and of the poor peasants, and unless other sections of the population are equally utilized. Communist work in the rural districts is acquiring a predominant importance during the present period. It should be carried on through Communist workingmen of both city and country who have connections with the rural districts. To refuse to do this work, or to transfer such work to untrustworthy half reformists, is equal to renouncing the proletarian revolution.

6. Every party desirous of affiliating with the Third International should renounce not only avowed social patriotism, but also the falsehood and the hypocrisy of social pacifism; it should systematically demonstrate to the workers that without a revolutionary overthrow of capitalism no international arbitration, no talk of disarmament, no democratic reorganization of the League of Nations will be capable of saving mankind from new Imperialist wars.

7. Parties desirous of joining the Communist International must recognize the necessity of a complete and absolute rupture with reformism and the policy of the "centrists," and must advocate this rupture amongst the widest circles of the party membership, without which condition a consistent Communist policy is impossible. The Communist International demands unconditionally and peremptorily that such rupture be brought about with the least possible delay. The Communist International cannot reconcile itself

to the fact that such avowed reformists as for instance Turati, Modigliani, Kautsky, Hillquit, Longuet, Macdonald and others should be entitled to consider themselves members of the Third International. This would make the Third International resemble the Second International.

8. In the Colonial question and that of the oppressed nationalities there is necessary an especially distinct and clear line of conduct of the parties of countries where the bourgeoisie possesses such colonies or oppresses other nationalities. Every party desirous of belonging to the Third International should be bound to denounce without any reserve all the methods of "its own" Imperialists in the colonies, supporting not only in words but practically a movement of liberation in the colonies. It should demand the expulsion of its own Imperialists from such colonies, and cultivate among the workingmen of its own country a truly fraternal attitude towards the working population of the colonies and oppressed nationalities, and carry on a systematic agitation in its own army against every kind of oppression of the colonial population.

9. Every party desirous of belonging to the Communist International should be bound to carry on systematic and persistent Communist work in the labor unions, co-operatives and other labor organizations of the masses. It is necessary to form Communist groups within the organizations, which by persistent and lasting work should win over labor unions to Communism. These groups should constantly denounce the treachery of the social patriots and of the fluctuations of the "centre." These Communist groups should be completely subordinated to the party in general.

10. Any party belonging to the Communist International is bound to carry on a stubborn struggle against the Amsterdam "International" of the yellow labor unions. It should propagate insistently amongst the organized workers the necessity of a rupture with the yellow Amsterdam International. It should support by all means in its power the International Unification of Red Labor Unions, adhering to the Communist International, which is now beginning.

11. Parties desirous of joining the Third International shall be bound to inspect the personnel of their parliamentary factions, to remove all unreliable elements therefrom, to control such factions, not only verbally but in reality, to subordinate them to the Central Committee of the party, and to demand from each proletarian Communist that he devote his entire activity to the interests of real revolutionary propaganda.

12. All parties belonging to the Communist International should be formed on the basis of the principle of democratic centralization. At the present time of acute civil war the Communist Party will be able fully to do its duty only when it is organized in a sufficiently thorough way, when it possesses an iron discipline, and when its party centre enjoys the confidence of the members of the party, who are to endow this centre with complete power, authority and ample rights.

13. The Communist parties of those countries where the Communist activity is legal, should make a clearance of their members from time to time, as well as those of the party organizations, in order systematically to free the party from the petty bourgeois elements which penetrate into it.

14. Each party desirous of affiliating with the Communist International should be obliged to render every possible assistance to the Soviet Republics in their struggle against all counter-revolutionary forces. The Communist parties should carry on a precise and definite propaganda to induce the workers to refuse to transport any kind of military equipment intended for fighting against the Soviet Republics, and should also by legal or illegal means carry on a propaganda amongst the troops sent against the workers' republics, etc.

15. All those parties which up to the present moment have stood upon the old social and democratic programmes should, within the shortest time possible, draw up a new Communist programme in conformity with the special conditions of their country, and in accordance with the resolutions of the Communist International. As a rule, the programme of each party belonging to the Communist Interna-

tional should be confirmed by the next congress of the Communist International or its Executive Committee. In the event of the failure of the programme of any party being confirmed by the Executive Committee of the Communist International, the said party shall be entitled to appeal to the Congress of the Communist International.

16. All the resolutions of the congresses of the Communist International, as well as the resolutions of the Executive Committee are binding for all parties joining the Communist International. The Communist International, operating under the conditions of most acute civil warfare, should be centralized in a better manner than the Second International. At the same time, the Communist International and the Executive Committee are naturally bound in every form of their activity to consider the variety of conditions under which the different parties have to work and struggle, and generally binding resolutions should be passed only on such questions upon which such resolutions are possible.

17. In connection with the above, all parties desiring to join the Communist International should alter their name. Each party desirous of joining the Communist International should bear the following name: Communist Party of such and such a country, section of the Third Communist International. The question of the renaming of a party is not only a formal one, but is a political question of great importance. The Communist International has declared a decisive war against the entire bourgeoisie world, and all the yellow Social Democratic parties. It is indispensable that every rank-and-file worker should be able clearly to distinguish between the Communist parties and the old official "Social Democratic" or "Socialist" parties, which have betrayed the cause of the working class.

18. All the leading organs of the press of every party are bound to publish all the most important documents of the Executive Committee of the Communist International.

19. All those parties which have joined the Communist International, as well as those which have expressed a desire

to do so, are obliged in as short a space of time as possible, and in no case later than four months after the Second Congress of the Communist International, to convene an Extraordinary Congress in order to discuss these conditions. In addition to this, the Central Committees of these parties should take care to acquaint all the local organizations with the regulations of the Second Congress.

20. All those parties which at the present time are willing to join the Third International, but have so far not changed their tactics in any radical manner, should, prior to their joining the Third International, take care that not less than two-thirds of their committee members and of all their central institutions should be composed of comrades who have made an open and definite declaration prior to the convening of the Second Congress, as to their desire that the party should affiliate with the Third International. Exclusions are permitted only with the confirmation of the Executive Committee of the Third International. The Executive Committee of the Communist International has the right to make an exception also for the representatives of the "centre" as mentioned in paragraph 7.

21. Those members of the party who reject the conditions and the theses of the Third International, are liable to be excluded from the party.

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## The Trade Union Movement, Factory Committees, and the Third International.

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Consequently, the Communists must strive to create as far as possible complete unity between the trade unions and the Communist party, and to subordinate the unions to the practical leadership of the Party, as the advance guard of the workers' revolutions. For this purpose the Communists should have Communist factions in all the trade unions and factory committees, and acquire by their means an influence over the labor movement and direct it.

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THESES ON THE NATIONAL AND COLONIAL QUESTIONS.

A.) THESES.

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The political situation of the world at the present time has placed the question of the dictatorship of the proletariat in the foreground, and all the events of world politics are inevitably concentrating around one point, namely, the struggle of the bourgeois world against the Russian Soviet Republic, which is grouping around itself the Soviet movements of the vanguard of the workers of all countries, and all national liberation movements of the colonial and subject countries, which have been taught by bitter experience that there can be no salvation for them outside of a union with the revolutionary proletariat, and the triumph of the Soviet power over Imperialism.

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It is likewise necessary, first, to explain constantly that only the Soviet regime is able to give the nations real equality, by uniting the proletariat and all the masses of the workers in the struggle against the burgeoisie; second, to support the revolutionary movement among the subject nations (for example, Ireland, American negroes, etc.) and in the colonies.

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**Petitioner's Exhibit No. 11**

*The Communist, August 1, 1920*

OFFICIAL ORGAN OF THE COMMUNIST PARTY OF AMERICA

PROGRAM OF THE COMMUNIST PARTY OF AMERICA
ADOPTED AT ITS SECOND CONVENTION

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*Political and Mass Action.*

The Communist Party maintains that the class struggle is essentially a political struggle; that is, to conquer political power, destroy the bourgeois state machinery and establish

the dictatorship of the proletariat in the form of a Soviet Government in the transition period from capitalism to Communism.

In those countries in which historical development has furnished the opportunity, the working class has utilized the regime of political democracy for its organization against capitalism. In all countries where the conditions for a proletarian revolution are not yet ripe, the same process will go on. The use of parliamentarism, however, is of secondary importance—for revolutionary propaganda and agitation only.

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**Petitioner's Exhibit No. 12**

THE COMMUNIST NO. 9

OFFICIAL ORGAN OF THE UNITED COMMUNIST PARTY OF AMERICA

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INTERNATIONAL DECIDES U. C. P. AND C. P. MUST UNITE

The following statement appears in the minutes of the Executive Committee of the Communist International:

The first month of the activity of the new Executive Committee of the Communist International, which had been formed on the 7th of August, was almost entirely dedicated to the most immediate problem of the movement, namely, to the consolidation of the Communist parties of every country, the elimination of the opportunist elements from them and the amalgamation of all truly Communist forces.

The sitting of the Executive Committee of the 8th and 10th of August were devoted to the questions of the American and the British movement. With regard to the first question the Executive Committee has decided to amalgamate both the American Communist Parties, the United Communist Party and the Communist Party into a single party.

The United Communist Party welcomes the decision of the Executive Committee of the International. Its policy has been consistently that of seeking to unite all the Communist elements in one organization. It will give all the aid within its power to the Executive Committee of the International to accomplish that end.

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**Petitioner's Exhibit No. 13**

*The Communist, Vol. I, No. 1, July*

THE COMMUNIST

OFFICIAL ORGAN OF THE UNITED COMMUNIST PARTY OF AMERICA

(SECTION OF THE COMMUNIST INTERNATIONAL)

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PROGRAM OF THE COMMUNIST PARTY OF AMERICA

ADOPTED BY THE JOINT UNITY CONVENTION OF THE COMMUNIST PARTY AND THE UNITED COMMUNIST PARTY OF AMERICA.

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The Communist Party of America, section of the Communist International, defines the aims and processes of the proletarian revolution as follows:

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The proletariat, once having learned the disastrous consequences of "Social-Democratic" bolstering up of the bourgeois State, throws its support to the Communists. Under pressure of the economic chaos, and led by the Communist Party, the proletariat forms its organs of working class power entirely separate and distinct from the bourgeois State. These organs are the Workers' Soviets (councils) which arise at the moment of the revolutionary outbreak and attain a dominant position, during the course of the revolution.

By the use of force, the proletariat destroys the machinery of the bourgeois State and establishes the proletarian dictatorship based on Soviet power.

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In order to overthrow the international bourgeoisie and to create an International Soviet Republic as a transition stage to the Communist Society, the Communist International will use all means at its disposal, including force of arms.

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### 2. Greetings to the Third World Congress of the Communist International.

The delegates of the Communist Party of America and the United Communist Party of America, in joint Unity Convention, send fraternal greetings to the Third World Congress of the Communist International. In the name of the revolutionary proletariat of America, we affirm our determination to fight under the banner of the Communist International for the overthrow of American imperialism and for the establishment of the proletarian dictatorship. Hail to the International Soviet Republic! Long live the Communist International!

### 3. Greetings to the Soviet Republic.

The delegates of the Communist Party of America and the United Communist Party of America, assembled in joint Unity Convention, send fraternal greetings to the revolutionary proletariat and peasantry of Soviet Russia and to its vanguard, the Russian Communist Party.

The unified party, the Communist Party of America, declares that it will render all possible assistance to the Russian Soviet Republic in its struggle against the counter-revolutionary bands of the world imperialism. The Communist Party of America declares that only by the overthrow of world imperialism will the safety and mastery of the Soviet Republic over its enemies be definitely assured. The

Communist Party of America pledges itself to rally the revolutionary proletariat of America for the annihilation of the most formidable stronghold of world imperialism: the American capitalist state, and to struggle for the establishment of the proletarian dictatorship. Down with world imperialism! Hail to the universal Soviet Republic! Long live the international solidarity of the workers!

### 4. To the Third World Congress of the Communist International.

The Unity Convention of the Communist of America and the United Communist Party of America fully upholds and endorses the firm and uncompromising stand of the Executive Committee of the Communist International against the opportunistic and centrist elements in various countries—in Italy (Serrati), and in Germany (Levi). The convention instructs its delegates to the third world congress to uphold and defend the stand of the Executive Committee of the Communist International.

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## CONSTITUTION OF THE COMMUNIST PARTY OF AMERICA

(Adopted at the Joint Unity Convention of the United Communist Party and the Communist Party of America.)

### *Article I. Name, Purpose and Emblem.*

Section 1. The name of this organization shall be the Communist Party of America, Section of the Communist International.

Section 2. The Communist Party of America is the vanguard of the working class, namely, its most advanced class conscious and therefore its most revolutionary part. Its purpose is to educate, direct and lead the working class of America for the conquest of political power; to destroy the bourgeois state machinery; to establish the Dictatorship of the Proletariat in the form of Soviet power; to abolish the capitalist system and to introduce the Communist Society.

Section 3. The emblem of the Party shall be the crossed hammer and sickle between sheaves of wheat and within a double circle. Below the hammer and sickle the words "All power to the workers." In the circular margin the words "Communist Party of America—Section of the Communist International."

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**Petitioner's Exhibit No. 23**

*The Daily Worker, New York, Friday, September 2, 1927*

## "THE FUTURE BELONGS TO THE COMMUNIST PARTY", SAYS GREETING OF THE COMMUNIST INTERNATIONAL

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In the country of the most powerful imperialism and a most brutal capitalist class the Communist Party can fulfill its duty and can become the leader of the working class against imperialism and capitalist aggression only if it is united and if it is not torn to pieces by factional struggle.

The Comintern considers as one of the central tasks of the Party the extermination of all factionalism and the unification organizationally as well as ideologically. It will be the duty of the newly elected Central Executive Committee to lead the Party in a non-factional spirit and it will be the duty of the whole Party membership to rally around the Central Executive Committee which it itself shall have chosen.

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PRESIDIUM,

Executive Committee of the Communist International.

**Petitioner's Exhibit No. 24**

*The Daily Worker, September 6, 1927*

WORKERS COMMUNIST PARTY CABLES REPLY TO COMMUNIST INTERNATIONAL TO GREETING TO FIFTH CONVENTION

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"The Fifth Convention of the Workers (Communist) Party greets the international leader of the working class, the Communist International. Under its leadership and with our own firm and unanimous determination to unify our Party, we will overcome the tremendous difficulties in the path of building a mass Communist Party in America. The Convention recognizes fully as Party's task the winning of the American proletariat for the revolutionary struggle against American imperialism.

"In the execution of this task we are inspired and guided by the principles of Marxism and Leninism, by the experiences of the victorious struggles of the Russian proletariat and the heroic battles of the exploited and oppressed masses of Europe and Asia. The Convention and the incoming Central Executive Committee pledge themselves speedily to eliminate all remnants of factionalism and to unify the Party as a prerequisite for the further success of our work.

"We pledge the unification of our Party and to fight more effectively for the defense of the Soviet Union and the Chinese revolution and against the war danger as well as to resist more effectively the offensive of the capitalist reaction and the reactionary trade union bureaucracy against our Party and the militant section of the American working class.

"The Convention is spurred by a full consciousness of its duty to recruit the toiling masses of America for relentless struggle against American imperialism.

"Long Live the Soviet Union!

"Long Live the Communist International!

"Fifth National Convention,
"Workers (Communist) Party."

**Petitioner's Exhibit No. 28A**

*Daily Worker, March 5, 1929*

PARTY CONVENTION GREETS COMINTERN

We greet our Communist International leadership and pledge our Convention and our Party to prepare itself, to strengthen itself, to clarify itself, for its share of this task. It will close its ranks, it will cleanse its ideology from the poison of opportunism, it will defeat Trotskyism, it will mobilize against and lead the American proletariat for the struggle against the imperialist war; it will mobilize the American workers for the defense of our Soviet Union and for the final defeat of American imperialism by the revolutionary overthrow of American capitalist rule.

Long Live Leninism!

Long Live the Communist International!

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**Petitioner's Exhibit No. 31**

# MANIFESTO OF THE COMMUNIST PARTY BY KARL MARX AND FRIEDRICH ENGELS

Authorized English Translation

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## PREFACE

BY FRIEDRICH ENGELS

The *Manifesto* being our joint production, I consider myself bound to state that the fundamental proposition which

forms its nucleus, belongs to Marx. That proposition is: That in every historical epoch, the prevailing mode of economic production and exchange, and the social organization necessarily following from it, form the basis upon which is built up, and from which alone can be explained, the political and intellectual history of that epoch; that consequently the whole history of mankind (since the dissolution of primitive tribal society, holding land in common ownership) has been a history of class struggles, contests between exploiting and exploited, ruling and oppressed classes; that the history of these class struggles form a series of evolutions in which, nowadays, a stage has been reached where the exploited and oppressed class—the proletariat—cannot attain its emancipation from the sway of the exploiting and ruling class—the bourgeoisie—without at the same time, and once and for all, emancipating society at large from all exploitation, oppression, class distinctions and class struggles.

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BOURGEOIS AND PROLETARIANS

The history of all hitherto existing society is the history of class struggles.

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Society as a whole is more and more splitting up into two great hostile camps, into two great classes directly facing each other—bourgeoisie and proletariat.

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The bourgeoisie has played a most revolutionary role in history.

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This organisation of the proletarians into a class, and consequently into a political party, is continually being upset again by the competition between the workers themselves. But it ever rises up again, stronger, firmer, mightier. It compels legislative recognition of particular interests of the

workers, by taking advantage of the divisions among the bourgeoisie itself.

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Of all the classes that stand face to face with the bourgeoisie today, the proletariat alone is a really revolutionary class.

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## Proletarians and Communists

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The immediate aim of the Communists is the same as that of all the other proletarian parties: Formation of the proletariat into a class, overthrow of bourgeois supremacy, conquest of political power by the proletariat.

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We have seen above, that the first step in the revolution by the working class, is to raise the proletariat to the position of ruling class, to establish democracy.

The proletariat will use its political supremacy to wrest, by degrees, all capital from the bourgeoisie, to centralise all instruments of production in the hands of the state, *i.e.*, of the proletariat organised as the ruling class; and to increase the total of productive forces as rapidly as possible.

Of course, in the beginning, this cannot be effected except by means of despotic inroads on the rights of property, and on the conditions of bourgeois production; by means of measures, therefore, which appear economically insufficient and untenable, but which, in the course of the movement, outstrip themselves, necessitate further inroads upon the old social order, and are unavoidable as a means of entirely revolutionising the mode of production.

These measures will of course be different in different countries.

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POSITION OF THE COMMUNISTS IN RELATION TO THE VARIOUS EXISTING OPPOSITION PARTIES

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The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communist revolution. The proletarians have nothing to lose but their chains. They have a world to win.

Workingmen of all countries, unite!

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**Petitioner's Exhibit No. 32A-B**

*The Daily Worker, July 12, 1924*

RUTHENBERG AND FOSTER ELECTED TO COMINTERN

*Dunne Represents U. S. Party In Moscow*

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Dunne will officially represent the party at the Communist International headquarters during the coming year. Foster, Workers Party candidate for President of the United States, and Ruthenberg, party secretary, will remain in America. Dunne's experience in the trade union movement is expected to be of great use to the international movement. The trade union question has assumed tremendous importance in key countries which may fall into line with Soviet Russia by setting up workers' and farmers' governments in the near future.

In Germany, especially, the question of Communist policy in the trade unions has become most vital. There the Communist International is directing the workers to stay within yellow unions wherever it is possible in order that the radicals who must lead the revolution may not be divided from their fellows.

### Only Revolutionary Force.

The Communist International is going into the next year of struggle against the international capitalists with a confidence that comes from strength and from a knowledge of revolutionary tactics based on the party's experience in the last years. It is the one internationally revolutionary force, organised to overcome the common enemy.

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**Petitioner's Exhibit No. 39**

## REPORT OF THE WORKERS COMMUNIST PARTY OF AMERICA

### 1. Economic Situation.

The year 1925 was a year of tremendous production, showing substantial increases over 1924. The production of coal in 1925 was 517 million tons as compared with 508 million tons in 1924; of steel 44½ million tons as compared with 37½ million tons. For the first eleven months of 1925 new building construction totalled 5¼ billion dollars, which is 19% more than the entire year of 1924. The production of automobiles for 1925 reached the record figure of 4¾ million, which is 20% higher than in 1924. Imports for 1925 totalled over 4 billions, as compared with 3 billions in 1924. Exports in 1925 revealed approximately 4½ billions, as against 3½ billions in 1924. For the first 10 months of 1923 the total capital flotations amounted to almost 5 billions, as against 4¾ billiions for the whole year of 1924. The capital export for the first 11 months of 1925 was approximately 1 billion dollars, reaching the same high record as 1924, which included the big loans based upon the Dawes plan.

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Amongst the farmers the situation is becoming critical, especially in the West. In Iowa, a typical grain growing state, reports come of acute distress among the farmers. The prices for corn received by the farmers has dropped

50% in the past 33 months, which is less than the cost of production. Prices of all other agricultural products in the grain growing districts are also declining, thus impoverishing the farmers and throwing them more than ever into the clutches of the banks. Signs of the agricultural crisis are multiplying. Many banks have failed in the West.

During the past year real wages of American workers have fallen. Wage rates on the average have remained almost stationary, with a few favored categories of skilled workers securing increases, with the unskilled in several industries suffering decreases. The cost of living is rising.

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### 2. Political Situation

The American situation is marked by more open and frank domination of the Government by big capital and the intensification of the imperialist spirit and policies.

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The agricultural crisis is producing renewed political activity among the farming masses. This is evidenced by the revival of the farm bloc in congress by pressure from below, the defeat of reactionaries in the farmers' organizations who support the Coolidge policies, increases activities among farmers' organizations generally and intensification of the struggle between the poor and rich farmers in these organizations.

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Among the lower ranks of the farmers in the West, among their more conscious elements, there is evidence of increased activity for the formation of Farmer Labor parties, and for the revival of various La Follette groups. In such movements the more conscious elements among the farmers seek alliances with the workers and the urban petty bourgeois elements who feel the pressure of the trusts. With the approach of the congressional elections in the latter part of

this year these movements will take on more concrete and definite forms.

The workers, not yet fully recovered from the effects of the defeats in the big strikes of 1919-23 and in the La Follette movements of 1924, have not displayed great activity during this period upon either the economic or political field. It has been a period of comparatively few strikes, in spite of the high rate of production, increases in living costs, and the failure of wages to rise accordingly. Small strikes against wage cuts and for wage increases have occurred in the building, textile, clothing, marine transport industries. The most important struggle is that of the 158,000 anthracite coal miners for increases in wages and the right to organize, which has been on since September 1st. The bituminous miners, whose union is being cut to pieces are preparing to submit demands and will find themselves in a life and death struggle with the employers in the coming summer. Certain skilled categories of railroad workers are also submitting demands. In the clothing trades the failure of the bureaucracy to lead the workers in the struggle against the employers is the central cause for the upheaval which is rapidly bringing all the unions in this industry, totaling 300,000 organized workers, under the leadership of the left wing.

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### 3. The Trade Unions.

The American trade unions are taking a new orientation towards a more intensified and elaborated class collaboration with the employers in the fields of the industries finance, domestic politics, and international relations. The economic and political bases of this new orientation is found in the fact that the American imperialists in their aggressive fight for world domination, feel the double need for cheaper production and peaceful relations with labor and that American capitalism, tremendously enriched by the extra profits of its imperial exploitation, is willing and

able to buy off certain sections of the trade union bureaucracy and of the labor aristocracy.

In the industries the employers, departing from their traditional policy of crushing all organization among their workers, are now organizing "company" unions. These organizations, which are entirely under the control of the employers are formed for the double purpose of increasing the workers' productive efficiency and for blocking the growth of class consciousness and organization among them.

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### 5. Other Groupings and Parties

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The Progressive Party, headed by William B. Johnston of the Machinists Union, was an outgrowth of the La Follette campaign. It is a petty bourgeois organization based on individual membership, but so loosely constructed as to provide for collective affiliations of farmer labor parties, trade unions, non-partisan trade union committees, etc. The trade union wing of this party also control the Conference for Progressive Political Action, which is a loose political organization of national, state, and local trade union unions, whose official policy is non-partisan. The political programs of the Progressive party and the Conference for Progressive Political Action are identical. They provide for moderate reforms for labor and the farmers. The Socialist party functions practically as its left wing. This group of Progressive party and Conference for Progressive Political Action will rally considerable masses in the coming elections.

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### 6. The Policies and Activities of the Workers Communist Party.

The last Plenum of the ECCI outlined for our party the following main lines of policy, 1, the Bolshevization of our

party, with special emphasis upon the struggle against Loreism (the right wing), the centralization of the party apparatus and the re-organization of the party upon the basis of shop nuclei, 2, a more intensive participation in the trade union and specifically the building of party trade union fractions and the building and strengthening of the Trade Union Educational League, a special letter jointly signed by the Comintern and Profintern being addressed to our party on the trade union work, 3, the Plenum corrected the mistakes of both the leading party groups (Foster and Ruthenberg groups) on the labor party question, 4, a more systematic application of the united front policy with special emphasis on the need of formulating united front programs on the basis of immediate burning needs of the masses. The Workers Communist Party convention, held at the end of August, adopted a series of resolution outlining the ways and means of putting these policies into effect.

a) *Bolshevization.* The Plenum decision stated that Loreism is a right wing deviation from Leninism and that such an opportunist as Lore had no place on the Central Executive Committee of the Workers Communist Party or as editor of a Communist paper. Consequently, immediately upon the return of the delegation, the Central Committee had a special enlarged session and removed Lore from the editorship of the *Volks-Zeitung*. Between then and the Party convention Lore's attitude was one of hostility and resistance, with the result that at the party convention he was unanimously expelled from the party. With him went the *Volks-Zeitung* and the extreme right wing of the small German Federation. The condemnation of Lore by the ECCI and his expulsion from the party demoralized the right wing. Comrade Askelli of the Finnish Federation attempted to re-mobilize the right wing against the Central Executive Committee, but he was first ideologically defeated and then removed from the editorship of the Finnish paper *Tyomies*. This culmination of the previous campaign of the CEC against Lore stripped him of the bulk of his followers. Since his expul-

sion, Lore has carried on a guerilla warfare against the party and the Comintern, attempting to bring together the scattered two and a half international elements both within and without the party. This struggle against Loreism has distinctly improved the Bolshevik tone of the party.

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b) *Trade Union Work.* At the party convention, in accordance with the Plenum decision, a resolution on trade union work was unanimously adopted, pointing out the following main tasks of the party in the trade unions:

1. The revolutionizing of the existing unions through strengthening and organizing the left wing in the unions by bringing all the proletarian elements of the party into the unions, by the organization of trade union fractions, the building up of the TUEL and the stimulation of the organization of the progressive opposition bloc.

2. The organization of the unorganized by the strengthening of the existing organizations, the creation of new unions in industries where none exist, the building of shop committees, and the utilization of the shop nuclei as points for inaugurating campaigns to organize the unorganized.

3. The unification of the trade union movement by the stimulation of the campaign to amalgamate the craft unions into industrial organizations.

Since the convention the Central Executive Committee has departed radically from this policy, which is also that of the Comintern and Profintern, and has developed the policy of liquidating the broad left wing organized in and around the TUEL and substituting in its place Communist fractions. Although stating that the proposed policy will not be put into effect until the Comintern and Profintern have passed upon it, the CEC is actually applying it at the present time. The first phase of the policy is an active campaign to discredit all the leading figures in the TUEL as disloyal to the Comintern. This is accompanied by the removal of leading TUEL comrades from responsible posi-

tions and the hamstringing and isolation of others who are not actually removed, in an attempt to cripple their activities. Finally the TUEL organization itself is being dismantled by the substitution of fractions for the TUEL machinery, by the refusal to permit the TUEL to send delegates to various important conventions, by refusing to support the activities of the TUEL, and by carrying on a widespread propaganda that the TUEL must be dissolved.

This big issue in the life of our party is now before the Communist International for a decision.

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f) *Work Among the Negroes.* The fourth convention of our party unanimously adopted a resolution on the Negro question. The resolution deals with the race problem of the Negro race as a whole and with the special conditions of the Negro proletariat as part of the working class.

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g) *Work Among Women.* The resolution of the fourth party convention on women's work, which was unanimously adopted, clarified this problem for our party, correcting errors of both leading groups and laying the basis for Communist mass organization and activity among working women in America.

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l) *Anti-Imperialist Work.* The Workers Communist Party is rapidly awakening to the necessity for a militant struggle against American imperialism on all fronts.

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m) *Party Program of Action.*

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To bring unity in the party, the Comintern, after the last Plenum of ECCI, sent a representative, Comrade Green, to the United States. In accordance with the decision of the Plenum, he organized a parity commission to regulate the differences and to organize the party convention. This

consisted of three members from each of the two leading groups, with Comrade Green as Chairman. The Parity commission settled all the vexed organization questions by unanimous agreement. It also adopted, by unanimous agreement, 13 resolutions for the convention on the main political and organizational tasks of the party, and it worked out and controlled all the organizational arrangements for the convention.

The elections in the lower party units gave a strong majority to the Foster group. Consequently Comrade Green called the parity commission together 10 days before the opening of the convention and brought about an agreement on the composition of the incoming Central Executive Committee in order to still the factional struggle in the party. This agreement, which was signed by Comrade Green and all the representatives of both leading groups, provided for a majority of 13 for the Foster group and a minority of 8 for the Ruthenberg group in the new Central Executive Committee.

When the convention assembled and the delegates were all seated, the Foster group had a majority of 40 to 21. Just before the convention ended a cablegram unexpectedly arrived from the ECCI sharply criticising the Foster group. Although the cabled decision did not specifically remove the Foster group from the majority of the Central Executive Committee of the party, the delicate situation in the party, made it impossible for this group to take a majority of the Central Executive Committee. The whole matter is now before the ECCI for adjustment.

With Communist Greetings

Wm. Z. Foster
Alex. Bittelman

Moscow, January 18th, 1926.

**Petitioner's Exhibit No. 40**

(CI Decision)

April 15, 1926

To all DISTRICT, CITY, SECTION COMMITTEES and LANGUAGE PROPAGANDA BUREAUS.

Dear Comrades:—

You will find enclosed herewith the resolution adopted by the enlarged Executive Committee of the Communist International on the situation in our Party and the main tasks of the Party.

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Fraternally yours,

C. E. RUTHENBERG
*General Secretary.*

Resolution on the American Question Adopted by the Enlarged Executive Committee of the Communist International.

1. The Enlarged Plenum of the Executive Committee of the Comintern attaches specially great importance to the question of the creation of a real proletarian mass party in America. The hegemony of the imperialists of the United States of North America throughout the world renders the work of the American Communists an important and singularly responsible one. The Communist Party of America is called upon to play a tremendous role, and in many respects even a DECISIVE role. For that reason alone all the Sections of the Comintern and the Comintern as a whole, will attentively follow the activity of the American Section and support it in every possible way.

2. At the same time, the Enlarged Plenum of the Executive Committee of the Comintern realises clearly the tremendous objective difficulties which the development of the American Party must overcome during the next period.

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17. Greater attention must be given to the building of a mass Young Communist League and Pioneer movement. In the future the young will serve as a reservoir of trained Party members. The slogan "A League unit wherever a Party unit exists", issued by the CEC is correct and steps should now be taken to carry this into effect. Careful supervision and mutual agreement must be exercised in the transferring of League members into Party work, especially at the present time when the League is numerically weak.

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ORGANIZATIONAL CHANGES

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5) The Political Committee will approve Comrade Browder as the representative of the TUEL in the Profintern. In this capacity, Comrade Browder can participate in the meetings of the Executive and Presidium of the Comintern (without vote).

Signed) C. E. RUTHENBERG
Signed) WM. Z. FOSTER
Signed) C. W. KUUSINEN

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**Petitioner's Exhibit No. 43**

FINAL TEXT.

*Endorsed by Presidium of ECCI, July 1st 1927.*

RESOLUTION
ON THE AMERICAN QUESTION

• • • • • • • • • • • •

The United States of America, during the last decades, has developed into the mightiest imperialist power.

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The task of the Workers (Communist) Party is to form a broad united front and to intensify the struggle against American imperialism.

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The absolutely necessary struggle against Great Britain's plans to wage war on the Soviet Union and the imperialist intervention in China must therefore always be linked up by the Workers (Communist) Party with the mobilization of the masses for the most energetic fight against the specific role of American imperialism.

In this sense the demonstrations organized by the Party in connection with events in China in front of the British Embassy and Consulates were right and a proper move. But the writer of some of the editorials in the "Daily Worker" (May 7 and 8) deviated from this line of action by minimising the predatory role of American imperialism in China and by representing it one-sidedly only as a tool of British imperialism.

The Workers (Communist) Party must put the question of the recognition of the Soviet Union more energetically in the trade unions and in this way also fight against the pro-imperialist policies of the labour bureaucracy.

In its struggle against American imperialism, the Workers (Communist) Party must not overlook the question of the war and post-war debts of the capitalist states of Europe to the United States. Without getting into the leading strings of the petty-bourgeois politicians and without allotting these questions first place, the Party must actively support the international revolutionary struggles against the whole system of imperialist "peace" treaties, the Dawes Plan, and the finance policies of the imperialists from all of which the question of war debts is inseparable.

The attitude of the Workers (Communist) Party can only be for the cancellation of war debts; naturally not for the cancellation of the INTER-ALLIED debts, but of ALL debts of the last imperialist world war. However, it is not the task of the Workers (Communist) Party to carry on a special, separate struggle under this slogan, but it must combine this question with its general struggle against American imperialism.

ALL THESE questions must be utilised by the Party to rally the broad masses in defence of the Soviet Union and the Chinese Revolution and to sever the masses from the imperialist ideology of the bourgeoisie and the labour bureaucracy. At the same time the Party must understand that in view of its numerical weakness it can act as a centre of attraction for the broad masses only when it has complete unity.

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Those comrades active and influential in the trade unions must be drawn more into active Party work than hitherto and especially into the work of the leading committees thus achieving simultaneously the unification of the leadership of the trade union work by the Party. The entire Party membership must regard the work in the trade unions as the most important task of the Party.

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The Presidium decides:

1) The Party Convention should take place in the end of August 1927 in view of the delay caused by the work of the American Commission.

2) In order to make possible the convention preparations with the least friction there will be formed "a commission for the preparation of the Party Convention" consisting of 6 (six) members with voting rights and 2 candidates (3 of the majority and 3 of the Opposition) under the chairmanship of a neutral comrade. As deputy chairmen of the Commission, Comrades Lovestone and Foster will function. The Commission has the right to arrive at binding decisions on all questions pertaining to the organisational and political preparation of the Party Convention. The Commission will also have the right to arrive at decisions on questions of mandate disputes in connection with the delegates to the Party Convention. The election of delegates for the Party Convention is to be on the proportional representation system.

3) The normalisation and democratisation of the Party life demand that the Party Convention after an objective consideration of all important questions elect a broad Party Executive into which a number of additional proletarian elements should be drawn. For the minority at the Party Convention important representation must be secured both on the Central Committee and in the Political Committee.

4) In order to demonstrate before the whole Party the necessity of collaboration and merger of the existing groups comrades Lovestone and Foster shall function as secretaries of the Party until the Party convention and Comrades Foster and Gitlow shall function as secretaries of the Trade Union Department until the Party convention. Further changes in the composition of the leading bodies (Central Committee and Political Committee) are rejected as inexpedient before the Party Convention. The composition of the Central Executive Committee is left to the decision of the Party Convention. It is recommended to the Party Convention to make a decision that the newly elected Central Committee is to set up immediately a collective Secretariat of three comrades, one of whom should be a representative of the Minority. It is recommended, in any event to elect Comrades Lovestone and Foster as secretaries.

5) The Presidium thinks it advisable that the Party Convention discuss and decide the question of the expediency of transferring the seat of the Central Committee.

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**Petitioner's Exhibit No. 44**

The following paragraph was adopted by the American Sub-Commission of the Presidium with the purpose to be embodied into the agreement of the American comrades as a statement on the policy followed by the ECCI towards the different groups in the American Party:

The Comintern recognizes that in many political questions the Ruthenberg group followed a more correct line in the past than the Foster group. Because of this the Comintern has generally been supporting politically the Ruthenberg group. On the other hand the Comintern had to protect organizationally the Foster group from the Ruthenberg group. Because the Executive had the opinion that the leading group of the majority of the Polcom had not sufficiently understood how to estimate the full significance of the trade union forces in the Party and that Comrade Foster at that time was more correct on many questions of the trade union tactics. The line of the Comintern has been: on the whole for the political support of the Ruthenberg group, and for bringing Foster nearer to the general political line of the Ruthenberg group, at the same time however, following the course towards the correction of the trade union line of the Ruthenberg group on the line of Foster thru closest cooperation in the Party leadership.

BRAUN
in name of sub-commission

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**Petitioner's Exhibit No. 47**

*The Worker, September 8, 1923*

Cablegram—"Via Commercial".

Moscou 40 310PM
Ruthenberg 799 Broadway NY

Know no more important task American Workers than establishment militant daily. This should be rallying point for concentration all forces present time. Only after foundation daily will Comintern consider we have real mass party America. Zinoviev.

Petitioner's Exhibit No. 50

# MINUTES OF EXECUTIVE COUNCIL

JUNE 27, 1925

Present—Abern Cannon Bittelman Dunne Ruthenberg and Lovestone

Comrade Abern elected chairman

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## RESOLUTION ON THE ORGANIZATION OF THE INTERNATIONAL RED AID AND THE INTERNATIONAL WORKERS RELIEF

1. In accordance with the agreement reached with the representatives of the I R A and the I W R in Moscow by our delegates, the Party shall proceed with the organization of these two organizations as separate bodies.

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7. However, the campaigns of the I R A and the I W R shall not be inner Party campaigns. That is, the appeal for financial support shall not primarily be made in the Party ranks but largely to the outside working class groups. Unless we can throw the major part of the weight of collecting funds and securing support of these organizations outside of the Party they do not fulfill their purpose.

8. The CEC shall appoint a sub-committee of three members which will study the details in regard to the organization of both organizations and submit detailed recommendations to the future meetings of the Committee in harmony with the above basic outline.

**Petitioner's Exhibit No. 51**

## MINUTES OF THE SECRETARIAT

JULY 24, 1925.

Present: Foster, Bittelman, Ruthenberg.

*Policy in the Machinists' Union*

Comrade Foster submitted the following proposals:

1—That the Party issue a manifesto in regard to the actions of the Machinists' Union threatening expulsion of all members of the Workers Party if they do not withdraw within thirty days and that the Trade Union Educational League and the Metal Trades Section follow this up with a similar manifesto.

2—That the Trade Union Educational League members who are members of Machinists' Union deny membership in the Trade Union Educational League.

3—That the known and active Party members acknowledge membership in the Workers Party and that they make a fight for their right to belong to the Party.

4—That those members of the Party who are not known as members of the Party shall sign the statement required denying membership in the organization.

5—That we establish contact with the Anderson organization in the Machinists' Union for the purpose of coming to an understanding in the struggle against the Johnston action.

6—That we introduce resolutions in the Machinists' Union condemning the action of Johnston in issuing the order that all Workers Party members are to be expelled. All points exclusive of Point 4 were adopted unanimously. Action on Point 4 postponed.

The meeting then adjourned.

Fraternally submitted,

C. E. Ruthenberg,
Executive Secretary.

**Petitioner's Exhibit No. 53**

## MINUTES OF POLITBUREAU

SEPTEMBER 2, 1925

Present: Comrades Green, Ruthenberg, Lovestone, Bedacht, Foster, Cannon. Candidates—Dunne (Gitlow absent). Comrades Loeb and Engdahl were present during discussion on Daily Worker. Comrades N. H. Tallentire and M. Hansen present during discussion on District 13 situation.

Chairman—Comrade Ruthenberg.

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*Immediate Tasks.*

Motion by Ruthenberg

1—That we issue a manifesto to the Party calling upon all Party members to mobilize for work for the Party. The factional issues must not disturb the Party work in the future and the following campaigns must be stressed: The Anthracite Campaign, Party Reorganization, Party members join the Trade Unions, Labor Party Campaign.

2—That Comrade Ruthenberg write the manifesto to be approved by the Secretariat.

Motion by Comrade Foster

That the Trade Union Committee be instructed to work up plans to be presented to the Politbureau, for complete mobilization of Party proletarian members into the Trade Unions and the TUEL.

Motion by Comrade Cannon

That support of the International Labor Defense be added in the list of campaigns.

Comrade Cannon reported incidentally that the I L D has undertaken to finance the five I W W cases held for deportation and the I W W Defense Committee has accepted the

contributions of the I L D. This serves as another wedge for us into the I W W.

Motions by Lovestone

1—That the Agitprop Department be instructed immediately to prepare a pamphlet containing all the resolutions and decisions proposed to the convention including the statistics on membership and Party growth, similar to the one published for the Third Convention.

2—That the Organization Department be instructed to prepare a pamphlet consisting of the new Party constitution, the instructions for Party reorganization along shop nuclei lines, the Comintern organization letter and the model charts for Party organization given out by the Org Department of the C I.

3—That we publish a pamphlet on the convention dealing with the political significance of the convention, the fight against opportunism, Bolshevization of the Party, and other leading problems of the convention and that Comrade Ruthenberg write this pamphlet.

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**Petitioner's Exhibit No. 58**

Minutes of POLITBUREAU 8 PM October 19, 1925

Present—Ruthenberg, Lovestone, Cannon, Dunne, Bedacht.
Candidates—Minor and Johnstone; Zam for YWL.
Observer—Engdahl.
Chairman—Ruthenberg.

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Comrade Johnstone expressed the view that he would sign his name to the statement also since it expresses the views he has brought forward since he has been a member of the Politbureau. No action taken.

*Trade Union Delegation to USSR*

Comrade Ruthenberg read a letter from Comrade Foster regarding the delegation to the Soviet Union. Resolution

attached calling upon Purcell meetings to endorse the move to send a delegation of trade unionists to USSR.

Motion by Lovestone

1—That we accept the proposal except for the proposition of a public statement and to delete the first two paragraphs and to have the resolution adopted, revised as suggested by Comrades Cannon and Dunne.

Carried unanimously.

*Young Workers League.*

Letter read from the YWL NEC and supplementary report given by Comrade Zam. Cable from YCI also read, dealing with youth congress held October 1st and the future work of the League. The following action was taken on the concrete propositions:

1—To change the name from the YOUNG WORKERS LEAGUE to YOUNG WORKERS (COMMUNIST) LEAGUE.

Concurred in unanimously.

2—To change the name of the Junior Section of the Young Workers' League to YOUNG PIONEERS.

Concurred in unanimously.

3—There should be an exchange of representatives (not necessarily with ~~vote~~) between all the sub-committees of the CEC of the Party and the NEC of the League.

Concurred in unanimously.

4—In view of the fact that the dues in the League have been raised to 40c per month, we request that the exempt age of Party members who are also League members be advanced to 23 years.

Motion by Ruthenberg

That the exempt age limit remain at 21 years.

Motion by Ruthenberg was carried unanimously thereby defeating No. 4.

5—Request the Party to permit the establishment of Youth Sections in the Labor Herald and the Agricultural paper of the Party.

Carried unanimously.

6—To issue the slogan "A vote for every Young Worker who is eighteen years of age" as a general League slogan in all the election campaigns.

Carried unanimously.

Motion by Zam.

1—With relation to the Soviet Russia campaign we make an appeal of propaganda for the sending of a young workers delegation to Soviet Russia.

2—That a youth block be formed at the ANLC.

Amendment by Lovestone.

To defer action on the youth delegation until after the trade union delegation has been sent.

Amendment carried unanimously.
No objection was raised to point 2 of Zam's motion.

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**Petitioner's Exhibit No. 59**

Minutes of SECRETARIAT October 19, 1927

Present: Lovestone, Gitlow, Cannon and Bittelman for the Labor Party question.

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ILD MATTERS

Comrade Cannon reported that the program of the Conference will be presented to the Secretariat within a week.

Motion by Cannon:

That the National Office instruct all Party papers to turn over their subscription lists for use by the ILD.

Voting: Carried unanimously.

Motion by Cannon:

That all arrangements be authorized for Comrade Cannon's making a tour for two months from coast to coast.

Amendment by Lovestone:

That the tour of Comrade Cannon should cover a total of two months though not continuous.

Voting: Motion as amended carried unanimously.

Comrade Cannon reported on the proposal to tour Powers Hapgood on the Cheswick case.

Motion by Lovestone:

To refer this matter to the Trade Union Committee.

Voting: Carried unanimously.

Comrade Cannon reported regarding his conference with Isaac D. Levine and the latter's break with the Boston Committee.

Motion by Lovestone:

That Comrade Cannon make arrangements to utilize Levine as a speaker and writer for the ILD on a limited scale immediately and then determine the continuation on a larger scale on the basis of Levine's record in the work.

Voting: Carried unanimously.

## Women's Work

Comrade Lovestone reported that the United Council of Working Class Women is prepared to pay for Comrade K. Gitlow's going to the Tenth Anniversary; and also to investigate the conditions of the working women in the Soviet Union.

Motion by Lovestone:

1—That Comrade Gitlow be authorized to accept the invitation and immediately arrange to leave.

2—That a credential be given to Comrade Gitlow as a member of the Party and as a responsible figure in the women's work.

3—That the New York District Organizer be immediately notified so that arrangements can be made to have comrades chosen to replace Comrade Gitlow in the work she has been doing in this field.

Voting: Carried unanimously.

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**Petitioner's Exhibit No. 60**

OCTOBER 21, 1927
#343C

This is to certify that Comrade Kate Gitlow is a member of the Workers (Communist) Party of America in good standing. She has been a member since the Party's organization. Comrade Gitlow is active in women's work. The Central Executive Committee asks that the Women's Secretariat especially cooperate and help Comrade Gitlow during her stay in the Soviet Union.

Fraternally yours,

JERRY LOVESTONE,
*Executive Secretary.*

SEAL—Central Executive Committee

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**Petitioner's Exhibit No. 63**

MINUTES OF POLCOM

DECEMBER 23, 1925
#36

Present: Ruthenberg, Lovestone, Bedacht, Cannon, Dunne.
Candidates—Minor, Johnstone. Observers—Engdahl, Browder and Bob, Com Frank Miller.
Chairman—Com Ruthenberg.

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## Trade Union Delegation Campaign

Comrade Ruthenberg read a cable and a letter from Comrades Foster and Bittelman dealing with the trade union delegation and the proposal that the delegation reach Moscow by May 1st.

Motion by Ruthenberg:

1—That we send confidential instructions to all DOs in New York, Boston, Philadelphia, Cleveland, Pittsburgh, Detroit and Chicago that they take up this question energetically and organize the trade union fractions to get support of the local trade unions for a local conference.

2—That they shall make this one of their principle points of work at the present time.

Motion by Lovestone:

That we take up with Gold, the question of the Joint Board of the Furriers (New York) voting $500 to help start the organization drive for a trade union delegation.

Motion by Ruthenberg:

1—That the New York Committee for the T U delegation forward $200 for organization work, nationally, to Chicago.

2—That Chicago be the center for this work.

Amendment by Cannon:

That Com Lewis devote his full time to the work and push it energetically.

Motions carried unanimously.

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## Women's Work

Letter from Comrade Zetkin read dealing with women's work, problems and tacks American section should take up.

Motion by Ruthenberg:

1—That a sub-committee be elected to consist of 3 CEC members for work among women.
2—That the executive section of the work shall be in the Org Dept.
3—That a report be formulated to Comrade Zetkin, Women's Dept. of the CI on the work that has been done in carrying out the resolution.
4—That we advise the CI Women's Secretariat that we will take note of all points of correction in regard to the convention resolution.
5—That the sub-committee draw in a number of women Comrades for this work.
a. The sub-committee shall take up the question of organizations of women's auxiliaries (trade union, etc.)

Motions carried unanimously.

Comrades Lovestone, Browder and Dunne were elected unanimously. Representatives of the League to be added by the NEC of the YW(C)L.

March 8 has been set for International Women's Day. Committee is to make arrangements for special editions of the Party papers on that day.

Motion by Bedacht:

That the Agitprop Department take note of the criticism of the letter of the Women's Secretariat of the articles in the Party press and take steps to remedy it.

Adopted unanimously.

MARINE TRANSPORT WORKERS CABLE RECEIVED BY COM GEORGE.

Comrade Ruthenberg read the following cable received by Com Harrison George:

"RILU Executive Bureau empowers Comrade Harrison George act representative RILU Transport Workers Section at United Front Conference meeting Havana Cuba January fifteenth nineteen twenty-six stop our position stop

fight war danger and imperialism fostered by capitalist government generally and today United States particularly stop against Pan American Labor Federation as tool North American imperialism stop against T U collaboration with employers stop against disorganized State Labour Movement stop favour class struggle Proletarian organizations trade union unity nationally internationally for International Federation Transport Workers all branches transport for close collaboration RILU organizations with other revolutionary organizations seamen particularly MTW 510 IWW stop detailed instructions materials following stop."

Com George's reply: "Marine Conference transferred Montevideo, Uruguay March fifteenth avoid Cuban persecution stop preliminary visit important Latin American countries imperative."

Motion by Com Ruthenberg:

That we communicate by cable with the Profintern on the question of financing delegate to the Marine Transport Conference.

Carried unanimously.

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**Petitioner's Exhibit No. 65**

## MINUTES OF POLITICAL COMMITTEE

JANUARY 4, 1926
#39

Present: Ruthenberg, Lovestone, Cannon, Dunne, Johnstone, Darcy (YWL). Observers: Ballam, Engdahl, Bob, F. Miller, Beidenkapp (IWAO).

Chairman: Ruthenberg.

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### C I REPRESENTATIVES

Motion by Ruthenberg:

That Comrades Bedacht and Cannon be elected as representatives of the CEC to appear before the Comin-

tern on the American question and that they be the American delegates to the EECCI.

Amendment by Com Johnstone:

1—That Comrade Browder be sent over as the representative of the opposition to the new appeal on the trade union resolution which is being presented to the CI.

2—That Comrade Bittelman be one of the delegates.

After discussion vote was taken. For Johnstone No. 2—Johnstone. Against—all other members of the committee. For Johnstone motion No. 1—Johnstone. Against—all other members. Voting for Ruthenberg motion—Cannon, Dunne, Lovestone, Ruthenberg. Comrade Johnstone abstained from voting on this motion.

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CABLE FROM COM LOSOVSKY

Cable received from Com Losovsky reading as follows:

Telegraph immediately text resolution regarding league before consideration question here stop league is part of profintern stop on no account take any decisions against League whatever or weakening league work stop.

Answer sent as per copy attached.

Motion by Ruthenberg:

That the reply be approved.

Amendment by Johnstone:

That the request of Comrade Losovsky be complied with.

Substitute by Lovestone:

That in the opinion of the CEC, the cable sent by Comrade Ruthenberg fully complies with the request of Comrade Losovsky and therefore we endorse the reply sent.

Statement by Johnstone "That the request of Comrade Losovsky is not being complied with as shown by the trade

union committee meeting today in the refusal to adopt Comrade Foster's proposed plan of Party fractions and building the League and the statement of Ruthenberg that the CEC is not in line with the policies outlined for the League which is at present the policy of the Profintern and the Party.

In order to complete the records Comrade Ruthenberg states "that the program of the CEC as well as that submitted by Comrades Foster and Bittelman provided first for an organizational campaign to mobilize the Party membership for trade union work and organization of Party fractions. The CEC is carrying on this campaign immediately. Before this campaign can be completed, the CI will have made a decision on our proposal and the way will be clear for carrying into effect the policy approved by the CI for building the broad left wing movement in this country. Therefore, the action in relation to the Foster-Bittelman proposal in regard to the TUEL does not in any way militate against the League since such action cannot be taken until after the campaign for the organization of Party fractions even as Comrades Bittelman and Foster proposed."

Voting in favor of Lovestone substitute—Cannon, Dunne, Lovestone, Ruthenberg. Comrade Johnstone is recorded as voting for his own motion.

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1/4/26 #39

Copy of cable in answer to Losovsky cable:

Plenum central endorses unity and polcom report eighteen for and four against stop Consultative vote candidates alternates DOs and leading Comrades present forty-two in favor and eight against stop trade union resolution adopted same vote proposes expansion present industrial national committees comma which except in needle trades are not connected TUEL comma into broad left bloc organizations comma organizing local left bloc conferences comma and when ground thus well prepared calling national left bloc conference to elect national committee and adopt national

program stop left wing paper to be established by organizing provisional national board stop TUEL to continue until national conference left block elects committee and adopts program and then to be absorbed in it stop immediate campaign to bring members into unions and organize fractions stop Balance program in resolution effective only after approval Comintern Profintern stop Give copy to Losovsky in answer to his cable to us."

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**Petitioner's Exhibit No. 69**

## MINUTES OF POLITICAL COMMITTEE

April 8, 1926

#64

Present: Ruthenberg, Lovestone, Abern, Minor, Johnstone.
Candidates—Swabeck, Engdahl, Ballam. YWL—Darcy.
Observers—Miller, Bob, Loeb, Gomez, Whiteman.
Chairman: Ruthenberg.

### Negro Work

Comrade Whiteman reported on the work done and results achieved on his tour and made recommendations.

Motion by Ruthenberg:

1—That Comrade Whiteman be requested to write out his report so that it can be sent to the Eastern Department of the Comintern showing the progress in the work the ANLC is doing.

2—That we approve of the recommendation that the five persons mentioned be added as new members to the Executive Committee of the Congress. (Wm. Pickens, Monroe Trada, I. F. Bradley, Albert C. Candler, Robt. Lockman).

3—That we postpone action on the question of moving the ANLC office to New York until a later meeting.

4—That the second class mailing privileges for the Negro Champion be secured before the next issue of the paper.

5—That the Negro Committee be instructed to take up with Comrade Whiteman the proposal of initiating an immediate campaign on some concrete issue.

Motion by Ballam:

That we take up the question of the present constitution of the ANLC local ex comm with the Boston District and instruct them that the Congress is to be put on a broader basis in regard to the personnel of the officers.

Motions carried unanimously.

## Anti-Imperialism

Comrade Gomez reported on the situation and occurrences since his last report, confining it to the most urgent matters that required attention. 1. Must build up El Liberatador as organ for the League in Latin America. 2. Matter of arranging organization trip through Latin America. 3. Sending of representatives to Philippines to take up work there; also a rep to Latin America. 4. Conference called at Brussels has been indefinitely postponed but definite steps being made to provide for sending of delegates. 5. Separate office for AAAIL from Party offices. 6. Young Workers League Anti-Militarist conference. 7. Cuban situation. 8. Responsibility for bills of local anti-imperialist organizations. Recommendations were made covering points.

Motions by Ruthenberg:

1—That the Org Dept shall make a survey in order to have a Comrade who can be sent to the Philippines, under the instructions and direction of the Eastern Department of the Comintern.

Carried unanimously.

(FURTHER MOTION BY RUTHENBERG)

2—That the anti-imperialist committee be instructed to work out a plan for the work in South America.

3—The anti-imperialist committee shall cast about for suitable persons to assign to this work and submit its plan at the earliest possible moment to the Polcom for approval and submission to the Presidium of the Comintern. The plan should also include a budget for this work.

Motions carried unanimously.

Motion by Ruthenberg:

That Com Gomez write a letter to the Cuban Comrades who claim to be secretaries of the AAAIL in Cuba pointing out that the Communist Party must be supreme for its members and also pointing out that it would be a crime to align the League against the Party. No matter what the present difficulties are they should be settled by the Party. In the meantime they should both prepare a statement as to what their individual cases are.

Carried unanimously.

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**Petitioner's Exhibit No. 71**

*READ AND DESTROY*

MINUTES OF POLITICAL COMMITTEE

JUNE 11, 1926
#76

Present—Ruthenberg, Gitlow, Minor, Engdahl, Dunne, Foster, Bittelman, Darcy. Bob, Miller, Loeb, Johnstone. (From the YWL- Schachtman, Shapiro, Williamson).
Chairman—Ruthenberg.

## YWL

Comrade Darcy read the attached letter appealing against the decision of the Polcom not to grant credit of $70 to the YWL by the Daily Worker for the printing of collections lists, in view of the success of the League in reducing its bill of $3,200, February, to $2,000 in June, etc. After discussion, Comrade Dunne moved.

In view of the facts presented by the League representative, that the credit be granted in this case.

Amendment by Ruthenberg:

That the League pay ¼ of the amount of the bill for printing those lists and the balance within the 30 day period.

Substitute motion by Ruthenberg:

That the Daily Worker print the lists with the understanding that the first money that comes in goes to the Daily Worker to liquidate the bill.

Substitute motion carried unanimously.

Com Ruthenberg reported the following recommendations of the League referred by the Plenum of the CEC to the Polcom for action:

1—Establishment of an anti-militarist department to help build the united front against militarism and publish anti-militarist literature.

2—Endorsement of the YWL National School and urge Party Districts to help support it financially.

3—That the Party take steps to release certain League comrades from work in the Party all over the country to make it possible to build the League.

4—That a 10¢ assessment be levied on all Party members to build the League.

Motions by Ruthenberg:

1—That we elect a committee of three including a representative of the YWL to study the question of the anti-militarist department and that this committee prepare a report on what can be done on this question.

2—On the question of the school, the districts have already taken action to support the schools. The motion is that the Polcom endorse the League schools.

3—That Comrades Darcy and Lovestone be appointed as the committee to submit a list of League comrades to be released from Party duties—the list to be approved by the National Committee of the League and the Polcom of the Party.

4—As soon as the present Party assessment is collected, that an assessment of 10¢ be levied on the Party membership for the benefit of the League.

All motions carried unanimously.

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ICOR DELEGATE

Com Ruthenberg reported that on the basis of minutes he had received from the Jewish Bureau which stated that Wattenburg was to be sent to some conference in Moscow as a delegate, he had taken up the matter with the Jewish Bureau and their reply clarifies the situation. Wattenburg is to be sent by the Icor as delegate to a Moscow Conference and the matter came before the Bureau for endorsement of policy to instruct Party fraction in the Icor to vote for sending Wattenburg in opposition to other nominees.

Motion by Ruthenberg:

To approve the sending of the delegate by the Icor.

Carried unanimously.

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**Petitioner's Exhibit No. 72**

## MINUTES OF POLITICAL COMMITTEE

JUNE 15, 1926
#77

Present—Ruthenberg, Engdahl, Gitlow, Minor, Johnstone, Dunne, Darcy, Bob, Miller, Whiteman.

Chairman—Ruthenberg.

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## Pittsburgh-Tapolofsky Case

Comrade Tapolofsky is up for hearing for the revocation of his citizenship papers on the ground that he is a Communist. Comrade Jakira writes asking for instructions as to how he shall answer questions put to him in the hearing.

Motions by Ruthenberg:

That if it is necessary for the Comrade to do so, to retain his citizenship in the United States, he shall answer the questions as follows:

1—That he is attached to the constitution of the United States.

2—That he takes the oath of allegiance to the constitution of the United States.

3—On the question of the Soviet Government he shall declare that he has no opinion on the question because he has not sufficient knowledge of the situation.

4—He shall declare that he favors the workers and farmers controlling the government in order to create better conditions for themselves. At the present time, he shall state, that he is in favor of workers and farmers nominating their own candidates.

5—That if it cannot be proven that he is a member of the Party, he shall deny membership in the Party.

Carried unanimously.

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## Whiteman Request

Letter read from Comrade Whiteman in which he requests permission to go across for reasons listed in the letter.

Motion by Ruthenberg:

1—That the Committee advise Comrade Whiteman that it does not believe at this time he should proceed to the Comintern.

2—That Comrade Whiteman be requested to make a detailed statement of the proposals which he has raised in his letter to be forwarded to the ECCI for consideration. If the Eastern Department then feels that Comrade Whiteman should come to Moscow in regard to the matters listed in his letter, the Committee shall take the matter up further.

3—We should make immediate inquiry as to the conference to be held in Brussels, the nature of the Congress and whether it is expected that delegates are to come from the United States.

Motion by Duune

That the Negro Committee be instructed to prepare a detailed report for the Polcom relative to the organization and political status of the ANLC in relation to the general work of the Party.

Carried unanimously.

REPRESENTATIVE OF THE PARTY TO THE COMINTERN

Cable received from Comrade Bedacht stating that he is back in Moscow and he wishes to return to the United States.

Motion by Ruthenberg:

1—That we request the ECCI to release Comrade Bedacht to return to the United States.

2—That we appoint Comrade Minor as representative of the Party to proceed to Moscow immediately upon Comrade Bedacht's arrival in the United States.

Comrade Dunne nominated Comrade Hathaway.
Comrade Bittelman nominated Comrade Browder.
Voting for Browder—Johnstone, Bittelman.
Voting for Hathaway—Dunne.
Voting for Minor—Engdahl, Ruthenberg, Gitlow and Minor.

## Students' Dependents

Students were sent to the Lenin school with the understanding that upon their arrival the Lenin School would make arrangements for support of their dependents in the United States. It seems that when the matter of student's dependents in America was submitted the School instructed that the Party make a donation of $50 per month and the students send part of what is allotted to them. Com Ruthenberg reported that Mrs. Hathaway has four children and has been receiving $15 per week which is an impossible sum for the maintenance of such a family. She received a letter from Hathaway that he can send $50 per month and that the school requested us to pay $75. In the case of Hathaway, money will have to be provided for his family or he will have to return. In the case of Mrs. Bell who has one child, the amount furnished her in the past by the Party and the amount sent by Comrade Bell is sufficient.

Motion by Ruthenberg:

> To continue to pay Mrs. Bell $15 each week and to pay Mrs. Hathaway $75 per month in weekly installments.

Motion carried uanimously.

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## Information Department

Com Ruthenberg reported that a cablegram had been sent to the Comintern regarding Herberg but that no reply has been received. However, a new development occurred: Com Bosse, New York, has been ready to go across for sometime. He is fitted for this position.

Motion by Ruthenberg:

> That we recommend to the Information Department of the Comintern the employment of Com Bosse as the American Reporter in the Information Department.

Carried unanimously.

**Petitioner's Exhibit No. 73**

*READ AND DESTROY*

MINUTES OF POLITICAL COMMITTEE

JUNE 29, 1926

#78

Present—Ruthenberg, Lovestone, Engdahl, Minor, Cannon, Bittelman, Foster, Darcy, Dunne, Beidenkapp and Loeb.
Chairman—Ruthenberg.

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W. E. DOUGLAS

Letter read from Com Douglas requesting, if possible that he be given an opportunity to attend the Lenin University in Moscow and upon completion of his course to be released from the Russian CP to come to the U. S. for work here. He will complete his present work with the Kusbaz on March 1, 1927, is now in U. S. for a period of three months.

Motion by Ruthenberg:

To write to the Comintern stating the request of Comrade Douglas and that if the Comintern can give him the opportunity to attend the Lenin School at the time indicated, that the Party favors it being granted and when he finished his studies that he be released to return to the United States.

Motion carried unanimously.

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**Petitioner's Exhibit No. 74**

*READ AND DESTROY*

MINUTES OF POLITICAL COMMITTEE

OCTOBER 13, 1926

#94

Present—Ruthenberg, Lovestone, Bedacht, Gitlow, Foster, Bittelman, Cannon, Dunne, Johnstone, Darcy (YWL) Miller, Puro, Overgaard, Loeb, Swabeck.
Chairman—Ruthenberg.

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## Cable-Moving

Cable read from Comintern relative to moving (see attached).

Motions by Ruthenberg

1—That we acknowledge receipt of instruction of the CI to the CEC on this question.

2—That the Polcom decide that the Daily Worker shall be removed to New York and that preparations shall be made for this removal by the 3rd birthday of the Daily Worker January 13th.

3—That the question of the removal of the Daily Worker shall not go beyond the Polcom until after the present money raising campaign is completed and the members of the Polcom are bound not to discuss this matter in any way outside of the Polcom.

Comrade Johnstone asked what was the result of the referendum to the CEC on the question of moving. Comrade Ruthenberg replied that the votes were cast 11 for and 11 against.

Voting in favor of motion #1—carried unanimously.
" " " " " #2—Ruthenberg, Lovestone, Bedacht, Gitlow.
" against " " —Foster, Bittelman, Cannon.
" in favor " " #3—unanimous.

## International Relations

Motion by Johnstone:

That the representative of the Party to the CI make a report to the Polcom at least twice a month.

Carried unanimously.

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## INSTRUCTIONS TO PARTY TRADE UNION FRACTIONS

In order to intensify the application of the CEC resolution on "The Broadening of the TUEL and the building of an oppositional bloc in conformity with the CI decision," the following measures shall be put into effect immediately.

### Formation of Broad Local General Groups

Under the immediate direction of the respective District Secretaries and Trade Union Committees, steps shall immediately be taken for the formation of left wing groups, as broad as possible, in all industrial centers. To this end the following policy shall be adopted:

1. Where there is already a definite broad oppositional foment existing in the local general trade union movement, or where it is possible to develop one around some burning issue in the very near future, such as the setting up of an oppositional slate in the union elections, the establishment of broad committees for organizing the unorganized or for the formation of a Labor Party, etc., steps shall be taken directly for the formation of such a broad united front of the oppositional elements. In the resultant organization, our policy shall be to bring in as much as practicable of our general program of action and to gradually crystallize our fractions and the more conscious left elements into a definite left wing within the broad movement.

2. Where there is no immediate prospect of developing such broad united front movements with the oppositional elements around single issues, local conferences shall be called as soon as possible on the basis of our general program of action and left wing organizations formed of those who subscribe to it, this program of action to include a militant fight against the employers, the organization of the unorganized, the formation of a Labor Party, amalgamation, democratization of the unions, and the elimination of gangsterism and corruption. Where such left wing groups

are established they shall be considered as instruments for the organization of wider oppositional movements, and to this end they shall energetically strive to put into effect their local programs of work, calling for the formation of joint election slates, organizing committees, Labor Party committees, strike relief committees, etc. When broader local general oppositional united front movements are formed the existing left wing groups shall, except in unusual cases, merge with them and become their left wing.

That is, the Point "1" policy, is to first form the broad oppositional movement, and then crystallize a left wing, comprising our Party fractions and other left elements, within it; and the Point "2" policy, is to first form the left wing of fractions and other conscious elements, and then build a broader movement around it.

In accordance with the foregoing general instructions, the following practical steps shall be taken:

In all industrial centers, broad local general oppositional groups or left wing groups shall be formed, as local circumstances dictate. They shall be given such names as may be deemed most expedient.

The meetings for the formation of these local general groups shall be arranged tour-wise so that they may be covered by TUEL organizers.

In the formation of these various local groups the initiative of non-Party elements shall be developed.

It shall be our aim to bring all these local groups under the general leadership, official or unofficial, of the TUEL General Committee, to secure their acceptance of Labor Unity as their official organ, and to get their support for the Workers' Educational Fund.

### Formation of Broad Local Union Groups

In all localities and in all unions, the local union fractions, under the immediate control of local Trade Union committees and leading fractions, shall at once proceed to establish

broader groups in their respective local unions. Special attention shall be paid to the local unions in heavy and key industries.

The policy outlined in the foregoing general instructions, "1" and "2", shall also apply in the case of the formation of broader groups in local unions. Where burning issues exist broad united fronts shall be created on that basis, but otherwise general left groups shall be at once formed upon the basis of our trade union action program, these left wing groups to immediately strive for the formation of broader groups, as above explained. In all cases the fractions will be required to establish groups broader than mere party lines, whether the new groups shall be left wing in character, or broad united fronts, depends upon local circumstances.

These local union oppositional groups shall be given such names as may be most expedient. They shall be drawn under the leadership, official or unofficial, of the National Industrial Committees and Local General Groups in their respective industries and localities. They shall support Labor Unity and the various finance systems of their National Industrial Committees, and also the Workers Education Fund.

### Formation of Broad Local Industrial Groups

In accordance with the general instructions "1" and "2", broad oppositional movements shall be developed among all the local unions of one trade in a given locality (Joint Boards, District Councils, etc.) and among all the local unions in a given local industry (Building Trades Councils, Metal Trades Councils, etc.) applying the foregoing policy regarding names, finance, Labor Unity and the general leadership of the TUEL.

### The National Movement

As rapidly as practicable, National Industrial Committees, based on the present general system, shall be organ-

ized in all the principal industries now without such committees. There shall also be organized National Union Committees to cover the most important individual unions, these National Union Committees to work under the general direction of their respective National Industrial Committees. The NIC's shall publish their own papers, adopt financial systems and be known by such names as may be most convenient to secure the best results. They shall include workers in various centers, including non-Party militants.

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The General Committee of the TUEL shall hold an enlarged meeting in Chicago on _____ to which shall be invited Party and non-Party left wingers from various cities and industries. This meeting shall issue a statement to the labor movements stressing the non party character of the TUEL and emphasizing its program of struggle around concrete issues. The meeting shall also develop the Workers' Education Fund, work up detailed plans for organizing left wing and progressive groups, map out general left wing programs for the various industries, prepare for the coming national conference of the TUEL, and broaden out the General Committee to include militants in the various cities. It shall take definite steps to build up Labor Unity.

By Wm. Z. Foster.
September 28, 1926.

PROPOSALS FOR LAUNCHING THE TUEL JOURNAL

1. *Make-up of the Paper*
   a—Name: Labor Unity.
   b—Size: Eight pages, half newspaper size.
   c—Intervals: Semi monthly.
   d—Launching: Steps to be taken immediately.
   e—Price: $1.50 per year, 5 cents per copy.

2. *General Policy and Program*
   a—Labor Unity shall aim to serve as the general organ of the left wing and progressive tendencies and group-

ings in the trade union movement. It shall be a forum for the exchange of views and crystallization of opinions on progressive and revolutionary movements in the labor unions. It shall be the unofficial organ of the TUEL.

b—Labor Unity shall be a non partisan paper supporting all political, economic, and other workers' organizations that fight against capitalism.

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**Petitioner's Exhibit No. 75**

*READ AND DESTROY*

**MINUTES OF POLCOM**

**October 29, 1926**

**#97**

Present: Ruthenberg, Lovestone, Bedacht, Engdahl, Foster, Bittelman, Cannon, Darcy (YWL), Swabeck, Abern.

Chairman: Ruthenberg.

*C. P. S. U. & Zinoviev as Chairman of Comintern*

Comrade Ruthenberg presented the attached resolution for adoption by the Polcom.

Comrade Bittelman proposed that in the second sentence of the first paragraph, it be made to read, "It has endorsed and reaffirms its endorsement of the general line of policy of the Central Committee of the Russian Communist Party, as against that of the opposition for the development of the economic system . . . etc."

Motion by Bittelman:

That the District Committees of the Party be directed to organize series of membership meetings at which the Agitprop and Central Committee shall supply speakers to talk on the issues before the Russian Party and nature of the controversy.

Motion by Bedacht:

That the Central Committee carry on series of articles in the light of the decision of the Polcom in the Daily Worker to be also sent to the Party press. These articles to be confined to the CEC and members of the Polcom and candidates of the CEC who shall be instructed to write for the information of the Party members.

Motions carried unanimously. Resolution and amendment carried unanimously.

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## Plenum of ECCI

Comrade Ruthenberg reported receipt of a cablegram advising of date of the Plenum of the ECCI (November 15) the agenda and that 4 delegates have been apportioned to the W(C)P, including the 2 EC members; that if the 2 EC members do not go to the Plenum that 4 other delegates shall be elected.

Letter was read dealing with the same subject in more detail.

Com Cannon reported that he recently received a circular from Mopr inviting him to all-world congress of Mopr for a report on the American Bureau and that it was to take place about the same time as the ECCI plenum.

As EC members, Comrade Ruthenberg stated that in view of his legal complications, there would be a serious risk which would have a bad effect on the other comrades involved in the Bridgman cases and therefore he did not intend to go to the Plenum.

Com Cannon stated that he didn't want to go, personally, but felt obliged to go from the standpoint of the Mopr and also in view of the Comintern situation.

Comrade Foster stated his intention is not to go.

Motion by Ruthenberg:

That Comrade Lovestone go as representative of the CEC with Comrades Minor and Pepper also as regular delegates, to the Plenum.

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**Petitioner's Exhibit No. 76**

*READ AND DESTROY*

## MINUTES OF POLITICAL COMMITTEE

JANUARY 14, 1927
#112

Present: Bedacht, Dunne, Engdahl, Foster, Johnstone, Ruthenberg, Williamson (YWL).

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### REPORT OF CI REPRESENTATIVE

Letter from Comrade Minor, submitting the minutes of the American delegation to the Seventh Enlarged Executive Committee meeting.

Comrade Ruthenberg moved that the minutes be made available for the members of the Polcom.

Motion adopted unanimously.

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### NEW YORK PORT BUREAU

Comrade Foster reported on the possibilities of organizing the New York Port Bureau and submitted a statement from Comrade Weinstone that $300 was needed immediately. Comrade Ruthenberg stated that the Party did not have funds for even its most pressing work under way at the present time and therefore new ventures requiring financial expenditures would have to await an improvement in the financial condition of the Party.

No action taken.

**Petitioner's Exhibit No. 77**

*READ AND DESTROY*

# MINUTES OF POLITICAL COMMITTEE

FEBRUARY 24, 1927
#119

Present: Ruthenberg, Lovestone, Bedacht, Puro, Cannon, Foster, Bittelman, Swabeck, Johnstone, Darcy (YWL).

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## MINERS INTERNATIONAL CONFERENCE—IPC

Comrade Foster reported that Salutsky wired us to send a delegate. Question of finances was discussed.

Motion by Foster:

To wire them that we will send a delegate; that that they should wire us funds for fare. Carried unanimously.

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## MOPR CONFERENCE

Com Cannon reported that the World Congress of the Mopr is to be held March 18th and a cable has been received stating that three delegates from the U. S. and one from Canada should go to the conference, leaving immediately. Cable stated Com Cannon should proceed immediately as one of the delegates.

Motion by Cannon:

That Com Cannon go immediately as a delegate and that Comrades Maurer and Shachtman constitute the other two delegates.

Amendment by Bedacht:

That Com Cannon go immediately and that appointment of other two delegates be postponed until the next meeting of the Polcom.

Voting for amendment—Ruthenberg, Bedacht, Lovestone, Puro. Opposed—Foster, Bittelman, Cannon.

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## IWA

Comrade Biedenkapp reported on the IWA conference held from which he had just returned, making proposals of both general and specific character.

Motion by Ruthenberg:

1—That the Polcom endorse the building up of the IWA in accordance with the decision of the secretariat of the CI.

2—That we endorse the formation of the corporation for handling films.

3—That the other concrete recommendations be referred to the subcommittee of three on I W A, to be elected on which Comrade Biedenkapp should function as one of the members.

4—That the division of the proceeds of film showings shall be 25% to the Art Film Corporation, 35% to the I W A, 20% to the National Office and 20% to the local organization of the Party.

Amendment by Swabeck:

That 15% go to the National Office and 25% to the districts.

Motions by Com Ruthenberg carried unanimously.

Comrades Ruthenberg, Bittelman were elected together with Com Biedenkapp as the subcommittee.

**Petitioner's Exhibit No. 80**

# MINUTES OF POLITICAL COMMITTEE

APRIL 25, 1927
#129

Present: Lovestone, Bedacht, Puro, Wolfe, Foster, Cannon, Bittelman. Johnstone, Abern, Darcy, Kaplan.

## CHINA

Comrade Lovestone read the following cable received from the CI.

Demolition in Soviet Embassy Pekin, arrests, violence also British blockade of Shanghai Consulate permitted by Diplomatic Corps nd undoubtedly inspired by English money provoke war with USSR. Chinese ports occupied by Imperialists. Situation grave, war against Chinese Revolution began, war threatened against USSR. All Communist parties must raise broad masses, also youth to protest nsing every possible help. Categorically necessary shortest period to organize mass anti-British demonstrations preferably before British Embassy Consulates. When possible questions to Congressmen Senators demanding clear answer re Government attitude.

Com Lovestone brought to the attention of the Committee the announcement that the U. S. had pulled out of the joint group in reference to the action against China. There has been a statement issued by Green of the A. F. of L. following up the statement of the State Department.

Motions by Lovestone:

On the basis of these items—That we instruct the DOs to hasten with the preparations for the demonstrations before the British Embassy Consulate offices.

1—In these demonstrations, amongst the general slogans of the Party in the Hands Off China Campaign, there be specifically raised the slogan of condemning the role of the British imperialists in the raid on the Soviet Embassy at Pekin.

2—In view of the declaration of the A. F. of L. that the trade union department prepare a new resolution to be circulated in all trade unions as a follow up of the Green declaration and demanding solidarity of the American trade unions with the Chinese Labor unions and the Nationalist Government at Hankow.

3—That Comrade Wolfe be held responsible for directing all publicity in the Hands Off China campaign.

Carried unanimously.

## CI Communications

The following letter was received from the Comintern:

Dear Comrades:

At its last Session of March 16th, the Presidium of the ECCI decided to convene the next Plenum of the ECCI for May 10th, 1927 and to adopt the following agenda for this session:

1—The peril of new wars and the question of struggle against same. The report of this item of the agenda is to be made by one representative each from the CP of Great Britain and France.

2—The Chinese Revolution. Report of Comrade Bucharin and eventually a Chinese comrade.

3—Date for the convocation of the VI World Congress.

4—Questions of individual sections.

If Sections wish certain questions to be discussed at the Plenum they should inform the Polit-Secretariat of the ECCI about these questions in good time before the Plenum, they should appoint a reporter on these questions, giving his name to the Polit-Secretariat and sending the written material appertaining to these questions, giving his name to the Polit-Secretariat and sending the written material appertaining to these questions, in order that the material could be sent to the Central Committee of the Sections prior to the Plenum.

With regard to the delegation-regulation the following decision was made: only members of the ECCI are to participate in the Plenary sessions. The place of an expelled or deceased member of the ECCI is taken by a candidate of the ECCI, or, in the event of no candidate being available, by a representative appointed by the CC of the Party in question. If Parties wish to send other representatives instead of a member of the ECCI, or have other proposals to make, this will have to be decided in every concrete case by the Polit-Secretariat. Therefore, it would be desirable for central committees to send in good time any proposals they have to make with regard to this, in order to enable the Polit-Secretariat to deal with them soon enough, as not to delay the despatch of the delegations.

The Plenum of the ECCI is not to last longer than 5 or 6 days.

Members of the ECCI and representatives instead of such ECCI members, proposed by the Party and approved by the Political Secretariat will have their travelling expenses to and from Moscow defrayed by the ECCI; also the ECCI makes itself responsible for the cost of their stay in Moscow.

With Communist greetings,
pp. Secretariat of the ECCI:
(Piatnitsky)

Com Lovestone then read the following cabled decision from the Comintern:

We hold the coming of Jack, Ben and Bill to Session of Executive to be necessary stop The coming of Jim and Weinstone would also be desirable but in case the Polburo holds this to be inexpedient, then we ask that written reports on part of these comrades be sent stop Regarding Ben we would excuse him from Session of Executive only in case all members Polburo including Ben himself are against his coming stop We say latter because we do not sufficiently know present needle trades situation stop No other Comrades shall

come stop This telegram is to be shown to all five Comrades here mentioned stop

ECCI KUUSINEN.

Motions by Wolfe:

In execution of the decision in the letter and telegram:

1—That Comrades Foster, Lovestone and Gitlow make preparations to leave at once in order to attend the Executive session.

2—That Bedacht act as general secretary of the Party during Lovestone's absence.

3—That Wolfe act as agitprop director while Bedacht is acting secretary.

4—That we recommend that Comrade Johnstone act as secretary of the TUEL while Foster is away.

5—That Weinstone act in place of Gitlow as CEC representative on the National Needle Trades Committee while Gitlow is away.

6—That Comrade W. J. White be elected candidate to the Polcom.

7—In view of the fact that Comrades Cannon and Weinstone have not manifested such political opposition with the Polcom as to constitute a separate program and in view of the fact that they have been given an opportunity to present their statement in writing to the CI and in view also of the shortage of the forces which will be occasioned by so many of our leading Comrades leaving the country at this critical time, and the importance of such matters as the Sacco Vanzetti campaign and the necessity of handling the needle trades situation properly with Com Gitlow away, I move that Comrades Cannon and Weinstone be instructed to present their views in writing to the Executive Committee of the CI.

8—That we notify Comrade Dunne accordance with the cabled decision of the ECCI he is not to attend this session of the ECCI.

9—That we inform the CI that in view of the fact that these leading Comrades are leaving the country, we are postponing the plenum of the Central Executive Committee of our Party and,

10—In view of the inadvisability of the Y W L holding a plenum without the Party's holding a plenum, that the YWL plenum also be postponed.

Motions by Foster:

1—That the delegation should consist of Comrades Lovestone Weinstone and Foster and the matter of whether or not Comrade Dunne is eligible should be referred to the CI for decision.

2—Inasmuch as these three Comrades have been intimately connected with the needle trades situation and inasmuch as the fight in New York requires the concentration of those actively in the work, that Gitlow should not go.

3—That telegrams shall be sent immediately for the holding of a plenum of the CEC within two days.

4—That in the absence of Comrade Lovestone that Comrade Bittelman act as secretary.

5—In the event that it is decided by the CI that Comrade Gitlow shall go, that Com Zack shall be secretary of the needle trades.

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**Petitioner's Exhibit No. 80**

Statement by Kaplan:

That the Party has already been informed that the NEC of the League receiving the following telegram from the ECYCI: "ECYCI demands NEC not to interfere party factional struggle and prevent it in League stop concentrate League forces intervention China offensive capitalists and bureaucrats stop for that and League problems convene full plenum NEC

stop changes composition bureau or secretariat as elected last plenum plus Zam and Don are not permissible stop after plenum Sam should leave stop his replacement BUPO special letter."

I therefore request that the Polcom of the Party, before it takes any action which would result in the postponement of the League Plenum that they take the matter up with the ECYCI.

Motion by Cannon:

1—That the YWL plenum be held as already scheduled.

2—That we separate the question of the delegation from the other motions and deal with the other motions after we have disposed of motions on the delegation.

Motion No. 2 carried unanimously.

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**Petitioner's Exhibit No. 83**

## MINUTES OF SECRETARIAT

SEPTEMBER 13, 1927

#1

Meeting opened at 5:20 P.M.

Present: Lovestone, Foster, Gitlow.

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APPLICATION FOR LENIN SCHOOL

Motion by Lovestone:

To work out a questionnaire which the students must answer. Voting: Carried unanimously.

Motion by Lovestone:

To send a wire to the CI as follows: That we will not be able to send any Lenin students unless they cable us money in advance for their fare. Voting: Carried unanimously.

TEN NEGRO STUDENTS

Motion by Foster:

That it is not possible to find ten comrades to send and that we should try to get two or three, which will be sufficient.

Motion by Lovestone:

To refer this matter to the Polcom. Voting: Carried unanimously.

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**Petitioner's Exhibit No. 84**

## MINUTES OF SECRETARIAT

SEPTEMBER 15, 1927

#2

Meeting opened at 3:00 P.M.

Present: Lovestone, Foster, Gitlow, Grey.

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REPRESENTATIVES TO COMINTERN AND PROFINTERN

Motion by Lovestone:

To send two new representatives, Engdahl to the Comintern and some first line comrade to the Profintern. That Harrison George should not be kept as the representative to the Profintern. Voting: For—2 (Lovestone, Gitlow). Against—1 (Foster).

Motion by Foster:

I do not believe that we should change the representative to the Profintern that H George is pretty well posted on the general line of the Party in T U work. I do not have any objection to Engdahl as Comintern representative.

Motion by Grey:

That Johnstone or Ballam be considered as representative.

Motion by Lovestone:

That the question of the election of the representative to the Profintern be laid over to another meeting. Voting: Carried unanimously.

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**Petitioner's Exhibit No. 87**

## MINUTES OF POLITICAL COMMITTEE

OCTOBER 20, 1927

#5 3:30 P.M.

Present: Lovestone, Gitlow, Wolfe, Cannon, Bittelman, Minor, Stachel, Weinstone, Lifshitz, Trachtenberg.

Observers: Ballam, Aronberg, Krumbein, Zack, Mindel, Baker.

*Agenda:*

1—National School
2—Lenin Students
3—C I Communications
4—Y W L Convention
5—Approval of Dist. Organizers
6—Language Fractions

### C I COMMUNICATIONS

Comrade Lovestone reported that a letter had been received informing us that the Fourth Congress of the Red International of Labor Unions is to be held in March, 1928.

Motion by Lovestone:

That the notice be referred to the Trade Union Department for recommendations and action. Voting: Carried unanimously.

Comrade Lovestone reported on the communication received regarding the trial of the Leading Italian comrades in Italy.

Motion by Lovestone:

That this communication be referred to the Agitprop Committee for action. Voting: Carried unanimously.

Amendment by Bittelman:

To have the Agitprop hold a meeting with Comrade Cannon and the Secretary of the Italian Bureau for action. Voting: Carried unanimously.

Comrade Lovestone read the letter received from the Secretariat of the ECCI regarding the activities of the opposition within the USSR.

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## National School

Comrade Lovestone reported that a communication had been received from the CI relative to Party schools and especially with reference to a Central Party School. Also on a letter from the Agitprop Dept. requesting that the question of a National School be taken up at the next Polcom meeting.

Comrade Wolfe reported on the progress of the Workers School of New York.

Motions by Wolfe:

1—That the School be placed under the direction of the National Agitprop Department.

2—That it continue, for its New York work, to accept the guidance and the direction of the District Agitprop Department with the obvious right of final decision in the National Agitprop.

3—That the drive for funds and for a new building be authorized, preferably in conjunction with a building for the District Bookstore and other organizations.

4—That a plan be elaborated for night resident students from other districts and for a National Day Summer School.

5—That party comrades assigned to teach in the Workers' School shall not be assigned to give more than one night for teaching but shall consider that one night a week as a major Party task and as obligatory as any other assignment by the Political Committee or Central Committee.

6—That attendance in the Workers School for active Party workers should in general not be more than one night a week but that that shall be considered as major Party work, and both the right and duty of every Party comrade to get one night a week of such instruction to improve his general work.

7—That the other suggestions embodied in the report also be turned over to the Agitprop Committee for study and for working out a concrete program.

Motion by Lovestone: on procedure:

That the discussion be limited to five minutes each and to the general line.

Voting: Carried unanimously.

Motions by Bittelman:

1—That we continue to develop the Workers School in New York in the direction of a general labor college, retaining, as at present, the actual Party control, continuing to widen its basis, indirectly bringing in the ideology of our Party.

2—That the Agitprop Department be instructed to prepare a program for the launching of a Central Party School for training active Party workers, to be started with a three months' residential course in the coming summer.

3—That the Workers School in New York continue to extend its activities on a national scale.

Motions by Lovestone:

1—That the Agitprop be instructed to devise ways and means of increasing the attendance at the trade union course of the School.

2—That the Agitprop be instructed to devise ways and means of eliminating Scott Nearing from the course in Imperialism, and to find another course for him.

Motion by Lovestone:

That these recommendations be referred to the Agitprop Dept. Voting: Carried unanimously.

LENIN STUDENTS.

Comrade Wolfe reported: That the following names were submitted to the Polcom, out of which six were to be chosen to go to the School: Krumbein, Baker, Oehler, Zack, R. Grecht, Shklar, Dinkfelt, Cowl, Reynolds, Bloomfield, Heywood, Hill and S. Crell (recommended by the Far Eastern University) and M. Hansen.

Motion by Wolfe:

That the following six be selected from the list: Krumbein, Baker, Zack, Shklar, Dinkfelt and M. Hansen.

Additional Motions by Lovestone:

1—That the students go as soon as finances for their shipment is available.

2—That in the mean while, the students be permitted to contract whatever loans they can to enable them to go

Pg 4

to the Soviet Union, and the Party assumes responsibility for the loans, to be repaid upon receipt of the fare from the Lenin Institute.

3—That the Party in no way at all assume any financial responsibility for the dependents and relatives of any of the students. Voting: Carried unanimously.

Motion by Lovestone:

1—That we grant the request of Comrade Cowl for permission to leave and we give her a letter of recom-

mendations for entrance to the Far Eastern or Central European School.

2—That we ask the C I that Heywood Hall and Sonia Croll be added to the American students in the Lenin School in view of their being there and their good record in the Far Eastern School.

Amendment by Bittelman:

That the following six be selected for the Lenin School:-Krumbein, Zack, Cowl, Chilofksy, Baker and Grecht.

Amendment by Bittelman: on Cowl motion:

That she be recommended, if possible, for the Lenin School.

Amendment by Stachel:

That Heywood Hall and Sonia Croll be instructed to return to this country.

Voting: on Bittelman's amendment on Cowl:

For: Bittelman. Against: Lovestone, Gitlow, Stachel, Wolfe, Lifshitz.

Voting: On Lovestone motion on Cowl:

Carried unanimously.

Voting: on Stachel Amendment:

For: Lifshitz, Stachel, Wolfe. Against: Gitlow, Lovestone.

Motion by Wolfe: on students selected for School:

For: Lovestone, Gitlow, Wolfe, Stachel, Lifshitz, Trachtenberg. Against: Bittelman.

Voting: on Bittelman's amendment:

For: Bittelman. Against: Lovestone, Gitlow, Wolfe, Stachel, Lifshitz, Trachtenberg.

**Petitioner's Exhibit No. 89**

# MINUTES OF POLITICAL COMMITTEE

NOVEMBER 30, 1927

#11

Meeting opened at 7:00 P.M.

Present: Wolfe, Bittelman, Weinstone, Lovestone, Trachtenberg, Minor, Cannon, Foster, Lifshitz, Stachel, Gitlow, Gomez, Browder, Zam, Aronberg, Hermann, Harry Schachtman, Miller, Mindel.

Agenda:

1—Russian Party Convention
2—Unemployment
3—Foreign Born
4—Letter from C I
5—Request from CI Info. Dept.
6—Department Reports
   a) Agitprop
   b) Org  c) Negro
   d) Anti-Imperialist
7—Daily Worker
8—Language Fractions
   a) Hungarian
   b) South Slavic
   c) Finnish
9—T U E L
10—I L D
11—Needle Trades Situation
12—Y W L
13—Cooperative League

## RUSSIAN PARTY CONVENTION

The following wire was proposed to be sent to the Fifteenth Congress of the Russian Communist Party:

The CEC of the Workers (Communist) Party of America sends fraternal greetings to the Fifteenth Congress of the

CPSU. Together with the whole Comintern, we take pride in the tremendous achievements by the toiling masses of the Soviet Union in socialist reconstruction. The five-year economic plan submitted to the Congress by the Central Committee constitutes another long stride in the direction of socialism and provides for further improvement of the conditions of the masses, including the introduction of the seven-hour day. This is increasing the faith of the toiling masses of the world in Communism. Thus capitalism is further undermined, and the world revolution promoted.

Conscious of the war danger confronting the Soviet Union, our Party will do its utmost to combat the efforts of American imperialism to join forces with Britain for a joint attack upon the socialist fatherland of the working class. We are fully confident of the ability of the CPSU and its Leninist Central Committee to mobilize and inspire the masses for defense of the Soviet Union.

Unity in the CPSU and unity in the Comintern are basic conditions for the defense and the socialist growth of the Soviet Union and for the growth of the world Communist movement. Therefore our Party urges the Fifteenth Congress to stop finally the splitting activities of the Trotsky-Zinoviov opposition, and expel from the Party forthwith all those who persist in the opposition's reverting to Menshevism.

We extend to the Fifteenth Congress our fraternal wishes for the success of its deliberations and pledge our efforts for maintaining the unity and Leninist line of the Comintern.

Central Executive Committee.
Workers (Communist) Party of America

Motion by Lovestone:

To send the cablegram tonight. Voting: Carried unanimously.

REQUEST FROM CI INFORM. DEPT.

Comrade Lovestone reported that the request was for someone to take the place of Bosse, who wished to return. The Secretariat unanimously recommends Comrade Fralkin should be sent provided that there is no expense to the Party.

Amendment by Browder:

That Comrade Blankenstein be considered as a candidate.

Voting: Fralkin: For: Gitlow, Lovestone, Wolfe, Stachel, Litshitz. Blankenstein: Foster, Bittelman, Cannon. Abstain: Minor, Weinstone, Trachtenberg.

Comrade Fralkin was elected to go as the American Referent.

## I L D

Comrade Cannon reported on the ILD Conference and its work.

Motions by Cannon:

1—That the Polcom approve the work and the general line of policy in the ILD work.

2—To reiterate the original Party decision that every member of the Party should be a dues paying member of the ILD.

3—That the Party issue a statement supporting the Christmas Fund.

4—To instruct the New York DEC to affect the reorganization of the New York Section within two weeks in collaboration with the National Office and place an experienced organizer in charge of the work.

5—To instruct the Jewish Bureau to organize a Jewish Section of the ILD. Voting: Carried unanimously.

Petitioner's Exhibit No. 91

# MINUTES OF POLITICAL COMMITTEE

JANUARY 11, 1928

#17

Meeting opened at 8:15 P.M.

Present: Wolfe, Foster, Lovestone, Bittelman, Lifshitz, Stachel, Trachtenberg, Weinstone, Gomez, Harry, Hermann, Mindel, Costrell

Absent: Gitlow and Dunne were out of town; Cannon was ill. Minor getting special issue of Daily Worker out.

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## C I COMMUNCATIONS

Letter from the Presidium of the CI: That the Plenum of the ECCI will be February 1st, 1928 with the following agenda:

1—Russian Question, 2—Trade Union Question, 3—Chinese question, 4—Question of next World Congress of the CI.

That the provisional agenda for the VI World Congress which will be submitted to the Next Plenum for approval is as follows:

1—Reports—a) of the ECCI b) of the EC YCI c) of the International Control Commission. 2—Confirmation of the Draft Program of the ECCI. 3—War Danger. 4—Colonial question together with Chinese question. 5—Russian Question. 6—Questions concerning individual Sections and mass organizations. 7—Elections.

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Motion by Lovestone:

That we wire mandates to the following comrades in Moscow:

Engdahl, Pepper and Browder with instructions that the delegation should submit a report in writing immediately after the Plenum, to the Party.

Amendment by Foster:

What as we are entitled to four delegates. I nominate Harrison George as well.

Substitute by Lovestone:

That the American Delegation should be Engdahl, Pepper and Browder and if there is no objection to Harrison George on the grounds that he is not a member of the CEC that he should be a regular delegate, otherwise he should be a fraternal delegate.

Voting: All members for the Substitute motion except Weinstone who records his vote against Pepper.

Cable from CI recommending Jenkins to the Party as Organization Instructor.

Motion by Lovestone:

That we inform the Org Dept, that we accept Comrade Jenkins.

Voting: For—Lovestone, Bittelman, Weinstone, Wolfe, Stachel, Lifshitz. Against—Trachtenberg and Foster

Comrade Foster recorded his vote for Voxoff.

NEEDLE TRADES

Comrade Lovestone reported that the profit at the Bazaar amounted only to $10,000 and that the Secretariat recommended the following:

1—That the Daily Worker return the $150 given them for advertising
2—The Freiheit return $500
3—The Unit Cooperative return $650
4—The Restaurant return $600
5—The Unit Cooperative return $1,000
6—That the Party get a loan of $2,500 from the Ukranian House in Detroit
7—That the ILD be instructed to make a loan of $3,000 to the needle trades, the basis of repayment to be arranged between the ILD and the needle trades.

8—That the ILD should take over the defense cases and should pay the defense prisoners the regular normal defense and the $60 a week for prisoners should be dropped.

9—That we endorse the arrangement whereby we have sent out Zimmerman and Gold to those people on the special Party contributors' list.

Voting: Carried unanimously.

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**Petitioner's Exhibit No. 95**

MINUTES OF POLITICAL COMMITTEE

JUNE 15, 1928

#40

Meeting opened at 10:00 P.M.

Present: Gitlow, Cannon, Foster, Bittelman, Minor, Swift, Stachel, Lovestone, Weinstone, Zam, Lifshitz, Trachtenberg, Miller, Costrell, Cohen, Aronberg, Siskind, Abern, Gomez, Porter, Markus, Beidenkapp, Wattenberg

Absent: Wolfe, Zam

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Mining: Anthracite

Comrade Swift presented the following decisions of the Mining Subcommittee as motions before the Political Committee:

1—That our general policy should be that we shall not split the local unions of the UMWA now but only in connection with or after the national convention, we shall affiliate the local unions to the Districts and the exception from this policy should be where the majority of the membership is for us and only the leadership of the local unions is against us; in such cases we must split the local unions

2—In the strike regions, our comrades are instructed not to accept anything less than the Jacksonville scale and that until such time as our party, through the left wing organizations, calls off the strike, our Party members who go back to work automatically sacrifice their membership in the Party, it being the Party policy to reinstate these comrades without prejudice upon the calling off of the strike.

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**Petitioner's Exhibit No. 96**

## MINUTES OF POLITICAL COMMITTEE

JANUARY 18, 1928

#18

Meeting opened 8:15 P.M.

Present: Foster, Cannon, Wolfe, Lovestone, Dunne, Trachtenberg, Stachel, Lifshitz, Weinstone, Zam, Mindel, Harry, Hermann, Gomez, M, F.

Absent: Minor, Bittelman were ill. Gitlow out of town on tour.

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### REPORT OF THE SECRETARIAT

Comrade Lovestone reported for the Secretariat, covering the following points: Joint Defense Bazaar which was not as good as expected. Political situation in needle trades much better but will be hurt by financial situation unless this can be improved; Women's Organization in Minnesota suggests calling national conference of women's organizations in country; Dues report last month good, with small exempt proportion the unemployment affects Party great deal, initiation stamps since September over thousand; letter from Bedacht regarding wages; Blue Blouses being toured by Workers International Relief and the question of their being asked to come here; appeal by Koretz against decision of Secretariat that he go to Chicago; letter from Hamilton on coal situation; ILD—its cases, organization, etc. with re-

spect to Paris Commune, Plan for Jewish section received from Cannon but none from Lifshitz, Recommendations from Mopr for Chinese defense, Cannon's tour in February, Fraction meetings of National Committee and Executive Council. The following recommendations by the Secretariat on the above were presented:

1—That the Women's Conference be held

2—To defer action on the Bedacht request until the Plenum when the matter will be taken up with Comrade Bedacht

3—That a new organization be formed to tour the Blue Blouses, the proceeds to be distributed as follows: 40% to National Office of Party, 25% to the Daily Worker, 10% to the Freiheit and 25% to the W I R

4—That the needle trades comrades find some other comrade to go to Chicago to take the place of Comrade Koretz.

5—To endorse the proposal of Comrade Hamilton on the coal situation in principle and try out the plan in its practical aspects.

6—That the usual procedure of the ILD in connection with the Paris Commune celebration be followed

7—That the Party fraction in the National Committee of the ILD hold a meeting once a month and the Fraction in the Executive Council meet when called.

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## YWL

On the delegation to the C I Plenum.

Motion by Lovestone:

The Secretariat recommends that the YWL representative to the Kim should be a fraternal delegate to the CI Plenum.

Voting: Carried unanimously

Petitioner's Exhibit No. 97

# MINUTES OF POLITICAL COMMITTEE

## JUNE 27, 1928

#41

Meeting opened at 9:00 P.M.

Present: Gitlow, Aronberg, Minor, Olgin, Ballam, Costrell, Herberg, Abern, Stachel, Trachtenberg, Miller, Lifshitz, Weisbord, Hungarian Buro representative

### MOORE APPEAL

Re appeal sent by Moore on the election of delegates to the CI Congress. The appeal is as follows:

"Appeal against Polcom decision reducing Negro delegation to two, Whiteman Phillips despite CI instruction send good representative Negro delegation stop realizing important thoro analysis Negro work Negro conference recommended five most active leading comrades Moorehead Negro Department Secretary ANLC, CEC member, Fulp left wing leader minors strike, Doty organizer Negro plumbers, Whiteman organizer ANLC Ford delegate Profintern stop exclusion head Negro work narrow manouvre prevent thorough analysis errors especially request ECCI require Moore be delegate stop immediate answer necessary. Moore"

Motions by Stachel:

That the acting secretary be authorized to answer the appeal along the following lines:

1—That in our opinion four delegates, two regular and two fraternal will be able to present the Negro work of the Party and take up important problems facing us in this work

2—That Moore was not selected because the Polcom has no confidence in him as a delegate to the Comintern because

a) He attacked the Party before non-Party members,
b) He justified attacks by non-Party members, such as Warreno,
c) Failure to issue a statement disassociating himself with Warreno and attacking him, altho asked to do so for the last six months,
d) Moore is not a member of the CEC but an alternate,
e) Moore, as head of the Negro Department for one year, did not get out one issue of the Champion, but only when the Party put on two special people in the last week did we finally get out the Negro Champion,
f) In all this one year, Moore did not get one Negro member into the Party,
g) Did not issue a single piece of literature or application blank,
h) general incompetence

3—Moore refused to come out as Party member, and only recently when the Negro Committee voted this unanimously, did he do so.

Voting: For: All comrades except
Against: Aronberg
Abstain: Costrell
CARRIED

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**Petitioner's Exhibit No. 98**

## MINUTES OF THE POLITICAL COMMITTEE OF THE CEC

Polcom #68

NOVEMBER 14, 1928

Meeting opened at 11:30 A.M.
Present: Pure, Swift, Lovestone, Bedacht, Minor, Gitlow, Stachel, Wolfe, Aronberg, Bittelman, Foster, Kaplan, Wicks, Lifshitz, Huiswood.

Also: Marcus, Benjamin, Wagenknecht, Smith, Crouch, Miller, Costrell

Agenda:

1—International Communications
2—Convention Arrangements
3—Election Campaign Reports
4—Douglas Letter
5—Cannon-Trotsky Investigation
6—New Bedford Situation
7—Cooperative Matters

## I. International Communications

Communications presented as follows:

### Lenin School

Motions by Lovestone:

1—To have a Sub-committee of three be in charge of considering applicants for the Lenin School and bring a report to the Polbureau.

2—That a letter be addressed to all DOs notifying them to the effect that there are seven vacancies open for the Lenin School this year in the American Party quota and that the DOs should take up through the District Executive Committee the question of recommending applicants, who should then fill out the questionnaire to be mailed to such applications, such questionnaire to be prepared by the Sub-committee.

Voting: Carried unanimously.

. . . . . .

### Young Workers League

Report by Lovestone of decision to delay action on the question of the Kim letter until it has been reviewed by the Polcom. A wire has been received from Engdahl to the effect that the CI itself is now examining the letter. We must state our opinion on the matter; that the Anglo-American Secretariat has condemned the letter. The matter

is now before the Political Secretariat of the CI which will not act until statement of the CEC is received.

Motion by Lovestone:

That the question of the Kim letter be the first order of business at the next meeting.

Voting:

For: All comrades except
Against: Foster, Bittelman

Amendment by Stachel:

That the letter be furnished to Polcom members immediately

Voting:

For: All comrades except
Against: Foster, Bittelman

Amendment by Aronberg:

That the NEC of the YWL furnish to every member of the Polcom a copy of the mimeographed letter which has been ready for the last two weeks.

Voting:

For: Foster, Bittelman
Against: All others

Motion by Lovestone:

That the Polbureau notify the CI that the question is being considered and that in one week the statement of the CEC will be sent to the CI.

Voting:

For: All comrades except
Against: Foster, Bittelman

Motion by Bittelman:

That the Polcom informs the NEC of the YWL that it shall proceed immediately with the carrying out of the decisions of the YCI letter and they immediately make public this letter. 2) That before we send

any communication on the matter to the Political Secretariat of the Comintern; that we be presented with the official request of the Comintern on that matter.

Motion #1 lost.

Voting:

For: Foster, Bittelman.

Opposed: All others.

Motion #2 carried unanimously.

Statement by Kaplan:

1—The letters have been held up on request of the Polcom.

2—The Polcom requested holding up the letter due to its political contents.

3—The organizational decisions, etc., the NEC has proceeded to carry into effect.

Amendment by Swift to Bittelman's Motion: The Polcom approves the action of the NEC of the Young Workers League in carrying out the concrete suggestions of the YCI regarding youth work.

Questions by Bittelman to Kaplan:

1—Whether the NEC of the YWL has discussed and acted upon the line, the political line of the YCI letter and the concrete recommendations contained therein.

2—If they have discussed the letter and have acted on it, was that action in favor of the political line of that letter or against the political line of that letter.

3—If the action taken by the NEC is against the political line, what are the reasons for it.

Reply by Kaplan:

The NEC on request of the Polcom did not take action on the letter; that is, we did not take action on the questions which the Polcom wished to take up further, namely, the political contents of that letter particularly dealing with the Party situation. The NEC had a thorough discussion on the letter and the NEC also

made decisions on all questions which involved the youth work as well as the organizational decisions contained within the letter. These decisions are being carried out at the present time.

Letter from International Arbeiter Hilfe read by Swift:

Profintern has a resolution to organize strike relief nationally and internationally and requests us to take up the question with WIR and take necessary measures.

Motion by Swift:

That the suggestion of the CEC of the WIR regarding the Profintern resolution should be taken up by the secretariat together with the TUEL and WIR. Carried unanimously.

Motion by Swift:

Regarding the Right danger in the Comintern. In order to fully inform the whole Party membership about new manifestations of the Right danger in the various sections of the CI and in order to combat the Right danger, the Polcom instructs the Party press to print the following documents:

1—Documents regarding the Thaelmann case.

2—Documents about the new outbreak of Brandlerism in the German Party.

3—The October statement of the CEC of the CPSU regarding the errors committed in the Moscow organization.

4—The speech of Comrade Stalin delivered at the plenary session of the Moscow Committee.

The Polcom instructs the Agitprop to print in the next issue of the Communist an article explaining and combatting these manifestations of the Right danger within the CI and instructs the Party press printing and editorially commenting on and explaining the abovementioned documents.

Carried.

Amendment by Wolfe:

That the letter from the CI to the Czecho-Slovakian Party be included in the documents.

Carried.

. . . . . .

Report by Foster on Trade Union appropriation.

Motion by Lovestone:

That the Polburo takes cognizance of the following facts:

1—These funds were sent and received here during the absence of Foster and Lovestone as members of the secretariat.

2—These funds were sent through the regular cannels and received as such.

3—The information received during the absence of Comrades Foster and Lovestone regarding these funds was confusing.

4—That the funds however were spent entirely for mining work and even far in excess of the appropriation.

5—That the Secretariat go over the accounts of the mining expense from date of receipt of funds till today and check up to see if any money has not yet been spent on mining, if any debts were contracted on the basis of this appropriation, the secretariat take steps to meet the debts.

6—The Polcom takes note of the fact that almost all the debts contracted on the basis of the appropriation of this sort forthcoming, have already been paid.

Voting:

In favor: All comrades except
Against: Foster, Bittelman

Motion by Foster:

That this action of these comrades be disapproved and also the application of this money to general Party expense should also be disapproved.

Voting:

In favor: Foster, Bittelman
Against: All others.

* * * * * * * * * * *

Motion by Wolfe:

That we invite fraternal delegates to our convention from the Mexican and Canadian Parties, declaring our willingness to defray the expenses and utilize that to make further plans for our struggle against American imperialism.

Carried.

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**Petitioner's Exhibit No. 99**

MINUTES OF POLITICAL COMMITTEE OF C.E.C.

#70 11|23/28p

Meeting opened at 4:00 P.M.
Present: Stachel, Gitlow, Foster, Lovestone, Bittelman, Wolfe, Swift, Minor, Aronberg, Zam, Weinstone, Bedacht, Lifshitz, Kaplan, Weisbord, Marcus, Ballam, Wagenknecht, Mindel, Zelms.
Agenda: Continued from previous meeting.

YWL

Cable received from Engdahl to the effect that the appeal of the Polcom on the letter from the YCI and YWL is being considered by the Comintern. Comrade Bedacht presented the attached statement for adoption by the CEC of the Party.

Motions by Bedacht:

1—That the letter be sent immediately as appeal by the CEC to the CI against the YCI letter

2—That the NEC of the YWL of America be instructed to send out this appeal together with the letter of the YCI to its units.

Voting:

For: Stachel, Gitlow, Lovestone, Swift, Bedacht, Wolfe

Against: Foster, Bittelman

Carried.

---

**Petitioner's Exhibit No. 101**

## WORKERS COMMUNIST PARTY OF AMERICA

### National Office

### Statement of Cash Receipts and Cash Expenditures for Month Ended December 31, 1927

### Cash Receipts

| | | |
|---|---|---|
| Dues Stamps CS | | $2,002.87 |
| Initiation Stamps CS | | 84.50 |
| Supply Department CS— | | |
| 10th Anniversary Buttons | $ 25.00 | |
| Literature | 13.66 | |
| [illegible]eaflets | 230.02 | |
| [illegible] Supplies | 13.30 | |
| [illegible]in Buttons | 100.00 | 381.98 |
| Convention Stamps | | 26.50 |
| Fight Injunction Fund | | 6.00 |
| Donations Received | | 1,230.00 |
| NO Share District Affairs | | 287.85 |
| Lenin Student Exp Refund | | 1,350.00 |
| Negro Student Exp Refund | | 710.00 |
| Account #26 Refund | | 90.00 |
| Proceeds Tenth Anniversary Meetings | | 47.16 |
| Loans Receivable—Dist 7 | | 45.00 |

| | | |
|---|---|---|
| Rents Received—YWL | $ 50.00 | |
| Literature Dept | 70.00 | 120.00 |
| Check Exchanges | | 125.40 |
| CASH RECEIVED FOR DECEMBER 1927 | | $6,507.26 |

**Petitioner's Exhibit No. 102A**

| | | |
|---|---|---|
| Received— | | |
| Nemser | | $20,300.00 |
| Julius | | 1,000.00 |
| Foshers | | 3,252.00 |
| Manly | | 3,350.00 |
| | | $27,902.00 |
| Paid out— | | |
| Marcus | | $ 1,000.00 |
| Mining | | 5,179.46 |
| On hand | | 1,500.00 |
| N. O. | | 21,650.00 |
| | 1,427.46 | $29,329.46 |

**Petitioner's Exhibit No. 103A**

SPECIAL DELEGATION TRIP ACCOUNT
MARCH 21ST TO 26TH, 1929 INCL.

JAY LOVESTONE

| | | |
|---|---|---|
| Received | | |
| 3-22-29 Loan Golos | $2,000.00 | |
| 3-21-29 Marcus Fare | 222.31 | |
| 3-21-29 Verne Re Canton Loan | 420.74 | |
| 3-22-29 Donation Bob Minor | 30.00 | |
| 3-22-29 Verne Re Canton Loan | 200.00 | |
| 3-22-29 Loan Neiuser | 300.00 | |
| Total Received | $3,173.05 | $3,173.05 |

| | | |
|---|---|---|
| Spent | | |
| 3-22-29 S. S. Tickets | $1,800.00 | |
| 3-22-29 Huiswood Permit | 10.00 | |
| 3-22-29 Dirbg General office | 400.00 | |
| 3-24-29 Huiswood Balance | 60.00 | |
| 3-24-29 Welsh Balance | 60.00 | |
| 3-24-29 Bedacht Balance | 70.00 | |
| 3-24-29 Gitlow Balance | 70.00 | |
| 3-24-29 Lovestone Balance | 70.00 | |
| 3-24-29 Miller Balance | 70.00 | |
| 3-24-29 Myerscough Balance | 60.00 | |
| 3-24-29 Bloor Balance | 70.00 | |
| 3-24-29 Noral Balance | 60.00 | |
| 3-24-29 White Balance | 70.00 | |
| 3-26-29 Cable Aquit. | 8.75 | |
| Total Spent | $2,878.75 | $2,878.75 |
| April 1, 1929 Balance on Hand | | $ 294.30 |
| Paid to Gitlow | | |
| Settled in full Jay Lovestone | | |

**Petitioner's Exhibit No. 103B**

APRIL 4, 1929

Received from James Hay the following:

| | |
|---|---|
| James Hay | $20.00 |
| W. J. White | 20.00 |
| Wm. Lang | 20.00 |
| John Jukubowski | 20.00 |
| Meyerscough | 20.00 |
| Noral | 20.00 |
| Fred Houston | 20.00 |
| Huiswood | 20.00 |
| Mrs. White | 10.00 |

Signatures
W. J. White
John Jukubowski
Ed T. Myerscough
Alex Noral
Fred Houston
Otto Huiswood
Mrs. Mary Ellen White
William H. Lang

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**Petitioner's Exhibit No. 104**

WORKERS (COMMUNIST) PARTY OF AMERICA
43 E. 125TH ST., NEW YORK CITY
NATIONAL OFFICE

November 30, 1927

To all CEC Members
& Party Functionaries

Dear Comrades:

In response to requests from Party functionaries who wish to obtain books published by the International Publishers, at reduced prices, Alexander Trachtenberg of International Publishers met with the Secretariat and upon his recommendations, the Secretariat adopted the following decision:

> All members of the CEC, DOs, and other *paid* Party functionaries are invited to purchase books of International Publishers direct from the Publishers at 381 Fourth Avenue, New York City, at a discount of 33⅓% (⅓) off the retail price of their books. These purchases must be *cash transactions* and for *personal* use only.

This arrangement with International Publishers should enable all Party functionaries to obtain the various important books published by them at a discount allowed to book stores. A list of publications of International Publishers

is enclosed and you can send your order to International Publishers, 381 Fourth Avenue, New York City.

Fraternally yours,

For the Secretariat
*Jay Lovestone*
Executive Secretary

**Petitioner's Exhibit No. 105**

WORKERS (COMMUNIST) PARTY OF AMERICA
National Office

1113 W. Washington Blvd., Room 301
Chicago, Ill.
Phone Monroe 4717
C. E. Ruthenberg, *General Secretary*
N. Dozenberg, *Accounts and Supplies Dept.*
Jay Lovestone, *Organization Department*
Max Bedacht, *Agitprop Dept.*
"Daily Worker," Official Daily Organ
J. Louis Engdahl, William F. Dunne, *Editors*

January 15, 1927.

Dear Comrade Gitlow:

When sending in reports on the Needle Trades situation, will you kindly forward copies to the Trade Union Committee. This is very important. Sometimes we lost a day in locating reports, or perhaps in some cases we don't get to see them at all if copies are sent only to the National Office.

In the case of confidential reports, please send them to the following address:

David Rasnik,
4232 Michigan Ave.,
Chicago, Ill.

Fraternally yours,
Wm. Z. Foster

**Petitioner's Exhibit No. 108**

# CENTRAL COMMITTEE COMMUNIST PARTY OF U.S.A.

43 E. 125th St., New York City
AGITPROP DEPARTMENT
December 27, 1929

## DISCUSSION OUTLINE FOR LENIN CAMPAIGN

* * * * * * * * * *

6. *Why it is impermissible to violate Party Discipline.*

a) *The Communist Party is based on the principle of Democratic centralization, i.e., absolute subordination of the minority to the majority of the Party, of lower Party organs to higher bodies. Otherwise the Party will be weakened, its authority undermined, and will only strengthen the position of the enemy.* "The negation of Party and Party discipline is the result of the opposition. This is akin to disarming the proletariat in favor of the bourgeoisie. It is akin to that petty bourgeois looseness, instability, incapacity for steady, unified and harmonious action, which, if encouraged, must bring to nought every proletarian revolutionary movement." (Lenin, "Infantile Sickness")

b) The Party has a right to use all measures against those who violate Party discipline.

"Breaches of Party discipline by individual members may be published by censure, public censure, dismissal from office, suspension from the Party, and expulsion from the Party" (from the "Statutes of the Communist Party" adopted at the 6th National Convention.)

* * * * * * * * * *

*One who fights the Soviet Union and the Comintern is an agent of capitalism directed against our Party in its campaign to mobilize the workers against imperialist war and for the defense of the Soviet Union.*

## III. Our Tasks

1. To widely popularize in the Party and in working class organizations the principles of Lenin, especially at this moment, on War and the Role of the Communist Party.

2. To popularize the slogan of civil war against American capitalism.

3. To struggle against pacifism, social-democratic propaganda of disarmament and peace. Building the revolutionary trade unions of the Communist Party is the first guarantee of our ability to mobilize the workers for the struggle against war and in defense of the Soviet Union.

4. To establish functioning nuclei amongst the armed forces of American capitalism.

5. To devote more attention to the role of American imperialism and American colonies and protectorates and for direct support of these colonial countries in their struggle against American imperialism.

6. To establish anti-war committees in the factories and link up the struggle against war with the every-day struggles of the workers.

7. Fill our quota in the present recruiting drive of the Party.

8. To struggle against the right danger in the Party, particularly against Lovestone.

Petitioner's Exhibit No. 109

# STALIN'S SPEECHES ON THE AMERICAN COMMUNIST PARTY

DELIVERED IN THE AMERICAN COMMISSION OF THE PRESIDIUM OF THE EXECUTIVE COMMITTEE OF THE COMMUNIST INTERNATIONAL, MAY 6, 1929

AND

IN THE PRESIDIUM OF THE EXECUTIVE COMMITTEE OF THE COMMUNIST INTERNATIONAL ON THE AMERICAN QUESTION, MAY 14TH, 1929

15 Cents

Published by
CENTRAL COMMITTEE, COMMUNIST PARTY, U. S. A.

## PREFACE

* * * * * * * * * * *

The speeches of Comrade Stalin in the American Commission and at the meeting of the Presidium of the Executive Committee of the Communist International, published herewith, have not only historical but also present political importance. At once they show the line of the Sixth Congress in action and the application to the Communist Party of the United States, of the Sixth Congress decisions on the fight against the Right danger.

* * * * * * * * * * *

To the gloomy predictions of Lovestone and Gitlow, that the Comintern Address will destroy the American Party, Comrade Stalin answered:

"No comrades, the American Communist Party, will not perish. It will live and flourish to the dismay of the enemies of the working class. Only one small factional group will perish if it continues to be stubborn, if it does not submit to the will of the Comintern, if it continues to adhere to its errors."

These words could be written upon the political grave, or better said, on the Brandlerite political sewer in which now rests Lovestone, Gitlow & Co.

. . . . . .

Comrade Gitlow read it here during the course of his speech. The fundamental feature of this declaration is that it proclaims the thesis of *non-submission* to the decisions of the Presidium of the E. C. C. That means that the extreme factionalism of the leaders of the majority has driven them into the path of insubordination, and hence of warfare against the Comintern.

. . . . . .

*Thirdly,* in that factionalism, by weakening the will for unity in the Party and by undermining its iron discipline, creates within the Party a peculiar factional regime, as a result of which the whole internal life of our Party is robbed of its conspirative protection in the face of the class enemy, and the Party itself runs the danger of being transformed into a plaything of the agents of the bourgeoisie.

. . . . . .

As a result, important secret decisions of the Party become general knowledge. In this way the agents of the bourgeoisie attain access to the secret decisions of the Party and make it easy to use the knowledge of the internal life of the Party against the interests of the Party.

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**Petitioner's Exhibit No. 117**

*Daily Worker*

August 24, 1929

Enlightenment Campaign on the Comintern Address to the Communist Party

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Statement of Political Bureau on Expulsions

Pursuant to the Polbureau decisions of August 12th, the Secretariat of the Central Committee addressed individual

letters to all the Party members named in this decision and demanded an answer from them within 48 hours. These individual letters have now been answered by a collective statement signed by D. Benjamin, B. Gitlow, W. Miller, M. Nemser, E. Welsh, W. White, B. Wolfe, and H. Zam.

In their declaration the signatories declare that "The Address and line of the Polbureau based upon it are wrong and injurious," and that "On the basis of the Address the Political Committee is proceeding to wreck the Party," and further, that "we will not cease our struggle," and, finally, that "we fight against the line of the Address and its application by the Polbureau."

The Polbureau and the E. C. C. I. demanded of these members of the Party a repudiation of their declaration of war against the Comintern. They answered this demand by declaring "we will not cease our struggle" and "we fight against the line of the Address and its application by the Polbureau."

The Polbureau and the E. C. C. I. demanded of these members of the Party a repudiation of their insolent counter-revolutionary cable to the E. C. C. I. They ignore this demand.

* * * * * * * * * * *

The statement of these Party members again reiterated the Lovestone opportunist platform in opposition to the line of the Sixth World Congress. With petty-bourgeois arrogance it declares that the right and duty to define the line of the Communist International does not rest with the Communist International but from among all the millions of members of the Comintern, from among all the dozens of sections of the Comintern, falls upon the shoulders of Lovestone. With the powers of sole arbiter thus allocated to Lovestone, the document proceeds to condemn the revolutionary application and development of the line of the Sixth Congress of the Communist International by the Communist International itself and by the Tenth Plenum of its Ex-

ecutive Committee and to proclaim Lovestone's reformist interpretation the only permissible one.

. . . . . .

With the declaration that they will continue their fight against the Comintern the signers have registered their unwillingness and unfitness to remain members of our Party. Under lying protestations of adherence to the decisions of the Sixth World Congress they challenge the decisions of the second World Congress concerning the 21 conditions of membership in the Communist International.

In recognition of this undeniable fact and in application of the decisions of the Polbureau of August 12, the following are hereby declared expelled from the Party—D. Benjamin, B. Gitlow, W. Miller, M. Nemser, E. Welsh, W. White, B. D. Wolfe and Herbert Zam.

. . .

Any association with the expelled, any support given them is incompatible with the duties of membership in the Party.

POLITICAL BUREAU OF THE
COMMUNIST PARTY OF U. S. A.

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**Petitioner's Exhibit No. 121**

## FOUNDATIONS OF LENINISM

by JOSEPH STALIN

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INTERNATIONAL PUBLISHERS CO., INC.

### INTRODUCTION

. . . . . .

Some say that Leninism is the application of Marxism to the peculiar conditions of the situation in Russia. This definition contains a particle of truth, but not the whole truth by any means. Lenin, indeed, applied Marxism to Russian conditions, and applied it in a masterly way. But if Lenin-

ism were only the application of Marxism to the peculiar situation in Russia it would be a purely national and only national, a purely Russian and only Russian, phenomenon. We know, however, that Leninism is not merely a Russian, but an international phenomenon rooted in the whole of international development. That is why I think this definition suffers from onesidedness.

## I. The Historical Roots of Leninism

The *third contradiction* is the contradiction between the handful of ruling "civilised" nations and the hundreds of millions of the colonial and dependent peoples of the world. Imperialism is the most barefaced exploitation and the most inhuman oppression of hundreds of millions of people inhabiting vast colonies and dependent countries. The purpose of this exploitation and of this oppression is to squeeze out super-profits. But in exploiting these countries imperialism is compelled to build railroads, factories and mills there, to create industrial and commercial centres. The appearance of a class of proletarians, the emergence of a native intelligentsia, the awakening of national consciousness, the growth of the movement for emancipation—such are the inevitable results of this "policy." The growth of the revolutionary movement in all colonies and dependent countries without exception clearly testifies to this fact. This circumstance is of importance for the proletariat in that it radically undermines the position of capitalism by converting the colonies and dependent countries from reserves of imperialism into reserves of the proletarian revolution.

Such, in general, are the principal contradictions of imperialism which have converted the old, "flourishing" capitalism into moribund capitalism.

The significance of the imperialist war which broke loose ten years ago lies, among other things, in the fact that it gathered all these contradictions into a single knot and

threw them onto the scales, thereby accelerating and facilitating the revolutionary battles of the proletariat.

In other words, imperialism has brought it about, not only that revolution has become a practical inevitability, but also that favourable conditions have been created for a direct onslaught upon the citadels of capitalism.

Such is the international situation which gave birth to Leninism.

• • • • • • • • • • •

Under these circumstances, could the Russian Communists confine their work within the narrow national bounds of the Russian revolution? Of course not. On the contrary, the whole situation, both domestic (the profound revolutionary crisis) and foreign (the war), impelled them to go beyond these bounds in their work, to transfer the struggle to the international arena, to expose the ulcers of imperialism, to prove that the collapse of capitalism was inevitable, to smash social-chauvinism and social-pacifism, and finally, to overthrow capitalism in their own country and to forge a new fighting weapon for the proletariat—the theory and tactics of the proletarian revolution—in order to facilitate the task of overthrowing capitalism for the proletarians of all countries. Nor could the Russian Communists act otherwise, for only this path offered the chance of producing certain changes in the international situation which could safeguard Russia against the restoration of the bourgeois order.

That is why Russia became the home of Leninism, and why Lenin, the leader of the Russian Communists, became its creator.

• • • • • • • • • • •

We cannot regard it as a mere accident that as early as 1902, when the Russian revolution was still in an embryonic state, Lenin wrote the following prophetic words in his pamphlet *What Is To Be Done?*:

"History has now confronted us [*i.e.*, the Russian Marxists—*J.S.*] with an immediate task which is the *most revo-*

*lutionary* of all the *immediate* tasks that confront the proletariat of any country. The fulfilment of this task, the destruction of the most powerful bulwark, not only of European, but also of Asiatic reaction, would make the Russian proletariat the vanguard of the international revolutionary proletariat." (V. I. Lenin, *Selected Works*, Vol. II, p. 50.)*

In other words, the centre of the revolutionary movement was bound to shift to Russia.

As we know, the course of the revolution in Russia has more than vindicated Lenin's prediction.

Is it surprising, after all this, that a country which has accomplished such a revolution and possesses such a proletariat should have been the birthplace of the theory and tactics of the proletarian revolution?

Is it surprising that Lenin, the leader of this proletariat, became the creator of this theory and tactics and the leader of the international proletariat?

### 3. The Theory of the Proletarian Revolution

But the overthrow of the power of the bourgeoisie and establishment of the power of the proletariat in one country still does not mean that the complete victory of socialism has been ensured. After consolidating its power and taking the peasantry in tow, the proletariat of the victorious country can and must build up a socialist society. But does this mean that it will thereby achieve the complete and final victory of socialism, *i.e.*, does it mean that with the forces of only one country it can finally consolidate socialism and fully guarantee that country against intervention and, consequently, also against restoration? No, it does not. For this the victory of the revolution in at least several countries is needed. Therefore, the development and support of revolution in other countries is an essential task of the victorious

* Quotation from English translations of Lenin have been checked with the original and in some cases revised.—*Ed.*

revolution. Therefore, the revolution in the victorious country must regard itself not as a self-sufficient entity but as an aid, as a means of hastening the victory of the proletariat in other countries.

Lenin expressed this thought in a nutshell when he said that the task of the victorious revolution is to do "the utmost possible in one country *for* the development, support and awakening of the revolution *in all countries.*" (*Selected Works*, Vol. VII, p. 182.)

These, in general, are the characteristic features of Lenin's theory of proletarian revolution.

## IV. The Dictatorship of the Proletariat

The state is a machine in the hands of the ruling class for suppressing the resistance of its class enemies. *In this respect* the dictatorship of the proletariat does not differ essentially from the dictatorship of any other class, for the proletarian state is a machine for the suppression of the bourgeoisie. But there is one *substantial* difference. This difference consists in the fact that all hitherto existing class states have been dictatorships of an exploiting minority over the exploited majority, whereas the dictatorship of the proletariat is the dictatorship of the exploited majority over the exploiting minority.

Briefly: *the dictatorship of the proletariat is the rule—unrestricted by law and based on force—of the proletariat over the bourgeoisie, a rule enjoying the sympathy and support of the labouring and exploited masses.* (*The State and Revolution.*)

From this follow two main conclusions:

*First conclusion:* The dictatorship of the proletariat cannot be "complete" democracy, democracy for *all*, for the rich as well as for the poor; the dictatorship of the proletariat "must be a state that is democratic *in a new way*—

*for* * the proletarians and the propertyless in general—and dictatorial *in a new way—against* * the bourgeoisie. . . ." (Lenin, *Selected Works*, Vol. VII, p. 34.)

* * * * * * * * * * *

Democracy under capitalism is *capitalist* democracy, the democracy of the exploiting minority, based on the restriction of the rights of the exploited majority and directed against this majority. Only under the dictatorship of the proletariat are real "liberties" for the exploited and real participation in the administration of the country by the proletarians and peasants possible. Under the dictatorship of the proletariat, democracy is *proletarian* democracy, the democracy of the exploited majority, based upon the restriction of the rights of the exploiting minority and directed against this minority.

*Second conclusion:* The dictatorship of the proletariat cannot arise as the result of the peaceful development of bourgeois society and bourgeois democracy; it can arise only as the result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police.

In a preface to *The Communist Manifesto* Marx and Engels wrote, quoting from *The Civil War in France:*

"The working class cannot simply lay hold of the ready-made state machine and wield it for its own purposes." (Marx, *Selected Works*, Vol. I, p. 190.)

In a letter to Kugelmann (1871) Marx wrote that the task of the proletarian revolution is

"no longer as before, to transfer the bureaucratic military machine from one hand to another, but to *smash* it, and that is a preliminary condition for every real people's revolution on the Continent." (Marx, *Selected Works*, Vol. II, p. 528.)

Marx's qualifying phrase about the Continent gave the opportunists and Mensheviks of all countries a pretext for

* My italics.—*J.S.*

proclaiming that Marx had thus conceded the possibility of the peaceful evolution of bourgeois democracy into a proletarian democracy, at least in certain countries outside the European continent (England, America). Marx did in fact concede that possibility, and he had good grounds for conceding it in regard to England and America in the seventies of the last century, when monopoly capitalism and imperialism did not yet exist, and when these countries, owing to the special conditions of their development, had as yet no developed militarism and bureaucracy. That was the situation before the appearance of developed imperialism. But later, after a lapse of thirty or forty years, when the situation in these countries had radically changed, when imperialism had developed and had embraced all capitalist countries without exception, when militarism and bureaucracy had appeared in England and America also, when the special conditions for peaceful development in England and the United States had disappeared—then the qualification in regard to these countries necessarily could no longer hold good.

"Today," said Lenin, "in 1917, in the epoch of the first great imperialist war, this qualification made by Marx is no longer valid: Both England and America, the greatest and the last representatives—in the whole world—of Anglo-Saxon 'liberty,' in the sense that militarism and bureaucracy were absent, have slid down entirely into the all-European, filthy, bloody morass of military-bureaucratic institutions to which everything is subordinated and which trample everything underfoot. Today, both in England and in America, the 'preliminary condition for every real people's revolution' is the smashing, the *destruction* of the 'ready-made state machine' (brought in those countries, between 1914 and 1917, to general 'European' imperialist perfection)." (*Selected Works*, Vol. VII, p. 37.)

In other words, the law of violent proletarian revolution, the law of the smashing of the bourgeois state machine as a preliminary condition for such a revolution, is an inevitable

law of the revolutionary movement in the imperialist countries of the world.

Of course, in the remote future, if the proletariat is victorious in the most important capitalist countries, and if the present capitalist encirclement is replaced by a socialist encirclement, a "peaceful" path of development is quite possible for certain capitalist countries, whose capitalists, in view of the "unfavourable" international situation, will consider it expedient "voluntarily" to make substantial concessions to the proletariat. But this supposition applies only to a remote and possible future. With regard to the immediate future, there is no ground whatsoever for this supposition.

Therefore, Lenin is right in saying:

"The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a *new one*. . ." (*Selected Works*, Vol. VII, p. 124.)

## VI. The National Problem

Formerly, the national problem was usually confined to a narrow circle of questions, concerning, primarily, "cultured" nationalities. The Irish, the Hungarians, the Poles, the Finns, the Serbs and several other European nationalities—that was the circle of disfranchised peoples in whose destinies the heroes of the Second International were interested. The scores and hundreds of millions of Asiatic and African peoples who are suffering national oppression in its most savage and cruel form usually remained outside of their field of vision. They hesitated to put white and black, "civilized" and "uncivilized" on the same plane. Two or three meaningless, lukewarm resolutions, which carefully evaded the question of liberating the colonies—that was all the leaders of the Second International could boast of. Now we can say that this duplicity and half-

heartedness in dealing with the national problem has been brought to an end. Leninism laid bare this crying incongruity, broke down the wall between whites and blacks, between Europeans and Asiatics, between the "civilized" and "uncivilized" slaves of imperialism, and thus linked the national problem with the problem of the colonies. The national problem was thereby transformed from a particular and internal state problem into a general and international problem, into a world problem of emancipating the oppressed peoples in the dependent countries and colonies from the yoke of imperialism.

. . . . . .

The question presents itself as follows: Are the revolutionary possibilities latent in the revolutionary liberation movement of the oppressed countries *already exhausted* or not; and if not, is there any hope, any ground to expect that these possibilities can be utilized for the proletarian revolution, that the dependent and colonial countries can be transformed from a reserve of the imperialist bourgeoisie into a reserve of the revolutionary proletariat, into an ally of the latter?

Leninism replies to this question in the affirmative, *i.e.*, it recognizes the latent revolutionary capacities of the national liberation movement of the oppressed countries and the possibility of utilizing these capacities for the purpose of overthrowing the common enemy, for the purpose of overthrowing imperialism. The mechanics of the development of imperialism, the imperialist war and the revolution in Russia wholly confirm the conclusions of Leninism on this score.

Hence the necessity for the proletariat to support—resolutely and actively to support—the national liberation movement of the oppressed and dependent peoples.

This does not mean, of course, that the proletariat must support *every* national movement, everywhere and always, in every single concrete case. It means that support must be given to such national movements as tend to weaken, to overthrow imperialism, and not to strengthen and preserve

it. Cases occur when the national movements in certain oppressed countries come into conflict with the interests of the development of the proletarian movement. In such cases support is, of course, entirely out of the question. The question of the rights of nations is not an isolated, self-sufficient question; it is a part of the general problem of the proletarian revolution, subordinate to the whole, and must be considered from the point of view of the whole. In the forties of the last century Marx supported the national movement of the Poles and Hungarians and was opposed to the national movement of the Czechs and the South Slavs. Why? Because the Czechs and the South Slavs were then "reactionary nations," "Russian outposts" in Europe, outposts of absolutism: whereas the Poles and the Hungarians were "revolutionary nations," fighting against absolutism. Because support of the national movement of the Czechs and the South Slavs was at that time equivalent to indirect support for tsarism, the most dangerous enemy of the revolutionary movement in Europe.

"The various demands of democracy," writes Lenin, "including self-determination, are not an absolute, but a *small part* of the general democratic (now: general socialist) *world* movement. In individual concrete cases, the part may contradict the whole; if so, it must be rejected." (*Collected Works*, Russian edition, Vol. XIX, pp. 257-58.)*

This is the position in regard to the question of certain national movements, of the possible reactionary character of these movements—if, of course, they are appraised not from the formal point of view, not from the point of view of abstract rights, but concretely, from the point of view of the interests of the revolutionary movement.

## VII. Strategy and Tactics

The period of the domination of the Second International was mainly a period of the formation and training of the

* Cf. Lenin, *Marx-Engles-Marxism* (N.Y., 1935), p. 147.—*Ed.*

proletarian armies amidst conditions of more or less peaceful development. This was the period when parliamentarism was the principal form of class struggle. Questions of great class conflicts, of preparing the proletariat for revolutionary battles, of the ways and means of achieving the dictatorship of the proletariat, did not seem to be on the order of the day at that time. The task was confined to utilizing all paths of legal development for the purpose of forming and training the proletarian armies, to utilizing parliamentarism in conformity with the conditions under which the status of the proletariat was (and as it seemed then, had to remain) that of an Opposition. It need hardly be proved that in such a period and with such a conception of the tasks of the proletariat there could be neither an integral strategy nor any elaborated tactics. There were fragmentary and detached ideas about tactics and strategy, but no tactics or strategy as such.

The mortal sin of the Second International was not that it pursued the tactics of utilizing the parliamentary forms of struggle, but that it overestimated the importance of these forms, that it considered them virtually the only forms; and that when the period of open revolutionary battles set in and the question of extra-parliamentary forms of struggle came to the fore the parties of the Second International turned their backs on these new tasks, refused to shoulder them.

Only in the subsequent period, in the period of direct action by the proletariat, in the period of proletarian revolution, when the question of overthrowing the bourgeoisie became a question of immediate action; when the question of the reserves of the proletariat (strategy) became one of the most burning questions; when all forms of struggle and of organization, parliamentary and extra-parliamentary (tactics) had fully mainfested themselves and became well-defined—only in this period could an integral strategy and elaborated tactics for the struggle of the proletariat be drawn up. It was precisely in that period that Lenin brought out into

light of day the brilliant ideas of Marx and Engels on tactics and strategy that had been immured by the opportunists of the Second International. But Lenin did not confine himself to restoring certain tactical propositions of Marx and Engels. He developed them further and supplemented them with new ideas and propositions, combining them all into a system of rules and guiding principles for the leadership of the class struggle of the proletariat. Lenin's pamphlets, such as *What Is To Be Done?; Two Tactics; Imperialism; State and Revolution; The Proletarian Revolution and the Renegade Kautsky; "Left-Wing" Communism*, etc., will undoubtedly always be treasured as priceless contributions to the general store of Marxism, to its revolutionary arsenal. The strategy and tactics of Leninism constitute the science of leadership of the revolutionary struggle of the proletariat.

### 2. Stages of the Revolution, and Strategy

. . . . . .

Our revolution already passed through two stages, and after the October Revolution it has entered a third stage. Our strategy changed accordingly.

. . . . . .

*Third stage.* Commenced after the October Revolution. Objective: to consolidate the dictatorship of the proletariat in one country, using it as a base for the overthrow of imperialism in all countries. The revolution is spreading beyond the confines of one country; the period of world revolution has commenced. The main forces of the revolution: the dictatorship of the proletariat in one country, the revolutionary movement of the proletariat in all countries. Main reserves: the semi-proletarian and small-peasant masses in the developed countries, the liberation movement in the colonies and dependent countries. Direction of the main blow: isolation of the petty-bourgeois democrats, isolation of the parties of the Second International, which constitute the main support of the policy of *compromise* with imperial-

ism. Plan for the disposition of forces: alliance of the proletarian revolution with the liberation movement in the colonies and the dependent countries.

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### 3. The Flow and Ebb of the Movement, and Tactics

Tactics are the determination of the line of conduct of the proletariat in the comparatively short period of the flow or ebb of the movement, of the rise or decline of the revolution, the fight to carry out this line by means of replacing old forms of struggle and organization by new ones, old slogans by new ones, by combining these forms, etc. While the object of strategy is to win the war against tsarism, let us say, or against the bourgeoisie, to carry the struggle against tsarism or against the bourgeoisie to its end, tactics concern themselves with less important objects, for they aim not at winning the war as a whole, but at winning a particular engagement, or a particular battle, at carrying through successfully a particular campaign or a particular action corresponding to the concrete circumstances in the given period of rise or decline of the revolution. Tactics are a part of strategy, subordinate to it and serving it.

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### 6. Reformism and Revolutionism

What is the difference between revolutionary tactics and reformist tactics?

Some think that Leninism is opposed to reforms, opposed to compromises and to agreements in general. This is absolutely wrong. Bolsheviks know as well as anybody else that in a certain sense "every little helps," that under certain conditions reforms in general, and compromises and agreements in particular, are necessary and useful.

"To carry on a war for the overthrow of the international bourgeoisie," says Lenin, "a war which is a hundred times more difficult, protracted and complicated than the most stubborn of ordinary wars between states, and to refuse beforehand to manoeuvre, to utilize the conflict of interests

(even though temporary) among one's enemies, to refuse to temporise and compromise with possible (even though transient, unstable, vacillating and conditional) allies—is not this ridiculous in the extreme? Is it not the same as if in the difficult ascent of an unexplored and heretofore inaccessible mountain we were to renounce beforehand the idea that at times we might have to go in zigzags, sometimes retracing our steps, sometimes giving up the course once selected and trying various others?" (*Selected Works*, Vol. X, p. 111.)

Obviously, therefore, it is not a matter of reforms or of compromises and agreements, but of the use people make of reforms and compromises.

To a reformist, reforms are everything, while revolutionary work is something incidental, something just to talk about, mere eyewash. That is why, with reformist tactics under the bourgeois regime, reforms are inevitably transformed into an instrument for strengthening that regime, an instrument for disintegrating the revolution.

To a revolutionary, on the contrary, the main thing is revolutionary work and not reforms; to him reforms are by-products of the revolution. That is why, with revolutionary tactics under the bourgeois regime, reforms are naturally transformed into instruments for disintegrating this regime, into instruments for strengthening the revolution, into a base for further development of the revolutionary movement.

The revolutionary will accept a reform in order to use it as an aid in combining legal work with illegal work, to intensify, under its cover, the illegal work for the revolutionary preparation of the masses for the overthrow of the bourgeoisie.

*This* is what making revolutionary use of reforms and agreements under the conditions of imperialism means.

The reformist, on the contrary, will accept reforms in order to renounce all illegal work, to thwart the preparation of the masses for the revolution and to rest in the shade of "bestowed" reforms.

*This* is what reformist tactics means.

This is the position in regard to reforms and agreements under imperialism.

## VIII. The Party

But the Party is not merely the *sum* of Party organizations. The Party at the same time represents a single *system* of these organizations, their formal amalgamation into a single whole, with higher and lower leading bodies, with subordination of the minority to the majority, with practical decisions binding on all members of the Party. Without these conditions the Party cannot be a single organized whole capable of exercising systematic and organized leadership in the struggle of the working class.

"*Formerly*," says Lenin, "our Party was not a formally organized whole, but only the sum of separate groups, and therefore no other relations except those of ideological influence were possible between these groups. *Now* we have become an organized Party, and this implies the establishment of authority, the transformation of the power of ideas into the power of authority, the subordination of lower Party bodies to higher Party bodies." (*Ibid.*, p. 291.)

The principle of the minority submitting to the majority, the principle of directing Party work from a centre, not infrequently gives rise to attacks on the part of wavering elements, to accusations of "bureaucracy," "formalism," etc. It need hardly be proved that systematic work by the Party, as one whole, and the directing of the struggle of the working class would have been impossible if these principles had not been adhered to. Leninism in the organizational question means unswerving application of these principles. Lenin terms the fight against these principles "Russian nihilism" and "aristocratic anarchism," deserving only of being ridiculed and swept aside.

The achievement and maintenance of the dictatorship of the proletariat is impossible without a party which is strong by reason of its solidarity and iron discipline. But iron discipline in the Party is inconceivable without unity of will, without complete and absolute unity of action on the part of all members of the Party. This does not mean, of course, that the possibility of contests of opinion within the Party is thereby precluded. On the contrary, iron discipline does not preclude but presupposes criticism and contest of opinion within the Party. Least of all does it mean that discipline must be "blind." On the contrary, iron discipline does not preclude but presupposes conscious and voluntary submission, for only conscious discipline can be truly iron discipline. But after a contest of opinion has been closed, after criticism has been exhausted and a decision has been arrived at, unity of will and unity of action of all Party members are the necessary condition without which neither Party unity nor iron discipline in the Party is conceivable.

"In the present epoch of acute civil war," says Lenin, "a Communist Party will be able to perform its duty only if it is organised in the most centralised manner, only if iron discipline bordering on military discipline prevails in it, and if its Party centre is a powerful and authoritative organ, wielding wide powers and enjoying the universal confidence of the members of the Party." (*Selected Works*, Vol. X, p. 204.)

This is the position in regard to discipline in the Party in the period of struggle preceding the achievement of the dictatorship.

The same, but to an even greater degree, must be said about discipline in the Party after the dictatorship has been achieved.

"Whoever in the least," says Lenin, "weakens the iron discipline of the Party of the proletariat (especially during its dictatorship) actually aids the bourgeoisie against the proletariat." (*Selected Works*, Vol. X, p. 84.)

But from this it follows that the existence of factions is incompatible either with the Party's unity or with its iron discipline. It need hardly be proved that the existence of factions leads to the existence of a number of centres and the existence of a number of centres connotes the absence of one common centre in the Party, the breaking up of the unity of will, the weakening and disintegration of discipline, the weakening and disintegration of the dictatorship. Of course, the parties of the Second International, which are fighting against the dictatorship of the proletariat and have no desire to lead the proletarians to power, can afford such liberalism as freedom of factions, for they have no need at all for iron discipline. But the parties of the Communist International, which base their activities on the task of achieving and consolidating the dictatorship of the proletariat, cannot afford to be "liberal" or to permit freedom of factions. The Party represents unity of will, which precludes all factionalism and division of authority in the Party.

Hence Lenin's warning about the "danger of factionalism from the point of view of Party unity and of effecting the unity of will of the vanguard of the proletariat as the fundamental condition for the success of the dictatorship of the proletariat," which is embodied in the special resolution of the Tenth Congress of our Party "On Party Unity." (Lenin, *Selected Works*, Vol. IX, p. 132.)

Hence Lenin's demand for the "complete elimination of all factionalism" and the "immediate dissolution of all groups, without exception, that had been formed on the basis of various platforms," on pain of "unconditional and immediate expulsion from the Party." (*Ibid.*, pp. 133-34.)

**Petitioner's Exhibit No. 123**

*The Communist*

OFFICIAL ORGAN OF THE COMMUNIST PARTY OF AMERICA
SECTION OF THE THIRD COMMUNIST INTERNATIONAL
MARCH *, 1921

## REPORT OF THE THIRD CONVENTION

Thirty delegates and seven fraternal delegates met somewhere in the U. S. A., and for ten days thrashed out the problems of tactics and organization of the Communist Party, made history, and passed another milestone of the Communist movement in America. The arrangements for the holding of this convention, made by our technical committee, the silent and secret gathering together of the comrades from all parts of the country, and their safe return to their homes, is in itself a story which some day will be told when the annals of the proletariat revolution in America are compiled.

After waiting in vain for the U. C. P. to comply with the mandate of the Communist International to hold a joint convention upon the basis of proportional representation with the Communist Party, in order to effect unity between these two parties, the convention was called by the C. E. C. in compliance with the twenty-one points for affiliation to the Communist International, and to revise its program and constitution, in conformity with the Theses and Statutes of the C.I.

* * * * * * * * * * *

## RESOLUTION ON UNITY WITH THE U. C. P.

The Communist Party of America, in convention assembled, unanimously declares:

That we endorse and confirm the position taken by the former C. E. C. of the Communist Party against holding of a unity convention with the united Communist Party upon the arbitrary basis of equal representation.

We maintain that real and organic unity between the Communist Party of America and the united Communist Party

can be reached only upon the basis of proportional representation.

We instruct our central executive committee to maintain this position, which is included in the mandate of the executive committee of the Communist International, unless the Communist International sends other instructions.

. . . . . .

Another amendment was made to insert the words "for *the final destruction* of the burgeois state" and this was accepted by the chairman, and around this motion the question was thrashed out in heated debate. Many new formulations were offered until finally a new committee was elected to reformulate the entire clause. This concluded that day's session, and the next morning the clause was adopted as follows:—"*The Communist Party will systematically and persistently propagate to the working class the idea of the inevitability of, the necessity for a violent revolution and will prepare the working class for armed insurrection as the only means for the destruction of the bourgeois state and the establishment of the proletarian dictatorship based upon soviet power.*" This clause was unanimously adopted by roll call vote by all present.

. . . . . .

The various resolutions adopted by the convention (with the exception of those which are not printed for conspiratorial reasons) will be found on another page in this issue.

. . . . . .

## Resolutions Adopted by C. P. Convention, Feb., 1921

### Resolution on Acceptance of the 21 Points for Affiliation with C. I.

The Communist Party of America, Section of the Communist International, assembled in its Special Convention held in February, 1921, hereby reaffirms its position as an integral part of the Communist International.

The Special Convention, in conformity with the conditions for admission adopted by the Second World Congress of the

Communist International, and after discussion and due deliberation, endorses and adopts unanimously, on roll call vote, the 21 Points for Affiliation with the Communist International, as binding upon all the delegates present, and for its entire membership, without any reservations.

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**Petitioner's Exhibit No. 125**

## PROGRAMME OF THE COMMUNIST INTERNATIONAL

## TOGETHER WITH THE STATUTES OF THE COMMUNIST INTERNATIONAL

WORKERS LIBRARY PUBLISHERS, INC.
39 EAST 125TH STREET, NEW YORK, N. Y.

. . . . . .

## INTRODUCTION

. . . . . .

Basing itself on the experience of the revolutionary labor movement on all continents and of all peoples, the Communist International, in its theoretical and practical work, stands wholly and unreservedly upon the ground of *revolutionary Marxism* and its further development, *Leninism*, which is nothing else but Marxism of the epoch of imperialism and proletarian revolution.

Advocating and propagating the *dialectical materialism* of Marx and Engels and employing it as a revolutionary method of conceiving reality, with the view to the revolutionary transformation of this reality, the Communist International wages an active struggle against all forms of bourgeois philosophy and against all forms of theoretical and practical opportunism. Standing on the ground of consistent proletarian class struggle and subordinating the temporary, partial group and national interests of the proletariat to its lasting, general, international interests, the Communist International mercilessly exposes all forms of

the doctrine of "*class peace*" that the reformists have accepted from the bourgeoisie. Expressing the historical need for an international organization of revolutionary proletarians—the grave-diggers of the capitalist order—the Communist International is the only international force that has for its programme the dictatorship of the proletariat and Communism, and that openly comes out as the *organizer of the international proletarian revolution.*

## II. The General Crisis of Capitalism and the First Phase of World Revolution

As a result of the first round of imperialist wars (the world war of 1914-1918) and of the October victory of the working class in the former Russian Tsarist Empire, world economy has been split into two fundamentally hostile camps: the camp of the imperialist States and the camp of the dictatorship of the proletariat in the U.S.S.R. The difference in class structure and in the class character of the government in the two camps, the fundamental differences in the aims each pursues in internal, foreign, economic and cultural policy, the fundamentally different courses of their development, brings the capitalist world into sharp conflict with the victorious proletarian State. Within the framework of a formerly uniform world economy, two antagonistic systems are now contesting against each other: the system of capitalism and the system of socialism. The class struggle, which hitherto was conducted in circumstances when the proletariat was not in possession of State power, is now being conducted on an enormous and really world scale; the working class of the world has now its own State—the one and only fatherland of the international proletariat. The existence of the Soviet Union and the influence it exercises upon the toiling and oppressed masses all over the world is in itself a most striking expression of the profound crisis of the world capitalist system and of the expansion and in-

tensification of the class struggle to a degree hitherto without parallel in history.

The capitalist world, powerless to eliminate its inherent contradictions, strives to establish international associations (the League of Nations) the main purpose of which is to retard the irresistible growth of the revolutionary crisis and to strangle the Soviet Proletarian Republics by war or blockade. At the same time, all the forces of the revolutionary proletariat and of the oppressed colonial masses are rallying around the U.S.S.R. The world coalition of *Capital*, unstable, internally corroded, but armed to the teeth, is confronted by a single world coalition of *Labor*. Thus, as a result of the first round of imperialist wars a new, fundamental antagonism has arisen of world historical scope and significance; the antagonism between the U.S.S.R. and the capitalist world.

* * * * * * * * * *

Finally, the revolutionary crisis is inexorably maturing in the very centres of imperialism: the capitalist offensive against the working class, the attack upon the workers' standard of living, upon their organizations and their political rights, and the growth of white terror, rouse increasing resistance on the part of the broad masses of the proletariat and intensify the class struggle between the working class and trustified capital. The great battles fought between Labor and Capital, the accelerated swing to the left of the masses, the growth in the influence and authority of the Communist Parties; the enormous growth of sympathy of the broad masses of workers for the land of the proletarian dictatorship—all this is a clear symptom of the rise of a new revolutionary tide in the centres of imperialism.

Thus, the system of world imperialism, and with it the partial stabilization of capitalism, is being corroded from various causes: First, the antagonisms and conflicts between the imperialist States; second, the rising for the struggle of vast masses in the colonial countries; third, the action of the revolutionary proletariat in the imperialist home coun-

tries; and lastly, the hegemony exercised over the whole world revolutionary movement by the proletarian dictatorship in the U.S.S.R. The international revolution is developing.

Against this revolution, imperialism is gathering its forces. Expeditions against the colonies, a new world war, a campaign against the U.S.S.R. are matters which now figure prominently in the politics of imperialism. This must lead to the release of all the forces of international revolution and to the inevitable doom of capitalism.

## III. The Ultimate Aim of the Communist International
### World Communism

The ultimate aim of the Communist International, to replace world capitalist economy by a world system of Communism. Communist society, the basis for which has been prepared by the whole course of historical development, is mankind's only way out, for it alone can abolish the contradictions of the capitalist system which threaten to degrade and destroy the human race.

Communist society will abolish the class division of society, i.e., simultaneously with the abolition of anarchy in production, it will abolish all forces of exploitation and oppression of man by man. Society will no longer consist of antagonistic classes in conflict with each other, but will represent a united commonwealth of labor. For the first time in its history mankind will take its fate into its own hands: Instead of destroying innumerable human lives and incalculable wealth in struggles between classes and nations, mankind will devote all its energy to the struggle against the forces of nature, to the development and strengthening of its own collective might.

After abolishing private ownership in the means of production and converting them into social property, the world system of Communism will replace the elemental forces of the world market, of competition and the blind process of social production, by consciously organized and planned pro-

duction for the purpose of satisfying rapidly growing social needs. With the abolition of competition and anarchy in production, devastating crises and still more devastating wars will disappear. Instead of colossal waste of productive forces and spasmodic development of society—there will be planned utilization of all material resources and painless economic development on the basis of unrestricted, smooth and rapid development of productive forces.

The abolition of private property and the disappearance of classes will do away with the exploitation of man by man. Work will cease to be toiling for the benefit of a class enemy: instead of being merely a means of livelihood it will become a necessity of life: want and economic inequality, the misery of enslaved classes, and a wretched standard of life generally will disappear; the hierarchy created in the division of labor system will be abolished together with the antagonism between mental and manual labor; and the last vestige of the social inequality of sexes will be removed. At the same time, the organs of class domination, and the State in the first place, will disappear also. The State, being the embodiment of class domination, will die out in so far as classes die out, and with it all measures of coercion will expire.

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## IV. The Period of Transition From Capitalism to Socialism and the Dictatorship of the Proletariat

### I. The Transition Period and the Conquest of Power by the Proletariat

Between capitalist society and Communist society a period of revolutionary transformation intervenes, during which the one changes into the other. Correspondingly, there is also an intervening period of political transition, in which the essential State form is the revolutionary dictatorship of the proletariat. The transition from the world dictatorship of imperialism to the world dictatorship of the proletariat extends over a long period of proletarian struggles with defeats as well as victories; a period of continuous

general crisis in capitalist relationships and growth of social revolutions, i.e., of proletarian civil wars against the bourgeoisie; a period of national wars and colonial rebellions which, although not in themselves revolutionary proletarian socialist movements, are nevertheless, objectively, insofar as they undermine the domination of imperialism, constituent parts of the world proletarian revolution; a period in which capitalist and social economic and social systems exist side by side in "peaceful" relationships as well as in armed conflict; a period of formation of a Union of Soviet Republics; a period of wars of imperialist States against Soviet States; a period in which the ties between the Soviet States and colonial peoples become more and more closely established, etc.

Uneven economic and political development is an absolute law of capitalism. This unevenness is still more pronounced and acute in the epoch of imperialism. Hence, it follows that the international proletarian revolution cannot be conceived as a single event occurring simultaneously all over the world; at first socialism may be victorious in a few, or even in one single capitalist country. Every such proletarian victory, however, broadens the basis of the world revolution and consequently, still further intensifies the general crisis of capitalism. Thus, the capitalist system as a whole reaches the point of its final collapse; the dictatorship of finance capital perishes and gives place to the dictatorship of the proletariat.

Bourgeois revolutions brought about the political liberation of a system of productive relationships that had already established itself and become economically dominant, and transferred political power from the hands of one class of exploiters to the hands of another. Proletarian revolution, however, signifies the forcible invasion of the proletariat into the domain of property relationships of bourgeois society, the expropriation of the expropriating classes, and the transference of power to a class that aims at the radical reconstruction of the economic foundations of society and

the abolition of all exploitation of man by man. The political domination of the feudal barons all over the world was broken in a series of separate bourgeois revolutions that extended over a period of centuries. The international proletarian revolution, however, although it will not be a single simultaneous act, but one extending over a whole epoch, nevertheless—thanks to the closer ties that now exist between the countries of the world, will accomplish its mission in a much shorter period of time. Only after the proletariat has achieved victory and consolidated its power all over the world will a prolonged period of intensive construction of world socialist economy set in.

The conquest of power by the proletariat is a necessary condition precedent to the growth of socialist forms of economy and to the cultural growth of the proletariat, which changes its own nature, perfects itself for the leadership of society in all spheres of life, draws into this process of transformation all other classes and thus prepares the ground for the abolition of classes altogether.

In the struggle for the dictatorship of the proletariat, and later for the transformation of the social system, as against the alliance of capitalists and landlords an alliance of workers and peasants is formed, under the intellectual and political hegemony of the former, an alliance which serves as the basis for the dictatorship of the proletariat.

The characteristic feature of the transition period as a whole, is the ruthless suppression of the resistance of the exploiters, the organization of Socialist Construction, the mass training of men and women in the spirit of Socialism and the gradual disappearance of classes. Only to the extent that these great historical tasks are fulfilled will society of the transition period become transformed into Communist society.

Thus, the dictatorship of the world proletariat is an essential and vital condition precedent to the transition of world capitalist economy to socialist economy. This world dictatorship can be established only when the victory of socialism

has been achieved in certain countries or groups of countries, when the newly established proletarian republics enter into a federal union with the already existing proletarian republics, when the number of such federations has grown and extended also to the colonies which have emancipated themselves from the yoke of imperialism; when these federations of republics have finally grown into a World Union of Soviet Socialist Republics uniting the whole of mankind under the hegemony of the international proletariat organized as a State.

The conquest of power by the proletariat does not mean peacefully "capturing" the ready-made bourgeois State machinery by means of a parliamentary majority. The bourgeoisie resorts to every means of violence and terror to safeguard and strengthen its predatory property and its political domination. Like the feudal nobility of the past, the bourgeoisie cannot abandon its historical position to the new class without a desperate and frantic struggle. Hence, the violence of the bourgeoisie can be suppressed only by the stern violence of the proletariat. The conquest of power by the proletariat is the violent overthrow of bourgeois power, the destruction of the capitalist State apparatus (bourgeois armies, police, bureaucratic hierarchy, the judiciary, parliaments, etc.), and substituting in its place new organs of proletarian power, to serve primarily as instruments for the suppression of the exploiters.

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## V. The Dictatorship of the Proletariat in the U.S.S.R. and the International Social Revolution

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### 3. The Duties of the International Proletariat to the U. S. S. R.

In view of the fact that the U.S.S.R. is the only fatherland of the international proletariat, the principal bulwark of its achievements and the most important factor for its interna-

tional emancipation, the international proletariat must on its part facilitate the success of the work of Socialist construction in the U.S.S.R. and defend her against the attacks of the capitalist powers by all the means in its power.

"The world political situation has made the dictatorship of the proletariat an immediate issue, and all the events of world politics are inevitably concentrating around one central point, namely, the struggle of the world bourgeoisie against the Soviet Russian Republic, which must inevitably group around itself the Soviet movements of the advanced workers of all countries on the one hand, and all the national liberation movements of the colonial and oppressed nationalities on the other." (Lenin).

In the event of the imperialist States declaring war upon and attacking the U.S.S.R., the international proletariat must retaliate by organizing bold and determined mass action and struggling for the overthrow of the imperialist governments with the slogan of: Dictatorship of the proletariat and alliance with the U.S.S.R.

In the colonies, and particularly the colonies of the imperialist country attacking the U.S.S.R., every effort must be made to take advantage of the diversion of the imperialist military forces to develop an anti-imperialist struggle and to organize revolutionary action for the purpose of throwing off the yoke of imperialism and of winning complete independence.

The development of Socialism in the U.S.S.R. and the growth of its international influence not only rouse the hatred of the capitalist States and their Social-Democratic agents against her, but also inspire the toilers all over the world with sympathy towards her and stimulate the readiness of the oppressed classes of all countries to fight with all the means in their power for the land of the proletarian dictatorship, in the event of an imperialist attack upon her.

Thus, the development of the contradictions within modern world economy, the development of the general capitalist crisis, and the imperialist military attack upon the

Soviet Union inevitably lead to a mighty revolutionary outbreak which must overwhelm capitalism in a number of the so-called civilized countries, unleash the victorious revolution in the colonies, broaden the base of the proletarian dictatorship to an enormous degree and thus, with tremendous strides, bring nearer the final world victory of Socialism.

## VI. The Strategy and Tactics of the Communist International in the Struggle for the Dictatorship of the Proletariat

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### 2. The Fundamental Tasks of Communist Strategy and Tactics

The successful struggle of the Communist International for the dictatorship of the proletariat presupposes the existence in every country of a compact Communist Party, hardened in the struggle, disciplined, centralized, and closely linked up with the masses.

*The Party* is the vanguard of the working class and consists of the best, most class-conscious, most active, and most courageous members of that class. It incorporates the whole body of experience of the proletarian struggle. Basing itself upon the revolutionary theory of Marxism and representing the general and lasting interests of the whole of the working class, the Party personifies the unity of proletarian principles, of proletarian will and of proletarian revolutionary action. It is a revolutionary organization, bound by iron discipline and strict revolutionary rules of democratic centralism, which can be carried out thanks to the class-consciousness of the proletarian vanguard, to its loyalty to the revolution, its ability to maintain inseparable ties with the proletarian masses and to its correct political leadership, which is constantly verified and clarified by the experiences of the masses themselves.

In order that it may fulfill its historic mission of achieving the dictatorship of the proletariat, the Communist Party must first of all set itself and accomplish the following fundamental *strategic* aims:

Extend its influence over the *majority of the members of its own class,* including working women and the working youth. To achieve this the Communist Party must secure predominant influence in the broad mass proletarian organizations (Soviets, trade unions, factory councils, co-operative societies, sport organizations, cultural organizations, etc.). It is particularly important for the purpose of winning over the majority of the proletariat, to capture the *trade unions,* which are genuine mass working class organizations closely bound up with the every-day struggles of the working class. To work in reactionary trade unions and skillfully to capture them, to win the confidence of the broad masses of the industrially organized workers, to change and "remove from their posts" the reformist leaders, represent important tasks in the preparatory period.

The achievement of the dictatorship of the proletariat presupposes also that the proletariat acquires hegemony over *wide sections of the toiling masses.* To accomplish this the Communist Party must extend its influence over the masses of the urban and rural poor, over the lower strata of the intelligentsia and over the so-called "small man," i. e. the petty-bourgeois strata generally. It is particularly important that work be carried on for the purpose of extending the Party's influence over the *peasantry.* The Communist Party must secure for itself the whole-hearted support of that stratum of the rural population that stands closest to the proletariat, i. e. the agricultural laborers and the rural poor. To this end, the agricultural laborers must be organized in separate organizations; all possible support must be given them in their struggles against the rural bourgeoisie, and strenuous work must be carried on among the small allotment farmers and small peasants. In regard to the middle strata of the peasantry in developed capitalist countries, the Communist Parties must conduct a policy to secure their neutrality. The fulfillment of all these tasks by the proletariat,—the champion of the interests of the whole people and the leader of the broad masses in their struggle

against the oppression of finance capital,—is an essential condition precedent for the victorious Communist revolution.

The tasks of the Communist International connected with the revolutionary struggle in *colonies, semi-colonies and dependencies* are extremely important strategical tasks in the world proletarian struggle. The colonial struggle presupposes that the broad masses of the working class and of the peasantry in the colonies be rallied round the banner of the revolution; but this cannot be achieved unless the closest co-operation is maintained between the proletariat in the oppressing countries and the toiling masses in the oppressed countries.

While organizing, under the banner of the proletarian dictatorship, the revolution against imperialism in the so-called civilized States, the Communist International supports every movement against imperialist violence in the colonies, semi-colonies and dependencies themselves (for example Latin-America); it carries on propaganda against all forms of chauvinism and against the imperialist maltreatment of enslaved peoples and races, big and small (treatment of Negroes, "yellow labor", anti-semitism, etc.), and supports their struggles against the bourgeoisie of the oppressing nations. The Communist International especially combats the chauvinism that is preached in the Empire-owning countries by the imperialist bourgeoisie as well as by its Social-Democratic agency, the Second International, and constantly holds up in contrast to the practices of the imperialist bourgeoisie the practice of the Soviet Union, which has established relations of fraternity and equality among the nationalities inhabiting it.

The Communist Parties in the *imperialist countries* must render systematic aid to the colonial revolutionary liberation movement and to the movement of oppressed nationalities generally. The duty of rendering active support to these movements rests primarily upon the workers in the countries upon which the oppressed nations are economic-

ally, financially or politically dependent. The Communist Parties must openly recognize the right of the colonies to separation and their right to carry on propaganda for this separation, i.e. propaganda in favor of the independence of the colonies from the imperialist State; they must recognize their right of armed defence against imperialism (i. e. the right of rebellion and revolutionary war) and advocate and give active support to this defence by all the means in their power. The Communist Parties must adopt this line of policy in regard to all oppressed nations.

The Communist Parties in the *colonial and semi-colonial countries* must carry on a bold and consistent struggle against foreign imperialism and unfailingly conduct propaganda in favor of friendship and unity with the proletariat in the imperialist countries. They must openly advance, conduct propaganda for and carry out the slogan of agrarian revolution, rouse the broad masses of the peasantry for the overthrow of the landlords and combat the reactionary and mediaeval influence of the clergy, of the missionaries and other, similar elements.

In these countries, the principal task is to organize the workers and the peasantry *independently* (to establish class Communist Parties of the proletariat, trade unions, peasant leagues and committees and, in a revolutionary situation, Soviet, etc.) and to free them from the influence of the national bourgeoisie, with whom temporory agreements may be made only on the condition that they, the bourgeoisie, do not hamper the revolutionary organization of the workers and peasants, and that they carry on a genuine struggle against imperialism.

In determining its line of *tactics*, each Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie, the degree of preparedness of the proletariat, the position taken up by the various intermediary strata in its country, etc. The Party determines its slogans and methods of struggle in accord-

ance with these circumstances, with the view to organizing and mobilizing the masses on the broadest possible scale and on the highest possible level of this struggle.

When a revolutionary situation is developing, the Party advances certain transitional slogans and partial demands corresponding to the concrete situation; but these demands and slogans must be bent to the revolutionary aim of capturing power and of overthrowing bourgeois capitalist society. The Party must neither stand aloof from the daily needs and struggles of the working class nor confine its activities exclusively to them. The task of the Party is to utilize these minor every-day needs as a *starting point* from which to lead the working class to the *revolutionary struggle for power.*

When the revolutionary tide is rising, when the ruling classes are disorganized, the masses are in a state of revolutionary ferment, the intermediary strata are inclining towards the proletariat and the masses are ready for action and for sacrifice, the Party of the proletariat is confronted with the task of leading the masses to a direct attack upon the bourgeois State. This it does by carrying on propaganda in favor of increasingly radical transitional slogans (for Soviets, workers' control of industry, for peasant committees for the seizure of the big landed properties, for disarming the bourgeoisie and arming the proletariat, etc.) and by organizing *mass action*, upon which all branches of Party agitation and propaganda, including parliamentary activity, must be concentrated. This mass action includes: a combination of strikes and demonstrations; a combination of strikes and armed demonstrations and finally, the general strike conjointly with armed insurrection against the state power of the bourgeoisie. The latter form of struggle, which is the supreme form, must be conducted according to the rules of war; it presupposes a plan of campaign, offensive fighting operations and unbounded devotion and heroism on the part of the proletariat. An absolutely essential condition precedent for this form of action is the organization of

the broad masses into militant units, which, by their very form, embrace and set into action the largest possible numbers of toilers (Council of Workers' Deputies, Soldiers' Councils, etc.), and intensified revolutionary work in the army and the navy.

In passing over to new and more radical slogans, the Parties must be guided by the fundamental role of the political tactics of Leninism, which call for ability to lead the masses to revolutionary positions in such a manner that the masses may, by their own experience, convince themselves of the correctness of the Party line. Failure to observe this rule must inevitably lead to isolation from the masses, to putschism, to the ideological degeneration of Communism into "Leftist" dogmatism and to petty-bourgeois "revolutionary" adventurism. Failure to take advantage of the culminating point in the development of the revolutionary situation, when the Party of the proletariat is called upon to conduct a bold and determined attack upon the enemy, is not less dangerous. To allow that opportunity to slip by and to fail to start rebellion at that point, means to allow the initiative to pass to the enemy and to doom the revolution to defeat.

When the *revolutionary tide is not rising,* the Communist Parties must advance *partial* slogans and demands that correspond to the everyday needs of the toilers, and combine them with the fundamental tasks of the Communist International. The Communist Parties must not, however, at such a time, advance *transitional* slogans that are applicable only to revolutionary situations (for example workers' control of industry, etc.). To advance such slogans when there is no revolutionary situation means to transform them into slogans that favor merging with the capitalist system of organization. Partial demands and slogans generally form an essential part of correct tactics; but certain transitional slogans go inseparably with a revolutionary situation. Repudiation of partial demands and transitional slogans "on principle", however, is incompatible with the tactical prin-

ciples of Communism, for in effect, such repudiation condemns the Party to inaction and isolates it from the masses. *United front tactics* also occupy an important place in the tactics of the Communist Parties throughout *the whole pre-revolutionary period* as a means towards achieving success in the struggle against capital, towards the class mobilization of the masses and the exposure and isolation of the reformist leaders.

The correct application of united front tactics and the fulfillment of the general task of winning over the masses presuppose in their turn systematic and persistent work in the *trade unions* and other mass proletarian organizations. It is the bounden duty of every Communist to belong to a trade union, even a most reactionary one, provided it is a mass organization. Only by constant and persistent work in the trade unions and in the factories for the steadfast and energetic defence of the interests of the workers, together with ruthless struggle against the reformist bureaucracy, will it be possible to win the leadership in the workers' struggle and to win the industrially organized workers over to the side of the Party.

Unlike the reformists, whose policy is to split the trade unions, the Communists defend *trade union unity* nationally and internationally on the basis of the class struggle, and render every support to and strengthen the work of the *Red International of Labor Unions.*

In universally championing the current everyday needs of the masses of the workers and of the toilers generally, in utilizing the bourgeois parliament as a platform for revolutionary agitation and propaganda, and subordinating the partial tasks to the struggle for the dictatorship of the proletariat, the Parties of the Communist International advance partial demands and slogans in the following main spheres:

In the sphere of *Labor*, in the narrow meaning of the term, i. e. question concerned with the *industrial struggle* (the fight against the trustified capitalist offensive, wage questions, the working day, compulsory arbitration, unemploy-

ment), which *grow* into questions of the general political struggle (big industrial conflicts, fight for the right to organize, right to strike, etc.); in the sphere of *politics* proper (taxation, high cost of living, Fascism, persecution of revolutionary parties, white terror and current politics generally); and finally the sphere of *world* politics; viz., attitude towards the U. S. S. R. and colonial revolutions, struggle for the unity of the international trade union movement, struggle against imperialism and the war danger, and systematic preparation for the fight against *imperialist war*.

In the sphere of the *peasant* problem, the partial demands are those appertaining to taxation, peasant mortgage indebtedness, struggle against usurer's capital, the land hunger of the peasant small holders, rent, the metayer (cropsharing) system. Starting out from these partial needs, the Communist Party must sharpen the respective slogans and broaden them out into the slogans: confiscation of large estates, and workers' and peasants' government (the synonym for proletarian dictatorship in developed capitalist countries and for democratic dictatorship of the proletariat and peasantry in backward countries and in certain colonies).

Systematic work must also be carried on among the proletarian and peasant *youth* (mainly through the Young Communist International and its Sections) and also among *working women and peasant women*. This work must concern itself with the special conditions of life and struggle of the working and peasant women, and their demands must be linked up with the general demands and fighting slogans of the proletariat.

In the struggle against *colonial oppression*, the Communist Parties *in the colonies* must advance partial demands that correspond to the special circumstances prevailing in each country such as: complete equality for all nations and races; abolition of all privileges for foreigners; the right of association for workers and peasants; reduction of the working day; prohibition of child labor; prohibition of usury

and of all transactions entailing bondage; reduction and abolition of rent; reduction of taxation; refusal to pay taxes, etc. All these partial slogans must be subordinate to the fundamental demands of the Communist Parties such as: complete political national independence and the expulsion of the imperialists; workers' and peasants' government, the land to the whole people, eight-hour day, etc. The Communist Parties in *imperialist countries*, while supporting the struggle proceeding in the colonies, must carry on a campaign in their own respective countries for the withdrawal of imperialist troops, conduct propaganda in the army and navy in defence of the oppressed countries fighting for their liberation, mobilize the masses to refuse to transport troops and munitions and, in connection with this, to organize strikes and other forms of mass protest, etc.

The Communist International must devote itself especially to systematic preparation for the struggle against the *danger of imperialist wars*. Ruthless exposure of social chauvinism, of social imperialism and of pacifist phrasemongering intended to camouflage the imperialist plans of the bourgeoisie; propaganda in favor of the principal slogans of the Communist International; everyday organizational work in connection with this, in the course of which work legal methods must unfailingly be combined with illegal methods; organized work in the army and navy—such must be the activity of the Communist Parties in this connection. The fundamental slogans of the Communist International in this connection must be the following: Convert imperialist war into civil war; defeat the "home" imperialist government; defend the U. S. S. R. and the colonies by every possible means in the event of imperialist war against them. It is the bounden duty of all Sections of the Communist International, and of every one of its members, to carry on propaganda for these slogans, to expose the "socialistic" sophisms and the "socialist" camouflage of the League of Nations and constantly to keep to the front the experiences of the war of 1914—1918.

In order that revolutionary work and revolutionary action may be coordinated and in order that these activities may be guided most successfully, the international proletariat must be bound by *international class discipline*, for which, first of all, it is most important to have the strictest international discipline in the Communist ranks.

This international Communist discipline must find expression in the subordination of the partial and local interests of the movement to its general and lasting interests and in the strict fulfillment, by all members, of the decisions passed by the leading bodies of the Communist International.

Unlike the Social-Democratic, Second International, each section of which submits to the discipline of "its own", national bourgeoisie and of its own "fatherland," the sections of the Communist International submit to only one discipline, viz., international proletarian discipline, which guarantees victory in the struggle of the world's workers for world proletarian dictatorship. Unlike the Second International, which splits the trade unions, fights against colonial peoples, and practices unity with the bourgeoisie, the Communist International is an organization that guards proletarian unity in all countries and the unity of the toilers of all races and all peoples in their struggle against the yoke of imperialism.

Despite the bloody terror of the bourgeoisie, the Communists fight with courage and devotion on all sectors of the international class front, in the firm conviction that the victory of the proletariat is inevitable and cannot be averted.

*"The Communists disdain to conceal their views and aims. They openly declare that their aims can be attained only by the forcible overthrow of all the existing social conditions. Let the ruling class tremble at a Communistic revolution. The proletarians have nothing to lose but their chains. They have a world to win.*

*"Workers of all countries, unite!"*

## Constitution and Rules of the Communist International

### I. Name and Objects

1. The Communist International—the International Workers' Association—is a union of Communist Parties in various countries; it is a World Communist Party. As the leader and organizer of the world revolutionary movement of the proletariat and the upholder of the principles and aims of Communism, the Communist International strives to win over the majority of the working class and the broad strata of the propertyless peasantry, fights for the establishment of the world dictatorship of the proletariat, for the establishment of the World Union of Socialist Soviet Republics, for the complete abolition of classes and for the achievement of socialism—the first stage of Communist society.

2. Each of the various Parties affiliated to the Communist International is called the Communist Party of _____ [name of country] (Section of the Communist International). In any given country there can be only one Communist Party affiliated to the Communist International and representing its Section in that country.

3. Membership in the Communist Party and in the Communist International is open to all those who accept the programme and rules of the given Communist Party and of the Communist International, who join one of the basic units of a Party, actively work at it, abide by all the decisions of the Party and of the Communist International, and regularly pay Party dues.

4. The basic unit of the Communist Party organization is the nucleus in the place of employment (factory, workshop, mine, office, store, farm, etc.) which unites all the Party members employed in the given enterprise.

5. The Communist International and its Sections are built up on the basis of democratic centralism, the fundamental principles of which are: (a) election of all the leading committees of the Party, subordinate and superior (by general

meetings of Party members, conferences, congresses and international congresses); (b) periodical reports by leading Party committees to their constituents; (c) decisions of superior Party committees to be obligatory for subordinate committees, strict Party discipline and prompt execution of the decisions of the Communist International, of its leading committees and of the leading Party centres.

Party questions may be discussed by the members of the Party and by Party organizations until such time as a decision is taken upon them by the competent Party committees. After a decision has been taken by the Congress of the Communist International, by the Congress of the respective Sections, or by leading committees of the Comintern, and of its various Sections, these decisions must be unreservedly carried out even if a Section of the Party membership or of the local Party organizations are in disagreement with it.

In cases where a Party exists illegally, the superior Party committees may appoint the subordinate committees and co-opt members on their own committees, subject to subsequent endorsement by the competent superior Party committees.

6. In all non-Party workers' and peasants' mass organizations and in their leading committees (trade unions, co-operative societies, sport organizations, ex-service men's organizations, and at their congresses and conferences) and also on municipal bodies and in parliament, even if there are only two Party members in such organizations and bodies, Communist fractions must be formed for the purpose of strengthening the Party's influence and for carrying out its policy in these organizations and bodies.

7. The Communist fractions are subordinated to the competent Party bodies.

Note: 1. Communist fractions in international organizations (Red International of Labor Unions, International Class War Prisoners' Aid Society, International Red Aid Society, etc.), are subordinate to the Executive Committee of the Communist International.

2. The organizational structure of the Communist fractions and the manner in which their work is guided are determined by special instructions from the Executive Committee of the Communist International and from the Central Committees of the given Sections of the Comintern.

## II. The World Congress of the Communist International

8. The supreme body of the Communist International is the World Congress of representatives of all Parties (Sections) and organizations affiliated to the Communist International.

The World Congress discusses and decides programme, tactical and organizational questions connected with the activities of the Communist International and of its various Sections. Power to alter the programme and rules of the Communist International lies exclusively with the World Congress of the Communist International.

The World Congress shall be convened once every two years. The date of the Congress and the number of representatives from the various Sections to the Congress to be determined by the Executive Committee of the Communist International.

The number of decisive votes to be allocated to each Section at the World Congress shall be determined by a special decision of the Congress itself, in accordance with the membership of the given Party and the political importance of the given country. Delegates to the Congress must have a free mandate; no imperative mandate can be recognized.

9. Special Congresses of the Communist International shall be convened on the demand of Parties which, at the preceding World Congress had an aggregate of not less than one-half of the decisive votes.

10. The World Congress elects the Executive Committee of the Communist International (E.C.C.I.), and the International Control Commission (I.C.C.),

11. The headquarters of the Executive Committee is decided on by the World Congress.

## III. The Executive Committee of the Communist International and its Subsidiary Bodies

12. The leading body of the Communist International in the period between Congresses is the Executive Committee, which gives instructions to all the Sections of the Communist International and controls their activity.

The E.C.C.I. publishes the Central Organ of the Communist International, in not less than four languages.

13. The decisions of the E.C.C.I are obligatory for all the Sections of the Communist International and must be promptly carried out. The Sections have the right to appeal against decisions of the E.C.C.I. to the World Congress, but must continue to carry out such decisions pending the decision of the World Congress.

14. The Central Committees of the various Sections of the Communist International are responsible to their respective Party Congresses and to the E.C.C.I. The latter has the right to annul or amend decisions of Party Congresses and of Central Committees of Parties and also to make decisions which are obligatory for them. (Cf. Par. 13.)

15. The E.C.C.I. has the right to expel from the Communist International, entire Sections, groups and individual members who violate the programme and rules of the Communist International or the decisions of the World Congress and of the E.C.C.I. Persons and bodies expelled have the right of appeal to the World Congress.

16. The programmes of the various Sections of the Communist International must be endorsed by the E.C.C.I. In the event of the E.C.C.I. refusing to endorse a programme, the Section concerned has the right to appeal to the World Congress of the Communist International.

17. The leading organs of the press of the various Sections of the Communist International must publish all the decisions and official documents of the E.C.C.I. These decisions must, as far as possible, be published also in the other organs of the Party press.

18. The E.C.C.I. has the right to accept affiliation to the Communist International of organizations and Parties sympathetic to Communism, such organizations to have a consultative voice.

19. The E.C.C.I. elects a Presidium responsible to the E.C.C.I., which acts as the permanent body carrying out all the business of the E.C.C.I. in the interval between the meetings of the latter.

20. The E.C.C.I. and its Presidium have the right to establish Permanent Bureaus (Western European, South American, Eastern and other Bureaus of the E.C.C.I.), for the purpose of establishing closer contact with the various Sections of the Communist International and in order to be better able to guide their work.

Note: The scope of the activities of the permanent bureaus of the E.C.C.I. shall be determined by the E.C.C.I. or by its Presidium. The Sections of the Communist International which come within the scope of activities of the permanent bureaus of the E.C.C.I. must be informed of the powers conferred on these bureaus.

21. The Sections must carry out the instructions of the permanent bureaus of the E.C.C.I. Sections may appeal against the instructions of the permanent bureaus to the E.C.C.I. or to its Presidium, but must continue to carry out such instructions pending the decision of the E.C.C.I. or of its Presidium.

22. The E.C.C.I. and its Presidium have the right to send their representatives to the various Sections of the Communist International. Such representatives receive their instructions from the E.C.C.I. or from its Presidium, and are responsible to them for their activities. Representatives of the E.C.C.I. have the right to participate in meetings of the central Party bodies as well as of the local organizations of the Sections to which they are sent. Representatives of the E.C.C.I. must carry out their commission in close contact with the Central Committee of the Section to which they are sent. They may, however, speak in opposition to the Central

Committee of the given Section, at Congresses and Conferences of that Section, if the line of the Central Committee in question diverges from the instructions of the E.C.C.I. Representatives of the E.C.C.I. are especially obliged to supervise the carrying out of the decisions of the World Congresses and of the Executive Committee of the Communist International.

The E.C.C.I. and its Presidium also have the right to send instructors to the various Sections of the Communist International. The powers and duties of instructors are determined by the E.C.C.I., to whom the instructors are responsible in their work.

23. Meetings of the E.C.C.I. must take place not less than once every six months. A quorum consists of not less than one-half of the membership of the E.C.C.I.

24. Meetings of the Presidium of the E.C.C.I. must take place not less than once a fortnight. A quorum consists of not less than one-half of the membership of the Presidium.

25. The Presidium elects the Political Secretariat, which is empowered to take decisions, and which also prepares questions for the meetings of the E.C.C.I. and of its Presidium, and acts as their executant body.

26. The Presidium appoints the editorial committees of the periodical and other publications of the Communist International.

27. The Presidium of the E.C.C.I. sets up a Department for Work among Women Toilers, permanent committees for guiding the work of definite groups of Sections of the Communist International (National Secretariats) and other departments for its work.

## IV. The International Control Commission

28. The International Control Commission investigates matters concerning the unity of the Sections affiliated to the Communist International and also matters connected with the Communist conduct of individual members of the various Sections.

For this purpose the I.C.C.

(a) Examines complaints against the actions of Central Committees of Communist Parties lodged by Party members who have been subjected to disciplinary measures for political differences;

(b) Examines such analogous matters concerning members of central bodies of Communist Parties and of individual Party members as it deems necessary, or which are submitted to it by the deciding bodies of the E.C.C.I.;

(c) Audits the accounts of the Communist International.

The International Control Commission must not intervene in the political differences or in organizational administrative conflicts in the Communist Parties.

The headquarters of the I.C.C. are fixed by the I.C.C., in agreement with the E.C.C.I.

### V. The Relationships Between the Sections of the Communist International and the E.C.C.I.

29. The Central Committees of Sections affiliated to the Communist International and the Central Committees of affiliated sympathizing organizations must send to the E.C.C.I. the Minutes of their meetings and reports of their work.

30. Resignation from office by individual members or groups of members of Central Committees of the various Sections are regarded as disruptive of the Communist movement. Leading posts in the Party do not belong to the occupant of that post, but to the Communist International as a whole. Elected members of the Central leading bodies of the various Sections may resign before their time of office expires only with the consent of the E.C.C.I. Resignations accepted by Central Committees of Sections without the consent of the E.C.C.I. are invalid.

31. The Sections affiliated to the Communist International must maintain close organizational and informational contact with each other, arrange for mutual representation at each other's conferences and congresses, and with the consent of the E.C.C.I., exchange leading comrades. This ap-

plies particularly to the Sections in imperialist countries and their colonies, and to the Sections in countries adjacent to each other.

32. Two or more Sections of the Communist International which (like the Sections in the Scandinavian countries and in the Balkans) are politically connected with each other by common conditions of struggle, may, with the consent of the E.C.C.I., form federations for the purpose of co-ordinating their activities, such federations to work under the guidance and control of the E.C.C.I.

33. The Sections of the Comintern must regularly pay affiliation dues to the E.C.C.I.; the amount of such dues to be determined by the E.C.C.I.

34. Congresses of the various Sections, ordinary and special, can be convened only with the consent of the E.C.C.I.

In the event of a Section failing to convene a Party Congress prior to the convening of a World Congress, that Section, before electing delegates to the World Congress, must convene a Party conference, or Plenum of its Central Committee, for the purpose of preparing the questions for the World Congress.

35. The International League of Communist Youth (Communist Youth International) is a Section of the Communist International with full rights and is subordinate to the E.C.C.I.

36. The Communist Parties must be prepared for transition to illegal conditions. The E.C.C.I. must render the Parties concerned assistance in their preparations for transition to illegal conditions.

37. Individual members of Sections of the Communist International may pass from one country to another only with the consent of the Central Committee of the Section of which they are members.

Communists changing their domicile must join the Section in the country of their new domicile. Communists leaving their country without the consent of the Central Committee of their Section, must not be accepted into other Sections of the Communist International.

**Petitioner's Exhibit No. 126**

THE COMMUNIST
MARCH, 1934

# MILESTONES OF COMINTERN LEADERSHIP

By ALEX BITTELMAN

The proletarian vanguard of the United States can justly take pride in the fact that it participated actively in the building of the Communist International, whose fifteenth anniversary falls in March of this year. At the same time, the revolutionary vanguard of this country can derive deep satisfaction from the fact that it unfailingly received brotherly advice and guidance from the Communist International in the struggle for the revolutionization of the American working class. It was from the outset, and continues to be so, a *mutual collaboration* of the revolutionary proletariat of all countries, organized in a world party, for the victory of the Dictatorship of the Proletariat, for the establishment of a World Soviet Republic. The leading role of the Communist Party of the Soviet Union in the Comintern needs neither explanation nor apology. A party that has opened up the epoch of the world revolution, and that is successfully building a classless society on one sixth of the earth, is cheerfully recognized and followed as the leading party of the world communist movement. And by the same token, the leaders of that party—first Lenin and now Stalin—are proudly followed as the leaders of the proletariat and of all oppressed in every country of the world.

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If it were possible to imagine those years without a Communist International (which, of course, is impossible), these struggles for Communist unity would have been infinitely more protracted, wasteful, and harmful than was actually the case. But there *was* a Communist International, led by Lenin, and consequently, there was made available to the

revolutionary workers of the United States the *world experiences* and prestige of the Bolshevik movement which has gone through a long struggle with opportunism and built up a united Communist Party. These experiences the Comintern utilized in order to help the American Communists of those years to solve their own specific problems of unity and these problems were solved. A unified and single Communist Party was materialized in the United States in shorter time, less painfully and wastefully, than would have been the case without the advice and assistance of the Comintern.

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We come now to another milestone of Comintern leadership. This time it was the problem of breaking through *the walls of illegality* erected by the American bourgeoisie between the young Communist Party and the working class. The Communists, having been driven underground and outlawed by the forerunners of the present New Dealers—Wilson-Palmer—in 1919-1920, were struggling to find their way to the masses despite the illegality and governmental persecutions. What were the special difficulties for the solution of this problem? They arose from the danger of seeking to achieve legality by sacrificing Communist principles and hiding the revolutionary line, on the one hand, and from the danger of trying to preserve intact the Communist principles by abandoning all serious fight for legal and open work, on the other hand. The way to the masses, the Communist Party could then find only by fighting and overcoming these Right and "left" opportunist dangers. One of the founders of the recently launched Muste American Workers' Party, Hardman-Salutsky, was at that time especially active in trying to switch the Communist movement to the path of buying legality by sacrificing the revolutionary line. Lacking the necessary Leninist training and experience, the American Communist Party found it extremely difficult to reach the correct solution of this task and was therefore torn between the two opportunist dangers of legalistic liqui-

dation of the Communist Party and underground sectarianism. Once more the American Communists consulted with the Communist International. This was in 1921-1922. And the correct advice came, as it was bound to, and with its help the Workers' Party of America was organized which opened up for the illegal Communist Party of America wide opportunities for open revolutionary work among the masses. Illegal work, that is, revolutionary mass work that could not be done openly because of governmental persecutions, was not abandoned but continued; the illegal work supplementing the legal, and vice versa. The Party authority continued to rest in the underground Communist Party, as it should be under these conditions. And when the influence of the Communists in the Workers' Party had become firmly established, and the basic revolutionary mass work could be carried on through the Workers' Party legally, then the underground Communist Party became merged with the Workers' Party, that is, the latter became the Communist Party of the country. American Communism thus solved its immediate task and reached a higher stage in its development towards becoming the mass Party of the American proletariat.

What was it that proved especially helpful for the American Communists in the Comintern advice on legal and illegal work? It was the world and Russian experience of Bolshevism. Under Lenin's guidance the Bolsheviks had repeatedly met and solved such and similar problems and solved them successfully, as history has proved. The Bolshevik solutions, while primarily applied in Russia because there was the Party to do it, were based upon the experiences of the working class movement all over the world and thus acquired an international significance. The American Communists have been helped by the Comintern in applying these solutions to American conditions. In doing so they have not only *defeated* the efforts of the bourgeoisie to strangle the revolutionary movement in the period of 1919-1921, but have also acquired knowledge and skill to defeat

such efforts again, especially in the present period of sharp turn to fascism and war which inevitably brings new attacks upon the legality of the Communist Party and the working class movement as a whole. Will any sincere and militant worker in the United States, who is loyal to his class and its liberation from the misery and sufferings of capitalism, reproach the Comintern for having helped the American revolutionary workers to defeat the Wilson-Palmer persecutions? And will such a worker hold it against the American Communist Party for having accepted this helpful guidance? No, only Muste-Hardman & Co., led by the renegades, will indulge in such reproaches, because this warm and select company is echoing the raging chauvinism of the Yankee imperialist.

The next milestone in the Comintern leadership for the American Party we find on the question of trade union work. On this, more perhaps than on any other question, the left and militant elements in the American labor movement, in the two decades before the emergence of the Comintern (not to go into the pre-imperialist era), had got themselves tangled up in insoluble difficulties, torn between reformism and anarcho-syndicalism, only because they were unable, by their own efforts, to restore and further develop the revolutionary teachings of Marx and to apply them to the United States of the imperialist era. Lenin did that; but the American militants (even they) were too provincial, not enough international, because still influenced by bourgeois ideology, to find out what Leninism stands for and what it could do for the progress of the American working class. The Comintern brought the American militants and lefts closer to the world labor movement and to the basic problems of the American labor movement. The trade union question was one of them. The young American Communist movement struggled painfully to throw off the ballast of Gompers-Hillquit reformism and DeLeon-I.W.W. sectarianism, sometimes falling victim to the former, at other times to the latter, and occasionally to both. Even the best and most ex-

perienced among the left and militant leaders of the American workers, the builders and founders of the revolutionary movement of the American workers in the imperialist era, such as the late Charles E. Ruthenberg, as well as the present leader of our Party, William Z. Foster, were able to rid themselves and our movement of the old ballast of opportunism only by coming closer to Leninism and into the Comintern. By becoming *more international*, the proletarian vanguard in the United States has become also *more American*, because the international experience, as it is incorporated in Leninism and in Comintern guidance, helped the American Communists to come closer to the basic masses of the American proletariat and to begin to function as the leaders of its struggles against American capitalism.

It was Comintern advice and guidance that helped the American Communists to turn full face to the building of a left-wing in the reformist unions beginning with 1920; it was the advice of the Comintern that helped formulate a correct solution to one of the basic problems of the American proletariat—the organization of the unorganized into trade unions; it was advice of the Comintern on independent leadership of the economic struggles by the revolutionary elements that helped formulate strike policies and tactics; it was Comintern advice of how to revolutionize the labor movement through organization and leadership of the daily struggles of the masses and systematic exposure and struggle against the reformists, that helped the American Communists to prove to wide masses of workers and toilers that the C.P.U.S.A. is the only true proletarian party in the United States and the leader of all exploited. In short, at every stage in the development of the revolutionary trade union movement in the United States (T.U.E.L., class struggle unions of the T.U.U.L., the application of the united front on the trade union field, the fight for trade union unity, etc.), it was with the help of the Comintern that the American revolutionary workers were able to find the correct way, to correct their errors and, through manifold changes in

tactics, to press on to the goal of building a revolutionary trade union movement in the United States.

Comintern influence on the development of revolutionary trade union policies in the United States has special significance. Here as in other capitalist countries the imperialist bourgeoisie, with the help of the reformists, succeeded in *splitting the working class*, setting the small minority of "labor aristocrats" against the basic mass of the proletariat. Following out this policy, the reformist trade union bureaucracy was persistently shutting out of trade union organization the bulk of the American proletariat, especially its most oppressed and exploited sections. This it was that constituted and still constitutes one of the chief weaknesses of the American working class. And the most damning indictment against the A. F. of L. bureaucracy is its discrimination and exclusion of the Negro proletariat. It is significant, therefore, that the first question which Comrade Stalin put to the American trade union delegation was: "How do you account for the small percentage of American workers organized in trade unions?" And he added: "I would like to ask the delegation whether it regards this small percentage of organized workers as a good thing. Does not the delegation think that this small percentage is an indication of the weakness of the American proletariat and of the weakness of its weapon in the struggle against the capitalists in the economic field?" This was in 1927. Lack of space does not permit to deal here with the answer of the delegation. Suffice it to say that this delegation, made up as it was of so-called progressives, really bourgeois liberals, was in its answers, at best, very helpless and confused. But the intent of Stalin's question is clear: Why don't you organize the workers in trade unions? Why don't you strengthen them against the capitalists? And it was in this direction that the Comintern threw the full weight of its influence and advice in the American labor movement. Organize the basic sections of the proletariat into unions, liberate the existing mass trade unions from the stranglehold of the reformists,

and unify the trade union movement of this country—this was the nature of Comintern guidance to the revolutionary workers in the United States. Tactics and methods of work might vary, depending upon the state of the class struggle. In the light of recent events, the Communist Party favors the organization of independent unions *in those cases* where such a measure would constitute a *step in advance* towards the revolutionization of the trade union movement. But the strategic aim always remained the same, and for this aim the Communist Party fights bravely and persistently and with increasing effectiveness. The general crisis of capitalism, undermining the basis of existence of large numbers of the "labor aristocracy" as well as of the working class as a whole, creates ever more favorable conditions for the realization of this aim. So, we ask again: can any American worker, who is alive to the needs of his class and is willing to fight for them, find anything to object to in this "interference" of the Communist International in American affairs? And will he object to the Communist Party of the U. S. accepting and taking deep satisfaction in such "interference"? No, he will not. Only Muste and Co., abetted by the renegades, will object and will call it "outside dictation", because these groups echo the mad chauvinism of the Yankee imperialists.

We shall now relate another significant instance of Comintern leadership in the U.S. In the years 1921-1924, one of the important phases of the American labor movement was a widespread urge for the organization of a Labor Party. The left-wing in the Socialist Party, and the first Communist Party conventions, took a completely negative attitude towards it. But in their struggle to establish contact with the masses and with their movements against capitalism and its major political parties, the American Communists came to adopt the position of active participation in the Labor Party movements. The aim of this position was to accelerate the existing break-away movement of the workers and toiling farmers from the capitalist parties and to direct this move-

ment along the channels of independent working class political action. Comintern influence and advice strengthened the American Communists in this determination, thus helping to overcome the various sectarian objections to such a policy.

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We come to a milestone of Comintern leadership in the U. S. that has been especially fruitful in making the fight for proletarian internationalism live and real and in projecting the liberating mission of the American proletariat in a most concrete and telling manner. We refer here to the Communist program for *Negro liberation*. It was no accident that this was the problem—the Negro problem in the U. S.—that it took the revolutionary workers of America *the longest*, in point of time, to become aware of and to find a solution for. Bourgeois ideology, the "white prejudices" of the old slave market, had poisoned the minds, not alone of the backward strata of the toilers, but also the most advanced sections. And thus we find that the left-wing of the Socialist Party which formed the Communist Party somehow "overlooked" the national-revolutionary significance of the Negro liberation struggles. And even when the American communists had finally begun to grapple with the Negro question in a Leninist way, starting practical mass work to organize the white and Negro toilers to struggle for Negro rights, there still was considerable hesitation and confusion among the weaker elements of the Communist movement to project boldly the full Leninist solution of the problem. Once more came the "outside" influence of the Comintern; and what did it say? It said that the struggle against discrimination and for Negro rights is a revolutionary struggle for the national liberation of the Negroes, that we must fight for complete Negro equality, and that in the Black Belt the full realization of this demand requires the fight for the national self-determination of the Negroes, including the right to separation from the United States and the organization of an independent state. Furthermore, it was the interpretation of Leninism and its application to the United States

as made by the Comintern that showed the American Communists that the agrarian revolution in the Black Belt, where the Negro masses are mostly peasants and semi-serfs, is the basis of the national-liberation movement and that this movement is one of the allies of the American proletariat in the struggle for the dictatorship of the proletariat. The Lovestone renegades advocate the bourgeois theory that capitalist development itself, the "industrialization of the South", will solve the Negro question. The Communist Party—following the lead of the Comintern—says that only the national-revolutionary movement of the Negroes, as an organic part and ally of the proletarian revolution, will solve the Negro question. From this point of view, the American Communists are able to expose the Muste-Hardman position on this question as bourgeois liberalism in words and Yankee white chauvinism in deeds. Will the Negro workers, farmers, and city poor consider the Comintern advice on the Negro question as "outside dictation"? No. They will, as they actually do, receive this advice with outstretched arms and will continue in ever-larger masses to rally around the Communist Party as the leader of the liberation fight. And will the white workers, those belonging to the dominating nationality in the United States but who are already awake to their true interests, will they perhaps resent this advice as "outside dictation"? No. Some of these class-conscious white workers may still hesitate because they are as yet not completely free from the bourgeois curse of white chauvinism, but none of them will say that this advice is not in the best interests of the American working class and of all exploited.

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And lastly—*the liquidation of the factional situation* in the Communist Party. It is on this, more than anything else, that the Muste-Hardman outfit, led by the Lovestone renegades and the Trotskyist counter-revolutionaries, choose to illustrate the "outside dictation" and interference of the

Communist International. Well, the facts speak for themselves.

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But this disaster *did not happen*. And why? Because the Comintern spoke to the American Party with authority and wisdom; in so speaking, in pointing out the dangers and the way to avoid them, the Comintern *released the initiative and creative activity* of the overwhelming majority of the Party, the initiative that had become paralyzed during the years of factional fight; and on the basis of this initiative of the Party membership, with the help of this power, the Party was able to cleanse itself of the hopelessly factional elements and of the Right and "left" opportunist groupings that went with the factions and thus laid the basis for the subsequent unification of the Party and its fresh start on the field of revolutionary mass work. The Comintern did "interfere"; there can be no doubt of that. And it is fortunate that it did.

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In the fifteen years of its existence the Comintern has grown into a true World Party. It has reached the high stage where all "Communist Parties are carrying out one single line of the Comintern", a stage where all "Communist Parties are united by the Executive Committee of the Communist International into a single centralized World Party which the Second International never had and never will have" (Piatnitsky, Speech at the Thirteenth Plenum of the E.C.C.I.). In this lies the main strength of the world revolution and the guarantee of its inevitable victory. It is this that makes possible, for the first time in the history of the world, the effective carrying out of a *world revolutionary strategy*, the only road to victory over capitalism. And it is in Comrade Stalin, since Lenin's death, that this strategy has found the greatest formulator, interpreter, and organizer. With the deepest pride in this achievement, the class-conscious workers of the United States, the militant

farmers and revolutionary Negroes will celebrate the 15th Anniversary of the Comintern. It is with the same feeling of pride that they will realize that they belong to a World Party together with the glorious Party of the Soviet Union; that they belong to a world Party which is daily guided by such proved leaders as Manuilsky, Kuusinen, Thaelmann and Piatnitsky; and that by building the revolutionary movement in the United States we are also building the world power of the proletariat for the victory of the world revolution.

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**Petitioner's Exhibit No. 132**

## THESIS AND RESOLUTIONS FOR THE SEVENTH NATIONAL CONVENTION OF THE COMMUNIST PARTY OF THE U. S. A.

By Central Committee Plenum
March 31—April 4, 1930

### Thesis on the Economic and Political Situation and Tasks of the Party

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#### Sharpening War Danger

4. The development of the economic crisis extremely sharpens the general contradictions of the capitalist system and brings still closer the danger of a new war.

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In this situation the danger of an imperialist attack against the Soviet Union becomes particularly acute. A war against the Soviet Union, the fortress and outpost of the revolutionary working class of the world, is a war of the capitalist world against the realizing Socialist aim of the toiling masses, is at the same time for the capitalists an immediate outlet from the present economic crisis, giving to capitalism a new tremendous market of destruction and the hope of the reacquisition of the markets of the Soviet Union

and breaking the Socialism in construction in the Soviet Union, the tremendous economic advantages of which already begin to shake the capitalist world.

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### The Daily Worker

20. To succeed in the full mobilization of the Party for its tasks the Central Committee must pay special attention to the press and primarily to the Daily Worker. In order to make the Daily Worker the political leading organ of the Party and at the same time an effective mass agitator and organizer, it is necessary to take steps immediately for the political improvement of the Daily as well as for the building of a mass circulation.

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The Party must therefore make a sharp turn in its trade union activities. A full mobilization of all Communist forces must be carried through for the organization of the unorganized masses, for the building of the Trade Union Unity League. The T.U.U.L. must be made into an organization uniting the broad masses of workers, organizing them for the struggle of their daily interests, and leading that struggle along political lines. Through these struggles for their daily interests and through the organization of the workers for that struggle, the T.U.U.L. will bring the broad masses to an understanding and acceptance of Communist line, strategy and tactics. Being a school of revolutionary struggle for the broad working masses, the T.U.U.L. becomes a lever and the main reserve for the Party. All Communists must belong to the T.U.U.L.

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## Resolution on Building the Trade Union Unity League

### Part I.—General Analysis

### I. The Role of the Party

The most fundamental task of our Party in mass work is the building of the revolutionary unions of the Trade Union

Unity League into broad mass organs of struggle. The recent communications of the Comintern and Profintern have again laid stress upon this elementary necessity. It is in this work that there lies the key to the development of our Party into a mass Communist Party.

## Part II—Our Concrete Tasks

### 7. Defense of the Soviet Union—Fight Against Imperialist War

In all the mass activities of the T.U.U.L. the question of the fight against the impending imperialist war and the struggle in defense of the Soviet Union must be kept in the very foreground. The T.U.U.L. must spare no effort to popularize the achievements of the Russian workers in building socialism. The masses of unemployed and radicalized workers are inspired by the progress of the Soviet Union and are highly receptive to our propaganda against imperialist war.

## Tasks of Our Party in the South

### Economic and Political Situation

1. The situation in the South today confirms the previous estimates and perspectives laid down in the October thesis and makes clear the correctness of the thesis of the Sixth Congress of the Communist International and the Tenth Plenum in placing the greatest emphasis on the importance of basing our Party solidly in the masses of Southern workers—Negro and white.

In particular does the present situation and the work of our Party over the period of a year confirm in the clearest manner the correctness of the Comintern in instructing our Party to concentrate its efforts among the Negro masses of

the South and bring forward in the sharpest manner the central demand of full social, economic and political equality for Negroes.

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22. Organizational Proposals:

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A director for work among Negro masses shall be sent South at once. A full-time six-week Party training school shall be established in some Southern centers. A number of colonizers must be secured for the decisive industries. Additional forces for the TUUL must be secured.

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**Petitioner's Exhibit No. 133**

THE COMMUNIST

A Magazine of the Theory and Practice of Marxism-Leninism

*Published Monthly by the*

Communist Party of the United States of America

November-December, 1930

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Next Tasks of the Communist Party of the USA

By Earl Browder

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For Equality and Self-Determination for Negroes

With the latest resolution of the ECCI on the Negro question, we are taking a bold step forward in concretizing a Bolshevist program. The struggle for the rights of the Negroes, for complete equality everywhere, and for the right of self-determination in the Black Belt where the Negroes constitute a majority of the population, is the path along which the Communist Party will unite with the workers a powerful ally in the struggle against American imperialism.

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## Forward to New Struggles—New Victories

We enter a winter of deep crisis for world capitalism, and for capitalism in the United States. The forces of revolution are rising throughout the world. Buttressed and inspired by the magnificent march of socialist construction in the Soviet Union, under the dictatorship of the proletariat, the oppressed classes and peoples all over the world are gathering their forces and are beginning to struggle for the overthrow of imperialism. In China already is rising the foundations of the Soviet Power. Throughout the colonial world the imperialist regime is shaking under the blows of the rising masses. In Germany and several other countries of Western and Central Europe a severe political crisis is rapidly bringing to maturity the conditions for a revolutionary struggle for power by the workers. In the United States capitalism plunges deeper and deeper into the worst economic crisis of its history, which already presses forty millions of the population into misery, cold and starvation, and prepares the stage for an unprecedented political crisis.

In this world situation the working class of the United States, and above all its vanguard, the Communist Party, has duties of supreme importance, not only for itself, but also for the world revolution. These duties can only be performed adequately by energetically readjusting all methods of work, by organizing the masses, mobilizing them for struggle for immediate demands, widening the ranks of the Party and building its cadres, building mass revolutionary unions, fighting for the unemployed and uniting them with the employed workers, drawing into the fighting front the poor farmers and Negro masses, and by rousing the masses to the struggle against imperialist war and for defense of the Soviet Union, and for support to the rising colonial peoples, all of which is the only path of preparation for our own "November 7th" which shall end the rule of capitalism.

Forward to new struggles and new victories!

**Petitioner's Exhibit No. 135**

# THE COMMUNIST

A MAGAZINE OF THE THEORY AND PRACTICE OF MARXISM-LENINISM

MAY, 1932

## JAPAN, AMERICA AND THE SOVIET UNION

### EXTRACTS FROM THE SPEECH OF EARL BROWDER AT THE PLENUM OF THE CENTRAL COMMITTEE, APRIL 17, 1932.

We are meeting at a moment when tremendous changes are taking place in the world. It is not necessary for me to prove this fact by quoting long lists of statistics to show the unprecedented depth of the crisis.

In the present conditions, we must understand that in the revolutionary struggle of the world proletariat against world imperialism, our stronghold, our fortress is precisely the Soviet Union, and its socialist construction. And we must understand that this socialist construction, the building of the socialist economy in the Soviet Union, is so profoundly important for the resistance to and the crushing of this imperialist war, that every month that is gained in postponing this war, means a change of the relation of forces in favor of us when the war comes. If the war can be postponed one month it means capitalism has been weakened that much, Socialism has been strengthened that much. It means that the Soviet Union has had another full 30 days to readjust all of its inner forces to meet the serious every day necessities that war will throw upon them.

When you understand that, you understand that not only every month is important, but every week is important, every day is important. You could almost even say that every hour is important. Our whole strategy is based upon the necessity to mobilize all forces by every means to post-

pone the outbreak of war, and the strategy of the imperialists is to force war as quickly as possible.

How can we mobilize the widest possible mass resistance to the entrance of the United States into war against the Soviet Union? Precisely by making use to the fullest possible extent of this certain historical factor, that the spearhead of the war is Japan and between Japan and the United States there is a long standing antagonism which, independently of us, has developed mass sentiment against Japanese imperialism. It is an absolute Bolshevik duty for the Communist Party of the United States to make the fullest possible mobilization of this mass sentiment no matter what its origin, against Japanese imperialism, mobilize this sentiment against the United States government to prevent it from entering into war against the Soviet Union together with Japan and the other imperialist powers.

The fullest possible mobilization of all such forces may not suffice to prevent whatever alignment will be determined by the capitalist class, by finance capital, upon the basis of their special specific understanding of their class interests. But even in the worst case, our mobilization can create additional difficulties for them, can weaken their mobilization to a certain extent, and thereby strengthen the capacity for resistance of the Soviet Union and the world proletariat.

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The struggle against war is concerned not only with these more complicated difficult problems. The struggle against the war danger, the defense of the Soviet Union cannot wield much force behind it unless it is intimately connected up with and based upon concrete struggles for partial demands of the workers in the United States.

**Petitioner's Exhibit No. 136**

# THE WAY OUT

## A Program for American Labor

Manifesto and Principal Resolutions adopted by the Eighth Convention of the Communist Party of the U.S.A., held in Cleveland, Ohio, April 2-8, 1934

Introduction by M. J. Olgin

Published in May, 1934 by
Workers Library Publishers

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## INTRODUCTION

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### Terms Explained

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*Renegades* are those who were formerly members of the Communist Party but were expelled from it for failure to follow the correct revolutionary line and who now fight against the revolutionary movement and against the Soviet Union. One group of renegades is led by an individual named Lovestone and another considers Trotsky its leader. These elements are used by the capitalists to delude those workers who are becoming radicalized. The renegades profess to be Communists, "true Communists", "real Communists", but they are as far from Communism as the leaders of the Socialist Party are far from Socialism. In their daily practice they work hand in hand with the reformists and are part and parcel of the social-fascist crew.

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The *E.C.C.I.* is the Executive Committee of the Communist International. It is the general staff of the world revolutionary movement giving unity and leadership to the Communist Parties of the world. The E.C.C.I. meets in plenary session at intervals of between six months and one year.

The body acting in highest authority between one plenary session (Plenum) of the E.C.C.I. and the other, is the Presidium of the Communist International. The Communist Party of the U.S.A. is the American Section of the Communist International (Comintern).

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The *Y.C.L.* (Young Communist League) is a mass political organization of young workers which leads them in the struggles for all their demands and acts as a training school for Communism. The Y.C.L. is organizationally independent of the Communist Party but acknowledges its political leadership. It is affiliated to the Y.C.I. (Young Communist International).

Some abbreviations: *C.C.* means Central Committee of the Communist Party; *D.O.* means District Organizer of the Communist Party (there are twenty-six such districts in the United States).

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## Against the "New Deal" of Hunger, Fascism, and War! For the Revolutionary Solution of the Crisis!

### *Manifesto of the Eighth Convention of the Communist Party of the U.S.A.*

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The crisis cannot be solved for the toiling masses until the rule of Wall Street has been broken and the rule of the working class has been established. The only way out of the crisis for the toiling masses is the revolutionary way out—the abolition of capitalist rule and capitalism, the establishment of the Socialist society through the power of a revolutionary workers' government, a Soviet government.

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Its victories are an unending source of inspiration and encouragement to the toiling masses of every country. They are the living example of the possibility of finding a way out of the crisis in the interests of the toilers. The experience

of the victorious workers of the Soviet Union before, during and after the seizure of power, throw a brilliant light showing the path which must be followed in every land, the path of Bolshevism, of Marx, Engels, Lenin and Stalin.

In the same period of successful testing of the Bolshevik road in the Soviet Union, we have also the example of the results of the policies of the Socialist Parties of the Second International.

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Their "civilized" methods opened wide the gates for the most barbarous regime in the modern history of Europe. Their "peaceful" methods gave birth to the most bloody and violent reaction. Their "democracy" brought forth the most brutal and open capitalist dictatorship. Their "gradual transition to Socialism" helped to restore the uncontrolled rule of finance capital, the master of fascism. The German and Austrian working class, after 16 years of bitter and bloody lessons of the true meaning of the policies of the Socialist Parties, of the Second International, have now finally begun to turn away from them and at last to take the Bolshevik path.

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There is no way out except by the creation of a revolutionary democracy of the toilers, which is at the same time a stern dictatorship against the capitalists and their agents. There is no way out except by seizing from the capitalists the industries, the banks and all of the economic institutions, and transforming them into the common property of all under the direction of the revolutionary government. There is no way out, in short, except by the abolition of the capitalist system and the establishment of a Socialist society.

**Petitioner's Exhibit No. 137**

# RESOLUTIONS

## SEVENTH CONGRESS OF THE COMMUNIST INTERNATIONAL

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INCLUDING THE CLOSING SPEECH OF G. DIMITROFF
PUBLISHED BY WORKERS LIBRARY PUBLISHERS

. . . . . .

*The Seventh World Congress of the Communist International was held in Moscow from July 25 to August 20, 1935.*

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## THE PRESENT RULERS OF THE CAPITALIST COUNTRIES ARE BUT TEMPORARY, THE REAL MASTER OF THE WORLD IS THE PROLETARIAT

BY GEORGI DIMITROFF

. . . . . .

Ours is a *Congress of struggle for the preservation of peace, against the threat of imperialist war.*

We are now raising the issue of this struggle *in a new way.* Our Congress is decidedly opposed to the fatalistic outlook on the question of imperialist war emanating from old Social-Democratic notions.

It is true that imperialist wars are the product of capitalism, that only the overthrow of capitalism will put an end to all war; but it is likewise true that the toiling masses can obstruct imperialist war by their militant action.

Today the world is not what it was in 1914.

Today on one-sixth of the globe there exists a powerful proletarian state that relies on the material strength of victorious socialism. Guided by Stalin's wise peace policy, the Soviet Union has already more than once brought to naught the aggressive plans of the instigators of war. (*Applause.*)

Today the world proletariat, in its struggle against war, has at its disposal not only its weapon of mass action, as it did in 1914. Today the mass struggle of the international

working class against war is coupled with the influence of the Soviet Union as a state, of its powerful Red Army, the most important guardian of the peace, (*Loud applause.*)

Today the working class is not under the exclusive influence of Social-Democracy participating in a *bloc* with the bourgeoisie, as was the case in 1914. Today there is the World Communist Party, the Communist International. (*Applause.*) Today the bulk of the Social-Democratic workers are turning to the Soviet Union, to its policy of peace, to a united front with the Communists. Today the peoples of the colonial and semi-colonial countries do not regard their liberation as a hopeless cause. On the contrary, they are passing on more and more to determined struggle against the imperialist enslavers. The best evidence of this is the *Soviet revolution in China* and the heroic exploits of the *Red Army of the Chinese people.* (*Stormy applause. All delegates rise. Loud cheering.*)

* * * * * * * * * * *

Ours has been a Congress of a *new tactical orientation for for the Communist International.*

Standing firmly on the impregnable position of Marxism-Leninism, which has been confirmed by the entire experience of the international labor movement, and primarily by the victories of the great October Revolution, our Congress, acting in the spirit and guided by the method of *living Marxism-Leninism,* has reshaped the tactical lines of the Communist International to meet the changed world situation.

* * * * * * * * * * *

Championing, as we do, working class unity, we shall with so much the more energy and irreconcilibility fight for *unity within our Parties.* There can be no room in our Parties for factions, or for attempts at factionalism. Whoever will try to break up the iron unity of our ranks by any kind of factionalism will get to feel what is meant by the Bolshevik discipline that Lenin and Stalin have always taught us. (*Applause.*) Let this be a warning to those few elements

in individual Parties who think that they can take advantage of the difficulties of their Party, the wounds of defeat or the blows of the raging enemy, to carry out their factional plans, to further their own group interests. (*Applause.*) *The Party is above every thing else!* (*Loud applause.*) *To guard the Bolshevik unity of the Party as the apple of one's eye is the first and highest law of Bolshevism!*

* * * * * * * * * *

## The Offensive of Fascism and the Tasks of the Communist International in the Fight for the Unity of the Working Class Against Fascism

*(Resolution on the Report of Georgi Dimitroff, Adopted August 20, 1935 by the Seventh Congress of the Communist International)*

### I. Fascism and the Working Class

1. The Seventh Congress of the Communist International declares that the alignment of class forces in the international arena and the tasks facing the labor movement of the world are determined by the following basic changes in the world situation:

(a) *The final and irrevocable victory of socialism in the Land of the Soviets,* a victory of world importance, which has enormously enhanced the power and role of the U.S.S.R. as the bulwark of the exploited and oppressed of the whole world, and is inspiring the toilers to struggle against capitalist exploitation, bourgeois reaction and fascism, for peace, and for the freedom and independence of the peoples.

(b) *The most profound economic crisis in the history of capitalism,* from which the bourgeoisie has tried to extricate itself by ruining the masses of the people, by dooming tens of millions of unemployed to starvation and extinction, and by lowering the standard of living of the toilers to an unprecedented extent.

* * * * * * * * * *

(c) *The offensive of fascism, the advent to power of the fascists in Germany, the growth of the threat of a new imperialist world war and of an attack on the U.S.S.R.*, by means of which the capitalist world is seeking a way out of the impasse of its contradictions.

(d) *The political crisis*, expressed in the armed struggle of the workers in Austria and Spain against the fascists, a struggle which has not yet led to the victory of the proletariat over fascism, but which prevented the bourgeoisie from consolidating its fascist dictatorship; *the powerful anti-fascist movement in France*, which began with the February demonstration and the general strike of the proletariat in 1934.

(e) *The revolutionization of the toiling masses* throughout the whole capitalist world which is taking place under the influence of the victory of socialism in the U.S.S.R. and of the world economic crisis, also on the basis of the lessons derived from the temporary defeat of the proletariat in the central part of Europe—in Germany—as well as in Austria and Spain, that is, in countries *where the majority of the organized workers supported Social-Democratic Parties.* A powerful urge for *unity of action* is growing in the ranks of the international working class. The revolutionary movement in the *colonial countries* and the Soviet revolution in *China* are extending. The relationship of class forces on a world scale is changing more and more in the direction of *a growth of the forces of revolution.*

* * * * * * * * * * *

With this as its point of departure, the Seventh Congress of the Communist International enjoins the Communist Parties to be guided by the following instructions when carrying out the united front tactics:

1. *The defense of the immediate economic and political interests of the working class, the defense of the latter against fascism*, must be the starting point and form the main content of the workers' united front in all capitalist countries. In order to set the broad masses in motion, such

slogans and forms of struggle must be put forward as arise from the vital needs of the masses and from the level of their fighting capacity at the given stage of development. Communists must not limit themselves to merely issuing appeals to struggle for proletarian dictatorship, but must show the masses *what they are to do today* to defend themselves against capitalist plunder and fascist barbarity. They must strive, through the joint action of the labor organizations, to mobilize the masses around *a program of demands that are calculated really to shift the burden of the consequences of the crisis onto the shoulders of the ruling classes, demands, the fight to realize which, disorganizes fascism, hampers the preparations for imperialist war, weakens the bourgeoisie and strengthens the positions of the proletariat.*

* * * * * * * * * *

Holding that the interests of the class struggle of the proletariat and the success of the proletarian revolution make it imperative that *a single mass political party of the working class* exist in every country, the Congress sets the Communist Parties the task of taking the initiative in bringing about this unity, relying on the growing desire of the workers to unite the Social-Democratic Parties or individual organizations with the Communist Parties. At the same time it must be explained to the workers without fail that such unity is possible only under certain conditions: under the condition of *complete independence from the bourgeoisie and the complete severance of the bloc between Social-Democracy and the bourgeoisie,* under the condition that *unity of action* be first brought about, that the necessity of the *revolutionary overthrow of the rule of the bourgeoisie and the establishment of the dictatorship of the proletariat in the form of Soviets* be recognized, that support of one's own bourgeoisie in *imperialist war* be rejected, and that the party be constructed on the basis of *democratic centralism* which ensures unity of will and action and has been tested by the experience of the Russian Bolsheviks.

* * * * * * * * * *

## The Tasks of the Communist International in Connection with the Preparations of the Imperialists for a New World War

*(Resolution on the Report of M. Ercoli, Adopted August 20, 1935 by the Seventh Congress of the Communist International)*

. . . . . .

At the present historical juncture, when on one-sixth part of the globe the Soviet Union defends socialism and peace for all humanity, the most vital interests of the workers and toilers of all countries demand that in pursuing the policy of the working class, in waging the struggle for peace, the struggle against imperialist war before and after the outbreak of hostilities, the defense of the Soviet Union must be considered paramount.

If the commencement of a counter-revolutionary war forces the Soviet Union to set the Workers' and Peasants' Red Army in motion for the defense of socialism, the Communists will call upon all toilers *to work, with all means at their disposal and at any price, for the victory of the Red Army over the armies of the imperialists.*

# Vol. IV

## TRANSCRIPT OF RECORD

(Pages 1499 to 1798)

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# Supreme Court of the United States

OCTOBER TERM, 1955

## No. 48

---

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER,

*vs.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

---

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

PETITION FOR CERTIORARI FILED APRIL 12, 1955

CERTIORARI GRANTED MAY 31, 1955

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IN THE

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 11,850

---

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Petitioner*,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, *Respondent*.

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**On Petition to Review and Set Aside an Order of the Subversive Activities Control Board**

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## JOINT APPENDIX

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**VOLUME IV.**

**(Pages 1499 to 1798).**

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**Petitioner's Exhibit No. 138**

# PROBLEMS OF LENINISM

By Joseph Stalin

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## I

### Definition of Leninism

"Leninism is Marxism in the epoch of imperialism and of the proletarian revolution. Or, to be more exact, Leninism is the theory and tactics of the proletarian revolution in general, the theory and tactics of the dictatorship of the proletariat in particular." *

Is this definition correct?

I think so. It is correct, firstly, because it correctly indicates the historical roots of Leninism, characterising it as Marxism of the *epoch of imperialism*—as against certain critics of Lenin who incorrectly consider that Leninism originated after the imperialist war. It is correct, secondly, because it correctly notes the international character of Leninism—as against the Social-Democrats, who consider that Leninism is applicable only to Russian national conditions. It is correct, thirdly, because it correctly notes the organic connection between Leninism and the teachings of Marx, characterising Leninism as *Marxism* of the epoch of imperialism—as against certain critics of Leninism who consider it not as a further development of Marxism, but merely as the restoration of Marxism and its application to Russian conditions.

One would think that all this does not need any special comment.

---

* Joseph Stalin, *Foundations of Leninism* (International Publishers).—*Ed.*

Nevertheless, it appears that there are comrades in our Party who consider it necessary to define Leninism somewhat differently. For example, Comrade Zinoviev thinks that: "Leninism is Marxism in the epoch of imperialist war and of the world revolution *which began directly in a country where the peasantry predominates.*" [Italics by Zinoviev. —J. S.] (Zinoviev, "Bolshevism or Trotskyism," *Pravda*, November 30, 1924.)

What can be the meaning of the words underlined by Comrade Zinoviev? What does it mean to introduce the backwardness of Russia, its peasant character, into a definition of Leninism?

It means the transformation of Leninism from an international proletarian doctrine into a specifically Russian product.

It means playing into the hands of Bauer and Kautsky, who deny that Leninism is suitable to other countries, which are capitalistically more developed.

Without a doubt the peasant question is of the greatest importance in Russia; our country is a peasant country. But what significance can this fact have in a characterisation of the fundamentals of Leninism? Was Leninism worked out only upon Russian soil, for Russia alone, and not upon imperialist soil, and for the imperialist countries generally?

Have Lenin's works, such as *Imperialism, State and Revolution, The Proletarian Revolution and the Renegade Kautsky*, and *"Left-Wing" Communism: an Infantile Disorder*, etc., significance only for Russia and not for all imperialist countries in general? Is not Leninism the generalisation of the experience of the revolutionary movement of *all* countries? Are not the foundations of the theory and tactics of Leninism suitable and obligatory for the proletarian parties of all countries? Was Lenin wrong when he said that: "Bolshevism can serve as a model of tactics *for all*"? (*Collected Works*, Vol. XXIII, p. 386, Russian edition.) Was Lenin wrong when he spoke of the "*international sig-*

*nificance* [My italics.—*J. S.*] of the Soviet power and of the foundation of Bolshevik theory and tactics"! (*"Left-Wing" Communism.*)

Was not Lenin right when he wrote: "In Russia, the dictatorship of the proletariat must inevitably differ in certain special features from that in the advanced countries, by reason of the very great backwardness and petty-bourgeois character of our country. But the basic forces and the basic forms of social economy are just the same in Russia as in any capitalist country, so that *these special features cannot affect the main point.*" (*Collected Works*, Vol. XXIV, p. 508, Russian edition.)

But if this is so, does it not follow therefrom that Comrade Zinoviev's definition of Leninism cannot be recognized as correct?

How can this nationally restricted definition of Leninism be reconciled with internationalism?

. . . . . .

## II

### The Core of Leninism

. . . . . .

For, if Leninism is the theory and tactics of the proletarian revolution, and the basic content of the proletarian revolution is the dictatorship of the proletariat, then it is clear that the core in Leninism is the question of the dictatorship of the proletariat, the working out of this question and giving a basis and concreteness to it.

. . . . . .

Of course, Lenin was an expert on the peasant question. Of course, the peasant question, as the question dealing with the ally of the proletariat, is of the greatest significance to the proletariat, and forms a component part of the basic problem of the dictatorship of the proletariat, but is it not clear that if Leninism were not faced with the fundamental question of the dictatorship of the proletariat, then the sub-

sidiary question of the ally of the proletariat, namely the peasantry, would not arise? Is it not clear that if Leninism were not faced with the practical problem of the conquest of power by the proletariat, then the question of an alliance with the peasantry would not arise?

Lenin would not have been the mighty ideological leader of the proletariat, which he unquestionably was, but the simple "peasant philosopher" that foreign literary philistines are often fond of depicting him as, had he been content to work out the peasant question, not on the basis of the theory and tactics of the dictatorship of the proletariat, but independently of and apart from this basis.

One of two things:

*Either* the peasant question is the core of Leninism, and in that case Leninism is not suitable, not obligatory for developed capitalist countries, for such as are not peasant countries.

*Or*, the core of Leninism is the dictatorship of the proletariat (and in that case Leninism is the international doctrine of the proletarians of all lands, is suitable and obligatory for all countries without exception, including those where capitalism is developed.

A choice has to be made here.

* * * * * * * * * * *

## IV

### The Proletarian Revolution and the Dictatorship of the Proletariat

* * * * * * * * * * *

"The second enormous difficulty was . . . the international question. If we were able to cope so easily with Kerensky's bands, if we so easily established our power, if the decree on the socialisation of the land and on workers' control, was secured without the slightest difficulty—if we obtained all this so easily it was only because for a brief space of time a fortunate combination of circumstances protected us from international imperialism. International im-

perialism, with all the might of its capital and its highly organised military technique, which represents a real force, a real fortress of international capital, could under no circumstances, under no possible conditions, live side by side with the Soviet republic, both because of its objective situation and because of the economic interests of the capitalist class which was incorporated in it, it could not do this because of commercial ties and of international financial relationships. A conflict is inevitable. This is the greatest difficulty of the Russian Revolution, its greatest historical problem: the necessity to solve international problems, the necessity to call forth the world revolution." (*Collected Works*, Vol. XXII, pp. 315-317, Russian edition.)

Such is the inner character and the basic idea of the proletarian revolution.

Can such a radical transformation of the old bourgeois system of society be achieved without a violent revolution, without the dictatorship of the proletariat?

Obviously not. To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution.

It is necessary to insist on this all the more strongly, all the more categorically, since we are dealing with the proletarian revolution which has for the time being triumphed in only one country, a country surrounded by hostile capitalist countries, a country the bourgeoisie of which cannot fail to receive the support of international capital.

That is why Lenin states that ". . . the liberation of the oppressed class is impossible not only without a violent revolution, *but also without the destruction* of the apparatus of state power, which was created by the ruling class. . . . (*Collected Works*, Vol. XXI, Book II, p. 155. Also *State and Revolution*, Little Lenin Library, p. 9.)

"First, let the majority of the population, while private property is still maintained, that is while the power and oppression of capital are maintained, declare itself for the party of the proletariat. Only then can, and should it, take power. That is what is said by *petty-bourgeois democrats who call themselves 'socialists' but are really the henchmen of the bourgeoisie.* [My italics.—*J. S.*]

"*But we say:* Let the revolutionary proletariat first overthrow the bourgeoisie, break the yoke of capital, break up the bourgeoisie state apparatus. Then the victorious proletariat will speedily gain the sympathy and support of the majority of the toiling non-proletarian masses by satisfying their wants at the expense of the exploiters. [My italics.—*J. S.*] (*Collected Works*, Vol. XXIV, p. 647, Russian edition.)

"In order to win the majority of the population to its side," Lenin continues, "the proletariat must first of all overthrow the bourgeoisie and seize state power and, secondly, it must introduce Soviet rule, smash to pieces the old state apparatus, and thus at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty-bourgeoisie compromisers in the ranks of the non-proletarian toiling masses. Thirdly, the proletariat must *completely and finally destroy* the influence of the bourgeoisie and of the petty-bourgeoisie compromisers among the *majority* of the non-proletarian toiling masses by the *revolutionary* satisfaction of *their* economic needs *at the expense of the exploiters.*" (*Ibid.*, p. 641.)

Such are the characteristic symptoms of the proletarian revolution.

Now, if it be admitted that the dictatorship of the proletariat is the basic content of the proletarian revolution, what then are the fundamental characteristics of the dictatorship of the proletariat?

Here is the most general definition of the dictatorship of the proletariat, given by Lenin:

"The dictatorship of the proletariat is not the end of the class struggle but its continuation in new forms. The dictatorship of the proletariat is the class struggle of the proletariat which has achieved victory and has seized political power against the bourgeoisie which has been defeated but not annihilated, which has not disappeared, which has not ceased its resistance, which has increased its resistance." (*Ibid.*, p. 311.)

Replying to those who confuse the dictatorship of the proletariat with "popular," "elected" and "non-class" government, Lenin states:

"The class which has seized political power has done so conscious of the fact that it has seized power alone. This is implicit in the concept of the dictatorship of the proletariat. This concept has meaning only when one class knows that it alone takes political power into its own hands, and does not deceive either itself or others by talk about popular, elected government, sanctified by the whole people." (*Collected Works*, Vol. XXVI, p. 286, Russian edition.)

This does not mean, however, that the rule of this one class, the class of the proletarians, which does not and cannot share this rule with any other class, does not need an alliance with the toiling and exploited masses of other classes for the attainment of its objectives. On the contrary. This rule, the rule of a single class, can be firmly established and exercised to the full only by means of a special form of alliance between the class of proletarians and the toiling masses of the petty-bourgeois classes, especially the toiling masses of the peasantry.

What is this special form of alliance? What does it consist of? Does not this alliance with the toiling masses of other, non-proletarian classes generally contradict the idea of the dictatorship of one class?

This special form of alliance lies in the fact that the leading force of this alliance is the proletariat, that the leader in the state, the leader within the system of the dictatorship of the proletariat is *a single* party, the party of

the proletariat, the party of the Communists, which *does not and cannot share* that leadership with other parties.

. . . . . .

Such statements can only be made by those who have failed to grasp Lenin's proposition that "*The supreme principle of the dictatorship* is the preservation of the alliance between the proletariat and the peasantry, in order that the proletariat may continue to retain the leading role and state power." (*Ibid.*, p. 460.)

Pointing to one of the most important aims of the dictatorship, namely the suppression of the exploiters, Lenin states:

"The scientific concept, dictatorship, means nothing more nor less than power which directly rests on violence, which is not limited by any laws or restricted by any absolute rules. . . . Dictatorship means—note this once and for all, Messrs. Cadets*—unlimited power, resting on violence and not on law. During civil war, victorious power can only be dictatorship." (*Collected Works*, Vol. XXV, pp. 441 and 436, Russian edition.)

But, of course, the dictatorship of the proletariat does not merely mean violence, although there is no dictatorship without violence.

"Dictatorship," says Lenin, "does not mean violence alone, although it is impossible without violence. It likewise signifies a higher organisation of labour than that which previously existed." (*Collected Works*, Vol. XXIV, p. 30, Russian edition.)

. . . . . .

Hence there are three fundamental aspects of the dictatorship of the proletariat.

(1) The utilisation of the power of the proletariat for the suppression of the exploiters, for the defence of the country, for the consolidation of the ties with the prole-

* The Constitutional Democrats.—*Ed.*

tarians of other lands, and for the development and the victory of the revolution in all countries.

(2) The utilisation of the power of the proletariat in order to detach the toiling and exploited masses once and for all from the bourgeoisie, to consolidate the alliance of the proletariat with these masses, to enlist these masses in the work of socialist construction, and to assure the state leadership of these masses by the proletariat.

(3) The utilisation of the power of the proletariat for the organisation of socialism, for the abolition of classes, and for the transition to a society without classes, to a society without a state.

The dictatorship of the proletariat is a combination of all three aspects. None of these three aspects can be advanced as the *sole* characteristic feature of the dictatorship of the proletariat. On the other hand, it is sufficient for but one of these three characteristic features to be absent, for the dictatorship of the proletariat to cease being a dictatorship in a capitalist environment. Therefore not one of these three features can be omitted without running the risk of distorting the concept of dictatorship. Only all these three features taken together give us a complete and fully rounded out conception of the dictatorship of the proletariat.

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## V

### The Party and the Working Class Within the System of the Dictatorship of the Proletariat

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*First* of all there are the workers' *trade unions*, with their national and local ramifications in the shape of a whole series of production, cultural, educational and other organisations. These unite the workers of all trades. They are not Party organisations. The trade unions may be termed the all-embracing organisation of the working class which holds power in our country. They constitute a school of communism. They promote from their midst the best people

to carry out leading work in all branches of administration. They form the link between the advanced and the backward elements in the ranks of the working class. They unite the masses of the workers with their vanguard.

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## VI

### The Question of the Victory of Socialism in a Single Country

. . . . . .

"Our country represents two groups of contradictions. One group of contradictions consists of the internal contradictions that exist between the proletariat and the peasantry (this is in connection with the complete construction of socialism in a single country—*J. S.*). The other group of contradictions consists of the external contradictions that exist between our country as the country of socialism and all the other countries as countries of capitalism (this is in connection with the question of the final victory of socialism —*J. S.*). . . . Whoever confuses the first group of contradictions, which can be quite overcome by the efforts of a single country, with the second group of contradictions, which requires the efforts of the proletariat of several countries to solve, commits a grave error against Leninism; he is either a muddle-head or an incorrigible opportunist."

On the question of the *victory* of socialism in our country, the pamphlet states: "We can build socialism and we will build it together with the peasantry under the leadership of the working class . . . for we possess, under the dictatorship of the proletariat, all the requisites for the building of a complete socialist society by overcoming all internal difficulties, for we can and must overcome them by our own efforts." (*Ibid.*)

On the question of the *final* victory of socialism, it states: "The final victory of socialism is a complete guarantee against attempted intervention, and that means against restoration, for any serious attempt at restoration can take

place only with support from outside, only with the support of international capital. Hence the support of our revolution by the workers of all countries, and still more the victory of these workers in at least several countries, is a necessary condition for completely guaranteeing the first victorious country against attempts at intervention and restoration, a necessary condition for the final victory of socialism." (*Ibid.*)

. . . . . .

Let us turn to Lenin. This is what he said about the victory of socialism in a single country even before the October Revolution, in August 1915:

"Uneven economic and political development is an absolute law of capitalism. Hence, the victory of socialism is possible, first in a few or even in one single capitalist country taken separately. The victorious proletariat of that country, having expropriated the capitalists and *organised its own socialist production* [My italics.—*J. S.*], would rise against the rest of the capitalist world, attract to itself the oppressed classes of other countries, raise revolts among them against the capitalists, and in the event of necessity, come out even with armed force against the exploiting classes and their states." (*Collected Works*, Vol. XVIII, p. 272.)

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**Petitioner's Exhibit No. 139**

## STATE AND REVOLUTION

By V. I. Lenin

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### Preface to First Edition

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Socialism in words, chauvinism in deeds is characterised by a base, servile adaptation of the "leaders of Socialism"

to the interests not only of "their" national bourgeoisie, but also of "their" state—for a whole series of smaller, weaker nationalities have long since been exploited and enslaved by most of the so-called great powers. The imperialist war is just a war for division and re-division of this kind of booty. The struggle for the emancipation of the labouring masses from the influence of the bourgeoisie in general, and the imperialist bourgeoisie in particular, is impossible without a struggle against the opportunist superstitions concerning the "state."

. . . . . .

Finally, we sum up, in the main, the experiences of the Russian Revolution of 1905 and particularly that of 1917. The revolution is evidently completing at the present time (beginning of August, 1917) the first stage of its development; but, generally speaking, this revolution can be understood in its totality only as a link in the chain of Socialist proletarian revolutions called forth by the imperialist war. The question of the relation of a proletarian Socialist revolution to the state acquires, therefore, not only a practical political importance, but the importance of an urgent problem of the day, the problem of elucidating to the masses what they will have to do for their liberation from the yoke of capitalism in the very near future.

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## Chapter I

### Class Society and the State

#### 1. The State as the Product of the Irreconcilability of Class Antagonisms

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For instance, when, in the Revolution of 1917, the question of the real meaning and role of the state arose in all its vastness as a practical question demanding immediate action on a wide mass scale, all the Socialist-Revolutionaries and Mensheviks suddenly and completely sank to the petty-

bourgeois theory of "reconciliation" of the classes by the "state." Innumerable resolutions and articles by politicians of both these parties are saturated through and through with this purely petty-bourgeois and philistine theory of "reconciliation." That the state is an organ of domination of a definite class which *cannot* be reconciled with its antipode (the class opposed to it)—this petty-bourgeois democracy is never able to understand. Its attitude towards the state is one of the most telling proofs that our Socialist-Revolutionaries and Mensheviks are not Socialists at all (which we Bolsheviks have always maintained), but petty-bourgeois democrats with a near-Socialist phraseology.

On the other hand, the "Kautskyist" distortion of Marx is far more subtle. "Theoretically," there is no denying that the state is the organ of class domination, or that class antagonisms are irreconcilable. But what is forgotten or glossed over is this: if the state is the product of the irreconcilable character of class antagonisms, if it is a force standing *above* society and "increasingly separating itself from it," then it is clear that the liberation of the oppressed class is impossible not only without a violent revolution, *but also without the destruction* of the apparatus of state power, which was created by the ruling class and in which this "separation" is embodied. As we shall see later, Marx drew this theoretically self-evident conclusion from a concrete historical analysis of the problems of revolution. And it is exactly this conclusion which Kautsky—as we shall show fully in our subsequent remarks—has "forgotten" and distorted.

* * * * * * * * * * *

Here is Engels' argument:

"... That force, however, plays another role (other than that of a diabolical power) in history, a revolutionary role; that, in the words of Marx, it is the midwife of every old society which is pregnant with the new; that it is the instrument with whose aid social movement forces its way through

and shatters the dead, fossilised political forms—of this there is not a word in Herr Duhring. It is only with sighs and groans that he admits the possibility that force will perhaps be necessary for the overthrow of the economic system of exploitation—unfortunately! because all use of force, forsooth, demoralizes the person who uses it. And this in spite of the immense moral and spiritual impetus which has resulted from every victorious revolution! And this in Germany, where a violent collision—which indeed may be forced on the people—would at least have the advantage of wiping out the servility which has permeated the national consciousness as a result of the humiliation of the Thirty Years' War. And this parson's mode of thought—lifeless, insipid and impotent—claims to impose itself on the most revolutionary party which history has known! * "

How can this panegyric on violent revolution, which Engels insistently brought to the attention of the German Social-Democrats between 1878 and 1894, *i.e.*, right to the time of his death, be combined with the theory of the "withering away" of the state to form one doctrine?

Usually the two views are combined by means of eclecticism, by an unprincipled, sophistic, arbitrary selection (to oblige the powers that be) of either one or the other argument, and in ninety-nine cases out of a hundred (if not more often), it is the idea of the "withering away" that is specially emphasised. Eclecticism is substituted for dialectics—this is the most usual, the most widespread phenomenon to be met with in the official Social-Democratic literature of our day in relation to Marxism. Such a substitution is, of course, nothing new; it may be observed even in the history of classic Greek philosophy. When Marxism is adulterated to become opportunism, the substitution of eclecticism for dialectics is the best method of deceiving the masses; it gives an illusory satisfaction; it seems to take into account all sides of the process, all the tendencies of development, all the contradictory factors and so forth,

* *Ibid.—Ed.*

whereas in reality it offers no consistent and revolutionary view of the process of social development at all.

We have already said above and shall show more fully later that the teaching of Marx and Engels regarding the inevitability of a violent revolution refers to the bourgeois state. It *cannot* be replaced by the proletarian state (the dictatorship of the proletariat) through "withering away," but, as a general rule, only through a violent revolution. The panegyric sung in its honour by Engels and fully corresponding to the repeated declarations of Marx (remember the concluding passages of the *Poverty of Philosophy* and the *Communist Manifesto*, with its proud and open declaration of the inevitability of a violent revolution; remember Marx's *Critique of the Gotha Programme* of 1875 in which, almost thirty years later, he mercilessly castigates the opportunist character of that programme)—this praise is by no means a mere "impulse," a mere declamation, or a polemical sally. The necessity of systematically fostering among the masses *this* and just this point of view about violent revolution lies at the root of the *whole* of Marx's and Engels' teaching. The neglect of such propaganda and agitation by both the present predominant social-chauvinist and the Kautskyist currents brings their betrayal of Marx's and Engels' teaching into prominent relief.

The replacement of the bourgeois by the proletarian state is impossible without a violent revolution. The abolition of the proletarian state, *i.e.*, of all states, is only possible through "withering away."

Marx and Engels gave a full and concrete exposition of these views in studying each revolutionary situation separately, in analysing the lessons of the experience of each individual revolution. We now pass to this, undoubtedly the most important part of their work.

## Chapter II

## The Experiences of 1848-1851

### 1. On the Eve of Revolution

The doctrine of the class struggle, as applied by Marx to the question of the state and of the Socialist revolution, leads inevitably to the recognition of the *political rule* of the proletariat, of its dictatorship, *i.e.*, of a power shared with none and relying directly upon the armed force of the masses. The overthrow of the bourgeoisie is realisable only by the transformation of the proletariat into the *ruling class*, able to crush the inevitable and desperate resistance of the bourgeoisie, and to organise, for the new economic order, *all* the toiling and exploited masses.

The main point in the teaching of Marx is the class struggle. This has very often been said and written. But this is not true. Out of this error, here and there, springs an opportunist distortion of Marxism, such a falsification of it as to make it acceptable to the bourgeoisie. The theory of the class struggle was *not* created by Marx, but by the bourgeoisie *before* Marx and is, generally speaking, *acceptable* to the bourgeoisie. He who recognises *only* the class struggle is not yet a Marxist; he may be found not to have gone beyond the boundaries of bourgeois reasoning and politics. To limit Marxism to the teaching of the class struggle means to curtail Marxism—to distort it, to reduce it to something which is acceptable to the bourgeoisie. A Marxist is one who *extends* the acceptance of class struggle to the acceptance of the *dictatorship of the proletariat*. Herein lies the deepest difference between a Marxist and an ordinary petty or big bourgeois. On this touchstone it is necessary to test a *real* understanding and acceptance of Marxism.

## Chapter III

## Experience of the Paris Commune of 1871: Marx's Analysis

On April 12, 1871, *i.e.*, just at the time of the Commune, Marx wrote to Kugelmann:

"If you look at the last chapter of my *Eighteenth Brumaire*, you will see that I declare that the next attempt of the French Revolution must be: not, as in the past, to transfer the bureaucratic and military machinery from one hand to the other, but to *break it up* [Marx's italics—the original is *zerbrechen*]; and this is the precondition of any real people's revolution on the Continent. And this is what our heroic party comrades in Paris have attempted.[**] "

In these words, "to break up the bureaucratic and military machinery," is contained, briefly formulated, the principal lesson of Marxism on the tasks of the proletariat in relation to the state during a revolution. And it is just this lesson which has not only been forgotten, but downright distorted, by the prevailing Kautskyist "interpretation" of Marxism.

. . . . . .

We have seen what Marx means—that the working class must *shatter, break up, blow up* (*Sprengung*, explosion, is the expression used by Engels) the whole state machinery. But according to Bernstein it would appear as though Marx by these words warned the working class *against* excessive revolutionary zeal when seizing power.

A crasser and uglier perversion of Marx's ideas cannot be imagined.

How, then, did Kautsky act in his detailed refutation of Bernsteinism?

[**] *Neue Zeit*, XX-1, 1901-1902, p. 709. The letters from Marx to Kugelmann have come out in Russian in no less than two editions, one of them edited and with an introduction by me. [Karl Marx, *Letters to Kugelmann*, London and New York, 1933.—*Ed.*]

He avoided analysing the whole enormity of the perversion of Marxism by opportunism on this point. He cited the above-quoted passage from Engels' preface to Marx's *Civil War*, saying that, according to Marx, the working class cannot *simply* take possession of the *ready made* state machinery, but, generally speaking, it *can* take possession of it—and that was all. As for the fact that Bernstein attributed to Marx the *direct opposite* of Marx's real views, that the real task of the proletarian revolution, as formulated by Marx ever since 1852, was to "break up" the state machinery—not a word of all this is to be found in Kautsky.

The result was that the most essential difference between Marxism and opportunism on the question of the proletarian revolution was glossed over!

"The solution of the problem of the proletarian dictatorship," wrote Kautsky "*in opposition*" to Bernstein, "we can safely leave to the future" (p. 172, German edition).

This is not a polemic *against* Bernstein, but really a *concession* to him, a surrender to opportunism; for at present the opportunists ask nothing better than to "safely leave to the future" all the fundamental questions on the tasks of the proletarian revolution.

Marx and Engels, from 1852 to 1891—for forty years—taught the proletariat that it must break up the state machinery. Kautsky, in 1899, confronted on this point with the complete betrayal of Marxism by the opportunists, fraudulently *substitutes* for the question as to whether it is necessary to break up the machinery, the question as to the concrete forms of breaking it up, and then saves himself behind the screen of the "indisputable" (and barren) philistine truth, that concrete forms cannot be known in advance!!

Between Marx and Kautsky, between their respective attitudes to the task of a proletarian party in preparing the working class for revolution, there is an abyss.

Petitioner's Exhibit No. 140

# IMPERIALISM

## THE HIGHEST STAGE OF CAPITALISM

V. I. LENIN

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### PREFACE TO THE RUSSIAN EDITION

The pamphlet here presented to the reader was written in Zurich in the spring of 1916. In the conditions in which I was obliged to work there I naturally suffered somewhat from a shortage of French and English literature and from a serious dearth of Russian literature. However, I made use of the principal English work, *Imperialism*, J. A. Hobson's book, with all the care that, in my opinion, that work deserves.

This pamphlet was written with an eye to the tsarist censorship. Hence, I was not only forced to confine myself strictly to an exclusively theoretical, mainly economic analysis of facts, but to formulate the few necessary observations on politics with extreme caution, by hints, in that Æsopian language—in that cursed Æsopian language—to which tsarism compelled all revolutionaries to have recourse whenever they took up their pens to write a "legal" work.[1]

It is very painful, in these days of liberty, to read these cramped passages of the pamphlet, crushed, as they seem, in an iron vise, distorted on account of the censor. Of how imperialism is the eve of the socialist revolution; of how social-chauvinism (socialism in words, chauvinism in deeds) is the utter betrayal of socialism, complete desertion to the

[1] "Æsopian," after the Greek fable writer Æsop, was the term applied to the allusive and roundabout style adopted in "legal" publications by revolutionaries in order to evade the censorship.—Ed.

side of the bourgeoisie; of how the split in the labour movement is bound up with the objective conditions of imperialism, etc., I had to speak in a "slavish" tongue, and I must refer the reader who is interested in the question to the volume, which is soon to appear, in which are reproduced the articles I wrote abroad in the years 1914-17. Special attention must be drawn, however, to a passage on pages 119-20.[2] In order to show, in a guise acceptable to the censors, how shamefully the capitalists and the social-chauvinist deserters (whom Kautsky opposes with so much inconsistency) lie on the question of annexations; in order to show with what cynicism they *screen* the annexations of *their* capitalists, I was forced to quote as an example—Japan! The careful reader will easily substitute Russia for Japan, and Finland, Poland, Courland, the Ukraine, Khiva, Bokhara, Estonia or other regions peopled by non-Great Russians, for Korea.

I trust that this pamphlet will help the reader to understand the fundamental economic question, *viz.*, the question of the economic essence of imperialism, for unless this is studied, it will be impossible to understand and appraise modern war and modern politics.

## Preface to the French and German Editions

### I

As was indicated in the preface to the Russian edition, this pamphlet was written in 1916, with an eye to the tsarist censorship. I am unable to revise the whole text at the present time, nor, perhaps, is this advisable, since the main purpose of the book was and remains: to present, on the basis of the summarised returns of irrefutable bourgeois statistics, and the admissions of bourgeois scholars of all countries, a *general picture* of the world capitalist system in its international relationships at the beginning of the twentieth century—on the eve of the first world imperialist war.

To a certain extent it will be useful for many Communists

[2] *Cf.* pp. 121-22 in this volume.—Ed.

in advance capitalist countries to convince themselves by the example of this pamphlet, *legal, from the standpoint of the tsarist censor,* of the possibility—and necessity—of making use of even the slight remnants of legality which still remain at the disposal of the Communists, say, in contemporary America or France, after the recent wholesale arrests of Communists, in order to explain the utter falsity of social-pacifist views and hopes for "world democracy." The most essential of what should be added to this censored pamphlet I shall try to present in this preface.

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## III

The Brest-Litovsk Peace Treaty dictated by monarchist Germany, and later on, the much more brutal and despicable Versailles Treaty dictated by the "democratic" republics of America and France and also by "free" England, have rendered very good service to humanity by exposing both the hired coolies of the pen of imperialism and the petty-bourgeois reactionaries, although they call themselves pacifists and socialists, who sang praises to "Wilsonism," and who insisted that peace and reform were possible under imperialism.

The tens of millions of dead and maimed left by the war—a war for the purpose of deciding whether the British or German group of financial marauders is to receive the lion's share—and the two "peace treaties," mentioned above, open the eyes of the millions and tens of millions of people who are downtrodden, oppressed, deceived and duped by the bourgeoisie with unprecedented rapidity. Thus, out of the universal ruin caused by the war a worldwide revolutionary crisis is arising which, in spite of the protracted and difficult stages it may have to pass, cannot end in any other way than in a proletarian revolution and in its victory.

* * * * * * * * * *

Not the slightest progress can be made toward the solution of the practical problems of the Communist movement and of the impending social revolution unless the economic

roots of this phenomenon are understood and unless its political and sociological significance is appreciated.

Imperialism is the eve of the proletarian social revolution. This has been confirmed since 1917 on a world-wide scale.

N. LENIN

## CHAPTER VII

### IMPERIALISM AS A SPECIAL STAGE OF CAPITALISM

We shall see later that imperialism can and must be defined differently if consideration is to be given, not only to the basic, purely economic factors—to which the above definition is limited—but also to the historical place of this stage of capitalism in relation to capitalism in general, or to the relations between imperialism and the two main trends in the working class movement. The point to be noted just now is that imperialism, as interpreted above, undoubtedly represents a special stage in the development of capitalism.

## CHAPTER X

### THE PLACE OF IMPERIALISM IN HISTORY

In its turn, this finance capital which has grown so rapidly is not unwilling (precisely because it has grown so quickly) to pass on to a more "tranquil" possession of colonies which have to be seized—and not only by peaceful methods—from richer nations. In the United States, economic development in the last decades has been even more rapid than in Germany, and *for this very reason* the parasitic character of modern American capitalism has stood out with particular prominence. On the other hand, a comparison of, say, the republican American bourgeoisie with the monarchist Japanese or German bourgeoisie shows that the most pronounced political distinctions diminish to an extreme degree in the epoch of imperialism—not because they are unimportant in general, but because in all these cases we are dis-

cussing a bourgeoisie which has definite features of parasitism.

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From all that has been said in this book on the economic nature of imperialism, it follows that we must define it as capitalism in transition, or, more precisely, as moribund capitalism.

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**Petitioner's Exhibit No. 142-A**

## WHY COMMUNISM?

PLAIN TALKS ON VITAL PROBLEMS
By M. J. OLGIN

WORKERS LIBRARY PUBLISHERS
NEW YORK

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## IV

### THE STATE

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### NO NEED OF REVOLUTION?

The Socialists say there is no need of a revolution. They say democracy has prepared for the workers all the means necessary to achieve Socialism. Let the workers use universal suffrage, they say, to send Socialists into the legislative assemblies. Let the Socialists form a majority in these assemblies. When this is done, the road is open to pass laws abolishing the capitalist system. Of course, there is the Federal Constitution which prohibits the confiscation of property by legal procedure, but this, says the leader of American Socialists, Mr. Norman Thomas, can be overcome. Let us have a Constitutional Convention to amend the Constitution so as to permit Congress to enact Socialist legislation. Let Congress then enact a law which orders the big corporations to cede their industrial establishments and all their property to the State. Let us not expropriate them,

say the Socialists, not by any means! Let us pay them with bonds issued by the government and redeemable in thirty years. This will mean introducing Socialism by pacific methods. No revolutions; no seizure of power; no infringement upon the law; no mass action; no expropriation of the exploiters. Everything lawful. Everything in a gentlemanly fashion. The electoral law works. The citizens vote. The legislators assemble. They count noses and find a Socialist majority. The Socialist majority, both in the House of Representatives and in the Senate, passes a law. Capitalism passes out. The big trusts bow before the "will of the people". "Gentlemen, you are the lawful heirs of our system", they say politely, and leave the stage for the Norman Thomases and their associates.

What a sweet picture! And how deceptive! We are sorry to mar such an idyllic scene. But we Communists are realists, and we do not wish to be carried away by fancies, especially when these fancies are beneficial to the capitalist system as they tend to keep workers from fighting the capitalist State.

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**Petitioner's Exhibit No. 143**

WHY EVERY WORKER SHOULD JOIN THE COMMUNIST PARTY

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THE ONLY WORKING-CLASS PARTY—
THE COMMUNIST PARTY

In all countries there is only one Party which stands first, last, and all the time, for the interests of the working class. That is the Communist Party.

The Communist Party of the United States is a section of the World Party of the Working Class,—the Communist International.

The program of the Communist Party includes the organization of the working class in every phase of life. It leads the struggles of the workers, from the most simple every-

day demand, clear up to the final struggle for the overthrow of capitalism and the establishment of the workers' government—the proletarian dictatorship.

## Why the Communist Party Is Part of A World Party

The Communist Party of the U.S.A. is part of the World Party—the Communist International. No organization which cuts itself off from the workers of other countries can truly represent working-class interests; and that organization which most truly represents the working class is the one which is the most thoroughly international.

The motto of the First International, founded by Karl Marx, was, "*You have nothing to lose but your chains; you have a world to gain; Workers of the World, Unite!*" The Communist International is the inheritor of the First International, and carries its policies into life in the present period of history.

The Second International—that organ of the "socialist" servants of the various national capitalist classes—which betrayed the workers into the last world war in 1914-1918, and is actively preparing for another world blood-bath, is not a truly international organization at all. It has no common policy for all its sections, the socialist and labor parties—except the common policy of submission to and service for the capitalist class of each country.

The Communist International is a truly international organization, with sections in 47 different countries of Europe, North and South America, Africa, and Asia, comprising all races and nationalities into one world party with a world policy, the policy of the toiling masses of the entire world.

At the same moment that the Communist Party of the U.S.A. fights the everyday battles of all the exploited of this country, it unites these struggles with the world struggles of the exploited everywhere, through the Communist International.

## HELP BUILD SOCIALISM IN THE SOVIET UNION

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The Soviet Union has taken one-sixth of the whole world out of the hands of capitalism, and is building there a socialist society.

That is why the Soviet Union is the stronghold of the working class of the whole world. It is the only country that belongs to the workers and not to the capitalists. It is the fatherland of the working class of the world. It is achievement of the working class under the leadership of the Communist Party.

By joining the Communist Party you not only strengthen the American working class but also help the workers of the Soviet Union in their tremendous tasks of the construction of socialism. At the same time you are building up the power which alone can defend the Soviet Union against imperialist war—the power of the international organized working class.

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**Petitioner's Exhibit No. 144**

## THE COMMUNIST PARTY IN ACTION

By ALEX BITTELMAN

### CHAPTER 1

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In the present period the Party's chief task consists in developing the counter-offensive of the working class against the offensive of the capitalist class, including the organization of the Negro masses and of the small and exploited farmers as allies of the proletariat. This task, which is common to the Communist Parties of all imperialist and colonial countries, and which was laid down by the Eleventh Plenary Session of the Executive Committee of the Communist International, arises from the objective conditions that are characteristic of the present period.

What are these objective conditions? It is primarily the present economic crisis, which is the greatest world economic crisis in history, affecting every imperialist and colonial country and every branch of capitalist economy—industry, commerce, agriculture and finance. The reason why the present economic crisis is so widespread and deep, and why the extent of unemployment and the suffering of the masses are so tremendously great, is the outstanding fact that the present economic crisis is developing on the basis of the *general crisis of capitalism*, which is shattering the whole capitalist system, leading to the development of colonial and proletarian revolutions, and which has already rejoining the Communist Party. Rather it must have been the sum of many experiences on various points of the class struggle front, among which the fight against imperialist war and for the defense of the Soviet Union had undoubtedly played a very great part in bringing you into the ranks of the Party. This is the case with many workers who join the Communist Party because it is the only Party that is following in the footsteps of Lenin and the Bolsheviks, that is, organizing the American proletariat to follow the example of the working class of Russia led by the Communist (Bolshevik) Party. It is quite likely that you have come into the Party especially through your participation in the anti-imperialist struggles, anti-war campaigns, and the fight for the defense of the Soviet Union that the Communist Party is leading. Possibly you are a member of the Friends of the Soviet Union, or of the Anti-Imperialist League. If so, you can already see the great role that these organizations are playing in the struggle against the capitalist class.

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And last, but not least, your experiences of the class struggle on the parliamentary field, that is, in various election campaigns—congressional elections, presidential elections, state and municipal elections, etc. You have voted Communist because you considered correctly that the Communist Party is the only class Party of the workers, and

leader of all the oppressed, the only true anti-capitalist Party. By joining the Party you have demonstrated your understanding that voting alone for the Communist program and ticket in an election campaign is not sufficient, that only as a member of the Party, participating daily in the building up of the Party's strength and influence among the masses, also for the extra parliamentary struggle, can you become fully effective in the fight for the overthrow of the dictatorship of the capitalist class, in the fight to establish the dictatorship of the proletariat in the United States.

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## Chapter 3

### Initiative—Activity—Discipline

What is the nature of membership in the Communist Party? This is well stated in the Constitution and Rules of the Communist International, Paragraph 3, which reads as follows:

"Membership in the Communist Party and in the Communist International is open to all those who accept the program and rules of the given Communist Party and of the Communist International, who join one of the basic units of a Party, actively work in it, abide by all the decisions of the Party and of the Communist International, and regularly pay Party dues."

You will observe that all of the specific requirements for membership in the Party aim at one thing, namely, the active, conscious and disciplined participation in the struggles of the masses that are led and organized by the Party. There can be nothing formal, or blind, or passive about membership in the Party, because the Communist Party is the revolutionary vanguard of the working class. Initiative on the part of every member, creative activity for winning and organizing the masses, and discipline in the carrying out of the decisions of the Party and of the Communist International are the very essence of Communist Party membership.

## The Organizational Principles of Bolshevism

Each Party member must avail himself or herself of the opportunity provided by the Party for a thorough study of the organizational principles of Bolshevism which are the organizational principles of the Communist International and of our Party. Without it one cannot become a good and active Party member.

To realize how important the organizational principles of our Party are, it would suffice perhaps to mention the fact that one of the most important fights that Bolshevism had made against opportunism, in Russia itself and in the whole pre-war Second International, was on the question of organization. This was the famous struggle of Lenin and the Bolsheviks at the Second Congress of the Russian Party on the question of Party organization, Lenin and the Bolsheviks fighting for the principle of a centralized, active, disciplined proletarian party and the opportunists (the future Mensheviks) fighting for a decentralized, loose, non-disciplined, petty bourgeois organization. It was this question, together with the question of the role of the working class in the revolution and the role of the Party as its leader that precipitated and crystallized the division between the opportunists and proletarian revolutionists, between the Mensheviks and the Bolsheviks.

The organizational principles of Bolshevism follow inevitably from the Bolshevik conception of the role of the Communist Party. What is this conception? Stalin states that in the following words:

"The Party should be the vanguard of the working class. It should group within it the best elements, should embody their experiences, their revolutionary spirit, their unbounded devotion to the cause of the proletariat. . . . The Party is the political leader of the working class."

Stalin compares the Party to the general staff of an army. The Party is the general staff of the working class revolutionary army, leading the war against capitalism. As such the Party must be built as a centralized organization, each

member belonging to a Party unit and carrying on daily active work among the masses under the direction of this unit, and fulfilling faithfully, consciously and loyally the Party policies and Party decisions.

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## Chapter 5

### We Are Members of a World Party

Our Party is the United States Section of the Communist International which is a world Communist Party and each one of us is therefore a member of a world Party. In this lies the greatest hope and promise of success for the world's proletarian revolution and all oppressed and exploited in their struggle against capitalism.

The following constitutes Paragraph 1 of the Constitution and Rules of the Communist International, which gives the character and aims of our World Party:

"The Communist International—the International Workers' Association—is a union of Communist Parties in various countries; it is a World Communist Party. As the leader and organizer of the world revolutionary movement of the proletariat and the upholder of the principles and aims of Communism, the Communist International strives to win over the majority of the working class and the broad strata of the propertyless peasantry, fights for the establishment of the world dictatorship of the proletariat, for the establishment of a World Union of Socialist Soviet Republics, for the complete abolition of classes and for the achievement of Socialism—the first stage of Communist society."

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International discipline is of course a basic principle in the organization of the Communist International. Without it no working class revolutionary International is possible. It is noteworthy that every opportunist tendency that arises in our midst seeks to attack, first of all, the discipline of the Communist International, because in this way, the revolu-

tionary Leninist policy of the Communist International would be weakened and opportunism would meet with less resistance.

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But our World Communist movement always presented an iron front against any such weakening of international discipline, fighting for the Leninist principle that the Communist Party is a monolithic and homogeneous body of revolutionary workers functioning as the vanguard of the working class.

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Proletarian internationalism constitutes the very heart of our World Party.

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## Chapter 6

### The Chief Strategic Aim of Our Party

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The 13th Plenum of the Central Committee of our Party has formulated the concrete measures which we must take in order to fight effectively for the transformation of our Party into a mass Communist Party. Concretizing the decisions of the 11th Plenum of the E. C. C. I. and applying them to the specific conditions in the United States, the Plenum of our Central Committee issued a number of slogans with which to mobilize the Party and the workers for the development of the proletarian counter-offensive. Chief of these slogans is the slogan of "Face to the Shops." In accordance with the general line of the Communist International for the present period, our Central Committee undertook to direct the attention of the Party and the workers that follow the Party's leadership to the vital importance of building up the strength of the revolutionary workers *in the shops and factories*. This is where the power of the working class counts most. This is the place where the Party and the revolutionary unions, as well as the revolutionary oppositions in the

reformist unions must root themselves in order to be able to promote effectively the organization of the proletarian counter-offensive. Consequently, the task of transforming our Party into the mass Party of the American proletariat must be carried out primarily by building our strength in the shops and factories without weakening in any way our work among the unemployed.

The fulfillment of this task also involves the giving of systematic assistance and guidance to the Young Communist League, the Party's assistant in the fight for Socialism, and the building up of the Y. C. L. into a mass organization of the American working class and toiling youth. Every Party unit, and every Party member must help the Y. C. L. carry out this basic task.

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The 11th Plenum of the E. C. C. I. has made it the duty of *every individual Communist* to expose the social-fascists as agents of the imperialist bourgeoisie in the preparations for military intervention against the Soviet Union, to expose their false pacifism as an organic and integral part of these war preparations, and to win the masses away from the social-fascists for the anti-war struggles under the leadership of the Communist Party.

### Developing the Daily Struggles of the Workers

There exists a grave underestimation of the importance of organizing and leading the daily struggles of the workers for their "small" grievances and immediate demands. Some comrades think that the attitude of minimizing the importance of such struggles is a sign of being a good proletarian revolutionist. Nothing is further from the truth. Behind this unwillingness and hesitation to organize the daily fight of the workers, especially in the shops and factories, for the rectification of their grievances and for their economic demands, there usually lurks either plain right opportunist passivity, if not cowardice, or a narrow sectarian conception of the tasks of the Communist Party, which conception is

also opportunist although it covers itself with "left" phrases.

The truth is that the organization and leadership of these daily struggles of the workers, even for their smallest demands, is one of the most important tasks of the Communists and the Communist Party. It is only through the fulfillment of this task that we will be able to develop the proletarian counter-offensive, building up in the process the revolutionary unions and the other transmission belts, transforming our Party into a mass Party and winning the majority of the working class. This task of developing the daily struggles of the workers is the very essence of the united front policy from below and this policy is the most powerful weapon in our hands for the fulfilment of the main aims of our movement in the present period. The 11th Plenum of the Communist International concludes its general political resolution with the following words:

"Only by conducting persistent systematic and everyday struggle, only by really fighting for the everyday interests of the workers and utilizing even the slightest signs of protest of the masses of the workers, against exploitation and fascist reaction, will the Communist Parties, be able to achieve the broad united front from below, defeat social democracy, create mass revolutionary trade unions, or revolutionary trade union oppositions, win the majority of the working class and lead the working class to the decisive battle for the dictatorship of the proletariat."

## Chapter 8

### The Struggle Against Deviations from the Leninist Line

### Bolshevik Intolerance to Opportunism and Opportunist Deviations

Bolshevism is highly intolerant towards opportunism and opportunist deviations because opportunism in the labor

movement constitutes the influence of the capitalist ideology upon the working class.

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But the successful fight against opportunist deviations requires on the part of every Party member the utmost alertness, intolerance, and irreconcilability towards opportunist deviations, especially against sectarianism and formalism. We observe however, among certain Party members, a tendency to be easy going, tolerant and conciliatory towards opportunist deviations. This is a dangerous attitude which is very harmful to the interests of the working class and to the growth of our Party. It is this attitude that Comrade Stalin attacked so sharply, branding it as "rotten liberalism" and calling upon every communist to demonstrate in practice in his everyday revolutionary work true Bolshevik intolerance of and irreconcilability with all opportunist deviations from the Leninist line.

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**Petitioner's Exhibit No. 145**

## THE COMMUNIST PARTY

### A Manual on Organization

By J. Peters

Workers Library Publishers

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### Preface

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Comrade Peters has added much to the existing material both from more recent international experience and especially from the recent experience of our own Party, experience that is very rich and valuable. The Manual embodies, therefore, the best that is available in the theory and practice of organization in our own Party and the Communist International. Comrade Peters not only is thoroughly acquainted with the fundamental principles of Leninist organization but has had a wide and varied experience in organi-

zational work over a period of many years. It is this combination of theory and practice permeating the Manual that makes it so valuable to our Party. I am sure that when this Manual becomes popularized in the Party we will wonder how we could have gotten along without such a weapon for so long.

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THE COMMUNIST PARTY

A MANUAL ON ORGANIZATION

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THE ROLE AND AIM OF THE COMMUNIST PARTY

As the leader and organizer of the proletariat, the Communist Party of the U.S.A. leads the working class in the fight for the revolutionary overthrow of capitalism, for the establishment of the dictatorship of the proletariat, for the establishment of a Socialist Soviet Republic in the United States, for the complete abolition of classes, for the establishment of socialism, the first stage of the classless Communist society.

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THE ALLIES OF THE PROLETARIAT

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The revolutionary overthrow of the capitalist system is the historic mission of the working class. But the workers cannot fulfill their mission if they fail to win over the wide sections of the toiling masses. It is essential that the proletariat wins to its cause all its allies, without whom there cannot be a successful revolution.

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The Party can stand at the head of the national revolutionary struggle of the Negro masses against American imperialism only if it energetically carries through the following tasks:

"The Party must mobilize the masses for the struggle for equal rights of the Negroes and for the right of self-deter-

mination for the Negroes in the Black Belt. It must ruthlessly combat any form of white chauvinism and Jim-Crow practices. It must not only in words, but in deeds, overcome all obstacles to the drawing in of the best elements of the Negro proletariat, who in the recent years have shown themselves to be self-sacrificing fighters in the struggle against capital.

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### International Solidarity

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The Communist Party mobilizes the masses for international solidarity with the struggle of the workers in other capitalist countries.

The Communist Party rallies the masses against imperialist war and fascism, and for the defense of the Soviet Union.

The Soviet Union is the only fatherland of workers all over the world. It is the achievement of the international proletariat. It is the most important factor for the liberation of all workers in every country. Therefore, the workers all over the world must help the Soviet Union in building socialism, and must defend it with all their power against the attacks of the capitalist powers.

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## II. Basic Principles of Party Organization

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### Democratic Centralism

Democratic centralism is the system according to which:

1. All leading committees of the Party, from the Unit Bureaus up to the highest committees, are elected by the membership or delegates of the given Party organization.

2. Every elected Party committee must report regularly on its activity to its Party organization. It must give an account of its work.

3. The lower Party committees and all Party members of the given Party organization have the duty of carrying out the decisions of the higher Party committees and of the Communist International. In other words, decisions of the C.I. and of the higher Party committees are binding upon the lower bodies.

4. Party discipline is observed by the Party members and Party organizations because only those who agree with the program of the Communist Party and the C.I. can become members of the Party.

5. The minority carries out the decisions of the majority (subordination of the minority to the majority). Party questions are discussed by the members of the Party and by the Party organization until such time as a decision is made by the Party committee or organization. After a decision has been made by the leading committees of the C.I., by the Central Committee of the Party, or by the National Convention, this decision must be unreservedly carried out even if a minority of the Party membership or a minority of the local Party organizations is in disagreement with it.

6. The Party organizations, Units, Sections, and Districts, have the full initiative, right and duty to decide on local questions within the limits of the general policies and decisions of the Party.

### Decisions of Higher Bodies Binding on Lower Bodies

On the basis of democratic centralism, all lower Party organizations are subordinated to the higher bodies; District organizations are subordinated to the Central Committee; Section organizations are subordinated to the District Committee; Party Units (shop, street and town) are subordinated to the Section Committees.

All decisions of the World Congress and committees of the C.I. must be fulfilled by all parties of the C.I. All decisions of the National Convention and the Central Committee must be fulfilled by the whole Party; all decisions of the

District Convention and Committee must be fulfilled by the Section organizations of that District; all decisions of the Section Convention and Committee are binding on the shop, street and town Units in that Section.

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### Party Discussion and Freedom of Criticism

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It is clear, however, that basic principles and decisions, such, as for example, the Program of the Communist International, cannot be questioned in the Party.

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We do not question the correctness of the revolutionary theory of the class struggle laid down by Marx, Engels, Lenin and Stalin. We do not question the counter-revolutionary nature of Trotskyism.

We do not question the political correctness of the decisions, resolutions, etc., of the Executive Committee of the C.I., of the Convention of the Party, or of the Central Committee after they are ratified.

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### Why Do the Communists Attach So Much Importance to Discipline?

Because without discipline there is no unity of will, no unity in action. Our Party is the organized and most advanced section of the working class. The Party is the vanguard of the proletariat in the class war. In this class war there is the capitalist class with its henchmen and helpers, the reformist leaders, on one side, and the working class and its allies, on the other. The class war is bitter. The enemy is powerful; it has all the means of deceit and suppression (armed forces, militia, police, courts, movies, radio, press, schools, churches, etc.). In order to combat and defeat this powerful enemy, the army of the proletariat must have a

highly skilled, trained General Staff (the Communist Party), which is united in action and has one will.

### What Is Self-Criticism?

Self-criticism is the most important means for developing Communist consciousness and thereby strengthening discipline and democratic centralism. Self-criticism helps to discover all the mistakes, deviations, shortcomings, which separate us from the masses, and to correct them. It helps us to discover and expose the harmful policies or practices of organizations and individuals who work against the interest of the masses. Self-criticism helps us to improve the work of the Party organizations; to exterminate bureaucracy; to expose the agents of the enemy in our ranks.

### Two Kinds of Criticism

Self-criticism is a natural part of the life of the Party.

Without self-criticism there can be no Communist Party. But this criticism must never depart from the line of the Party, from the principles of Marxism-Leninism.

The other is the kind of criticism which is based on distortion of the line of the Party or does not offer any proposal to improve the work, or to correct mistakes. This is destructive criticism, which, if tolerated, inevitably leads not only to driving out new members, discouraging the weaker elements and disrupting the work of the Party, but also leads to factionalism.

## III. Structure and Functions of the Party Organizations

The most important points where the Communist Party must work untiringly so as to fulfill the task of winning the

majority of the working class for the struggle against capitalism are the following:

1. The big factories, mines, mills, docks, ships, railroads, etc., where the great masses of the basic sections of the proletariat are employed.

2. The A. F. of L. unions and Railroad Brotherhoods, where millions of organized workers can be won for the Party program and led in decisive struggles.

3. The independent unions where the Communists must work with the same energy and perspective as in the A. F. of L. unions.

4. The organized and unorganized masses of unemployed.

5. The fraternal, cultural and sport organizations in which there are large numbers of working people.

6. The Negro organizations (churches, fraternal, cultural, etc.).

7. The huge farms where large numbers of agricultural workers are employed.

## The Communist International (Comintern)

The Communist International is the international organization of Communist Parties in all countries. It is the World Communist Party. The Communist Parties in the various countries affiliated to the Comintern are called Sections of the Communist International.

### The *Daily Worker*—The Main Instrument of the Units for Reaching the Masses

One of the main and most important instruments of agitation and propaganda in the hands of the Party Units is the *Daily Worker*, the central organ of our Party.

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The best leaders of our Party speak to the workers through articles in the *Daily Worker*. The Central Committee speaks to the workers through editorials. Comrades in the unions, worker correspondents from the factories and towns, tell the stories of their fight against capitalism. If we hand the *Daily Worker* to a worker, we get him in daily touch with the leadership of our Party, with the Central Committee, with the best, most experienced Communists.

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### Our Agitational and Propaganda Literature—Theory to the Masses

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The Party has made and is making available the most important works of Marx, Engels, Lenin and Stalin in low-priced editions. There can be no sound revolutionary movement built without the distribution of this literature. This is why the importance of literature distribution is stressed so much by the Party.

*The Communist*, the theoretical organ of the Central Committee, and *The Communist International*, organ of the Executive Committee of the Communist International, should be read by all the Party members, and receive a broad sale among the masses. There should be no Party member who does not read the *Party Organizer*, the monthly organ of the Central Committee which takes up all the current organizational problems of the Party giving concrete experiences and directives to aid our Party members in their every-day work.

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### What Is the Relation Between the C.P. and Y.C.L.?

The Young Communist League is a mass organization of youth. The Communist Party is responsible for building this very important mass organization.

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### What Are the Conditions for Membership in the Communist Party?

The conditions for membership in our Party are contained in the following pledge read by Comrade Browder to 2,000 workers who were initiated into the Party in the New York District in 1935.

*"I now take my place in the ranks of the Communist Party, the Party of the working class. I take this solemn oath to give the best that is in me to the service of my class. I pledge myself to spare no effort in uniting the workers in militant struggle against fascism and war. I pledge myself to work unsparingly in the unions, in the shops, among the unemployed, to lead the struggles for the daily needs of the masses. I solemnly pledge to take my place in the forefront of the struggle for Negro rights; against Jim-Crowism and lynching, against the chauvinist lies of the ruling class. I pledge myself to rally the masses to defend the Soviet Union, the land of victorious Socialism. I pledge myself to remain at all times a vigilant and firm defender of the Leninist line of the Party, the only line that insures the triumph of Soviet Power in the United States."*

Our Party application carries this declaration:

"The undersigned declares his adherence to the program and statutes of the C.I. and the Communist Party of the U.S.A. and agrees to submit to the discipline of the Party and to engage actively in its work."

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### Forces—Cadres

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Comrade Stalin in his speech in 1929 in the American Commission, said:

"The struggle for the winning of the millions of the working masses to the side of Communism must be intensified. The fight must be intensified for the forging of real revolutionary Party cadres and for the selection of real revolutionary leaders of the Party, of individuals capable of entering the fight and bringing the proletariat with them, individuals who will not run before the face of storm and will not fall into panic, but will sail into the face of the storm.

. . . . . .

### How Shall We Safeguard the Party Organization Against Stool-Pigeons and Spies?

The working class is constantly at war with its enemy, the capitalist class. In this war (class struggle), as in any other war, the capitalist class has one main objective—to defeat its enemy, the working class. In order to achieve this aim, the capitalists use all possible methods to disorganize, demoralize and divide the ranks of the proletariat. One of the most effective weapons in the hands of the enemy is the agent-provocateur, the stool-pigeon, the spy in the ranks of the working class, and especially in the ranks of the vanguard of the proletariat—the Communist Party.

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The most effective weapon in the hands of the Communist Party against these agents-provocateurs is the carrying out of the general line of the Party, the uncompromising fight against any one who attempts to deviate from this line, Bolshevik self-criticism and correction of mistakes and shortcomings in the work of the Party organization or individuals in the process of applying or carrying out the general line of the Party. In a Party organization where these principles are strictly adhered to, agents-provocateur will be exposed very quickly.

2. The second type of class enemy in the ranks of the Party and in other workers' organizations is the stool pigeon.

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FOR THE BOLSHEVIZATION OF THE PARTY

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Every Communist must become a leader of the workers. Every Communist must know that the Party has a historical mission to fulfill, that it has the mission of liberating the oppressed exploited masses from the yoke of capitalism, that it has the mission of organizing and leading the masses for the revolutionary overthrow of capitalism, and for the establishment of the new world, a Soviet America.

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**Petitioner's Exhibit No. 147**

*The Daily Worker*

CROUCH, COMMUNIST YOUTH LEADER, SHOWN IN U.S.S.R.

*The tall man in the center is Paul Crouch. To the leader's left in the light sheepskin coat; is a German Communist youth delegate. The others are Red Army soldiers who welcomed the young Communist anti-militarist leader to the U. S. S. R.*

*This is Paul Crouch, American Communist youth leader, in a Red Army uniform. The photo was taken while Crouch was on a visit to the U. S. S. R.*

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**Petitioner's Exhibit No. 148**

THE STRUGGLE AGAINST IMPERIALIST WAR AND THE TASKS OF THE COMMUNISTS

RESOLUTION OF THE SIXTH WORLD CONGRESS OF THE COMMUNIST INTERNATIONAL, JULY-AUGUST, 1928
WORKERS LIBRARY PUBLISHERS

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II. ATTITUDE OF THE PROLETARIAT TOWARDS WAR

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War is inseparable from capitalism. From this it follows that the "abolition" of war is possible only through the

abolition of capitalism, *i.e.*, through the overthrow of the bourgeois class of exploiters, through the proletarian dictatorship, the building of Socialism, and the elimination of classes. All other theories and proposals, however, "realistic" they may claim to be, are nothing but a deception calculated to perpetuate exploitation and war.

For this reason, Leninism combats all pacifist theories concerning the abolition of war and points out to the masses of the workers and to all the exploited people the only way leading to this goal: the overthrow of capitalism.

8. But the overthrow of capitalism is impossible without force, without armed uprising and proletarian wars against the bourgeoisie. In the present epoch of imperialist wars and world revolution, as Lenin has stated, proletarian civil wars against the bourgeoisie, wars of the proletarian dictatorship against bourgeois states and against world capitalism, and national revolutionary wars of the oppressed peoples against imperialism, are inevitable and revolutionary. Therefore, the revolutionary proletariat, precisely because it is fighting for Socialism and for the abolition of war, cannot be against every war.

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A. The Proletariat Fights Against Imperialist Wars

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(d) A matter of decisive importance is the work among the youth, especially among the industrial youth. The greatest efforts must be exerted—not only by the youth organizations, but by all Communists—in combating bourgeois sport organizations, fascist organizations, military schools, etc., through which the bourgeoisie are training the youth for imperialist wars. Furthermore, bourgeois military training of the youth must also be combated. Where the military training of the youth is compulsory, the Communists should urge the young workers to accept it, but they must organize work for the political education of these young workers and for the disintegration of the bourgeois military organiza-

tions. Similar work must be carried on in the bourgeois voluntary military training organizations. For this purpose the Communist Party and the Young Communist League must send members into these organizations, but they must not urge the young workers to join them. Instead, they must urge the young workers to join, or form, Labor Defense organizations.

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**Petitioner's Exhibit No. 149**

THE UNITED FRONT

THE STRUGGLE AGAINST FASCISM AND WAR
BY GEORGI DIMITROFF

*General Secretary, Communist International*

INTERNATIONAL PUBLISHERS
NEW YORK

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It is perfectly obvious that the interests of the American proletariat demand that all its forces dissociate themselves from the capitalist parties without delay. It must find in good time ways and suitable forms to prevent fascism from winning over the wide mass of discontented working people. And here it must be said that under American conditions the creation of a mass party of working people, a *"Workers' and Farmers' Party,"* might serve as such a suitable form. *Such a party would be a specific form of the mass People's Front in America* and should be put in opposition to the parties of the trusts and the banks, and likewise to growing fascism. Such a party, of course, will be *neither* Socialist *nor* Communist. But it *must be* an anti-fascist party and *must not be* an anti-Communist Party.

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It goes without saying that such a party will fight for the election of its own candidates to local government, to the state legislatures, to the House of Representatives and the Senate.

Our comrades in the United States acted rightly in taking the initiative for the creation of such a party. But they still have to take effective measures in order to make the creation of such a party the cause of the masses themselves. The question of forming a "Workers' and Farmers' Party," and its program, should be discussed at mass meetings of the people. We should develop the most widespread movement for the creation of such a party, and take the lead in it. In no case must the initiative of organizing the party be allowed to pass to elements desirous of utilizing the discontent of the millions who have become disillusioned in both the bourgeois parties, Democratic and Republican, in order to create a "third party" in the United States, as an anti-Communist party, a party directed against the revolutionary movement.

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The working class possesses a firm, well-knit revolutionary vanguard, the Communist International. It has a tried and recognized, a great and wise leader—Stalin.

The whole course of historical development, comrades, favors the cause of the working class. In vain are the efforts of the reactionaries, the fascists of every hue, the entire world bourgeoisie, to turn back the wheel of history. No, that wheel is turning forward and will continue to turn forward until a worldwide Union of Soviet Socialist Republics shall have been established, until the final victory of socialism throughout the whole world.

*There is but one thing that the working class of the capitalist countries still lacks—unity in its own ranks.*

So let the clarion call of Marx and Engels, Lenin and Stalin, the battle cry of the Communist International, ring out all the more loudly from this platform to the whole world:

*Workers of all countries, unite!*

• • • • • • • • • •

The whole anti-fascist youth is interested in uniting and organizing its forces. Therefore you, comrades, must find such ways, forms and methods of work as will assure the

formation, in the capitalist countries, of a *new type* of mass youth organizations, to which no vital interest of the working youth will be alien, organizations which, without copying the Party, will fight for *all* the interests of the youth and will bring up the youth in the spirit of the class struggle and proletarian internationalism, in the spirit of Marxism-Leninism.

. . . . . .

The land of victorious socialism, which is playing such an outstanding part in uniting the international proletariat, is rallying all sincere supporters of the workers' cause still more closely around the U.S.S.R. In the present international situation there is not, nor can there be any other, *more certain criterion,* than one's *attitude* toward the Soviet Union, in determining who is the *friend* and who the *enemy* of the cause of the working class and socialism, of determining who is a *supporter* and who an *opponent* of democracy and peace. The *touchstone* in checking the sincerity and honesty of every individual active in the working class movement, of every working class party and organization of the working people, and of every democrat in the capitalist countries, is their *attitude* toward the great land of socialism. You cannot carry on a real struggle against fascism if you do not render all possible assistance in strengthening the *most important buttress* of this struggle, the Soviet Union. You cannot carry on a serious struggle against the fascist instigators of a new world blood bath, if you do not render undivided support to the U.S.S.R., a *most important factor* in the maintenance of international peace. You cannot carry on a real struggle for socialism in your own country, if you do not oppose the enemies of the Soviet State, where this socialism is being fulfilled by the heroic efforts of the working people. You cannot be a *real friend* of the U.S.S.R., if you do not condemn its enemies—the Trotsky-Bukharinite agents of fascism.

The *historical dividing line* between the forces of fascism, war and capitalism, on the one hand, and the forces of peace,

democracy and socialism on the other hand, is in fact becoming the *attitude* toward the Soviet Union, and not the formal attitude toward Soviet power and socialism in general, but the *attitude* to the Soviet Union, which has been carrying on a real existence for twenty years already, with its untiring struggle against enemies, with its dictatorship of the working class and the Stalin Constitution, with the leading role of the Party of Lenin and Stalin.

Herein lies the third and most important lesson of principle for the proletariat of the capitalist countries in connection with the twentieth anniversary of the great October Socialist Revolution.

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**Petitioner's Exhibit No. 150**

## ACCEPTANCE SPEECHES

WILLIAM Z. FOSTER
*Candidate for President*
AND
BENJAMIN GITLOW
*Candidate for Vice-President*
Of the Workers (*Communist*) Party

NATIONAL ELECTION CAMPAIGN COMMITTEE
WORKERS (COMMUNIST) PARTY
1928

* * * * * * * * * * *

### ACCEPTANCE SPEECH OF WILLIAM Z. FOSTER
Candidate for President

* * * * * * * * * * *

### OUR REVOLUTIONARY PURPOSE

We are not going into the national election campaign solely for the purpose of getting votes. It is of course important that we register the extent of our Party's support in the working class by mobilizing the maximum number to vote for our candidates. It is also important, should the

possibility present itself in any of the state or local elections, to elect Communist candidates, so that they can utilize the legislative bodies as a forum wherefrom to acquaint the workers with the iniquities of capitalism and the necessity of the Communist program. But we also have other, bigger objectives in the national election campaign. Our aim must be to arouse the class-consciousness of the masses in a political sense and to mobilize them for struggle on all fronts. Vote-getting is only one aspect of this general mobilization of the workers.

Our Party, different from the Socialist Party, creates no illusions amongst the workers that they can vote their way to emancipation, that they can capture the ready-made machinery of the state and utilize it for the emancipation of the working class. On the contrary, we must utilize this campaign to carry on a widespread and energetic propaganda to teach the workers that the capitalist class would never allow the working class peacefully to take control of the state. That is their strong right arm and they will fight violently to the end to retain it. The working class must shatter the capitalist state. It must build a new state, a new government, a workers' and farmers' government, the Soviet Government of the United States. (Applause.)

No Communist, no matter how many votes he should secure in a national election, could, even if he would, become president of the present government. When a Communist heads a government in the United States—and that day will come just as surely as the sun rises (Applause)—that government will not be a capitalistic government but a Soviet government, and behind this government will stand the Red Army to enforce the Dictatorship of the Proletariat. (Applause.)

* * * * * * * * * * *

But on the other hand, we must not put forth our immediate demands in the sense that they of themselves make for the emancipation of the working class. In all our agitation around these demands we must emphasize the absolute ne-

cessity for the proletarian revolution. Our strategy is to utilize these immediate demands to educate and organize the masses in preparation for the final revolutionary struggle, which will abolish capitalism altogether. Reliance upon immediate demands would lead us merely to reformism. Our Party is a revolutionary Party. It aims not simply to ease conditions a bit under capitalism for the workers but to abolish capitalism altogether. (Applause.)

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**Petitioner's Exhibit No. 151**

WILLIAM SHIFTER,
c/o AGADSTEIN,
28 CHRISTOPHER ST.,
BROOKLYN, N. Y.

June 13, 1934

Jane Porter,
Box 313,
Charlotte, N. C.

Dear Comrade:

The national fraction has instructed me to immediately get in touch with the fraction secretary of every district, and where there are no fractions functioning to make a report of this, and take steps to establish such functioning fractions.

Please report at once whether there is a fraction functioning in your leading committee and send at the same time the name of the fraction secretary, with a private address where he can be reached.

All communications in regard to Party matters must in the future be sent to me, under name and address as above, and the practice must be discontinued of discussing Party and fraction matters in letters to the national office as such.

The outline for the Party units on the 9th anniversary of the I.L.D, which outlines the tasks of the fractions, has been

issued by the national agitprop of the Party. A copy of this is enclosed..

Comradely,
LOUIS COLMAN
Louis Colman
ILD NATIONAL FRACTION SEC'Y

lc/rr

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**Petitioner's Exhibit No. 157**

DAILY WORKER

CENTRAL ORGAN COMMUNIST PARTY U.S.A. (SECTION OF COMMUNIST INTERNATIONAL)
JULY 16, 1934

## GENERAL STRIKE SWEEPS FRISCO

### 125,000 WORKERS WALK OUT TODAY TO BACK MARINE STRIKERS' FIGHT

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City Already in Grip of Walkout as Street Railway Workers Quit; Strike Actions Spread Over Entire Pacific Coast

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BULLETIN

Portland, Ore., July 15.—Eighty local unions here voted for a general strike. Not one union voting has yet refused to favor a general walk-out.

San Francisco, July 15.—The entire Golden Gate area will be in the grip of a general strike at 8 o'clock Monday morning.

Following the walk-out of thousands of workers in many trades here during the last few days, the street railway workers struck today, giving the general strike movement a powerful forward sweep.

The general strike was decided upon at a meeting of representatives of 125,000 San Francisco workers yesterday. Responding with overwhelming power to the militant fight of the embattled longshoremen, the workers of every organized industry forced through their determination to fight it out side by side with the dock workers by a vote of 89 for and only 3 against.

The motion that all come out on strike on Monday morning was made by Harry Bridges, militant longshore strikers' leader.

Meanwhile, with many unions already out in full force, the entire city was strangely quiet today. Lack of gasoline tied up normal automobile traffic. Restaurants were closing as 6,000 cooks, waiters and culinary workers voted to strike tomorrow morning. Over 3,000 ice-men and almost 2,000 retail butchers today also voted to quit work tomorrow morning.

The general strike will not be limited to San Francisco, but to the entire Bay region. It will affect the cities of Oakland, Berkeley, Richmond, Alameda, Palo Alto, Redwood City, San Mateo, Sausalito, San Rafael, and other towns along San Francisco and San Pedro Bays.

Oakland workers are expected to walk out at 8 a.m. on Tuesday.

The call for the San Francisco strike vote conference was issued to the locals on Friday night. Each union was instructed to send five delegates. All of these delegations were hand-picked, either members of the executive committees or officials, as the locals had no chance to meet.

### Reactionary Move

This move was put through by the reactionaries, who feared the election of a militant strike committee. Of the locals represented, 69 voted to strike, and only three against. Forty-nine other locals reported that they had not yet been instructed by their memberships to vote, but they decided

to go in answer to the general call. All locals were instructed to meet immediately if necessary to take the strike vote, and to elect five delegates apiece for a meeting at 10 a.m., Monday, when it is promised that a strike committee can be voted for.

The meeting of the conference yesterday was one of the stormiest ever witnessed here. At least 700 delegates were in the hall, with thousands of workers outside of the Labor Temple, shouting for the general strike. All efforts for postponements were defeated.

The motion of Bridges that all go out on strike on Monday morning was passed overwhelmingly. In the election of officers of the strike committee all those chosen by the small body were reactionaries. Edward D. Vanderleur, chairman, had been working for "peaceful arbitration." C. W. Deal of the Ferryboat Men's Union, was elected vice-president by a close vote over Harry Bridges. Kidwell was chosen secretary. Bridges, however, was elected to the general strike committee. All three of these officers have consistently been opposed to the general strike, but were forced by the sentiment of the workers to vote in favor of it. Throughout the meeting storms of boos greeted the reactionaries, in contrast to the wild cheers for Bridges.

In addition to the 125,000 organized workers who will go out on strike the general walkout will affect thousands of other unorganized non-union workers.

The thousands of workers who flocked to the American Federation of Labor unions were so powerful in their strike sentiment that not one union voted against the walkout. The Labor Council on Friday night read a telegram from William Green, president of the A. F. of L., similar to the one sent to Seattle. Thereupon the fakers, facing a unanimous demand for the strike, decided to shift technical responsibility, although at the same time holding on to the leadership. They could not, however, avoid the strike, since at the same meeting locals totalling about 10,000 members, in addition to the 14,000 already out, reported that they were coming out anyway before Monday.

The same sentiment prevailed in Oakland.

Before the action of the conference was taken, the Market Street Railway men voted to strike at two o'clock Sunday morning. They have won their own demands. It is reported that the Municipal car men will follow, making the street-car tie-up complete.

Those who voted for strike prior to decision are: 6,000 ordinary workers, 1,200 laundry drivers, retail butchers and many hundreds in smaller trades and crafts.

Mayor Rossi of San Francisco, in a vicious radio address, virtually promised martial law in the city, and ordered 500 additional policemen on duty. Every likelihood exists that regular army troops will be sent to the scene.

Paralysis is gradually creeping through the city. Few vehicles are on the streets, as the gas supply is practically exhausted. Stores are running short of food supplies.

A statement issued by the Communist Party here denounces the strike committee officers and the executive committee of 25 picked by Chairman Vanderleur. This statement calls for the election of rank and file delegations at tomorrow's conference, and to effect a change in the leadership, bringing it under the leadership of the rank and file workers. The Communist Party warns against provocation and the possibility that Roosevelt will come here personally in an arbitration move. It appeals also that the food problem for the workers be solved by proper distribution, by fighting against profiteering.

Portland, Oregon has also reported that it will meet on Monday to decide upon its participation in the general strike. The Los Angeles Central Labor Union has thus far confined its aid to finances. The likelihood of a general walkout is strong in San Pedro.

President Roosevelt's trip to Hawaii has been cancelled, it is known, and he is undoubtedly coming here to intervene personally in the strike situation.

The solidarity and spirit of all the people here in favor of the strike is unprecedented in the country. The prestige

of the Communist Party here, which took a leading part in the organization and preparation of the general strike, is tremendous.

Provocations against the workers are undoubtedly brewing, as the entire capitalist press featured a story about an alleged Communist march on San Francisco to "blow up bridges," etc., as well as other incendiary anti-working class stories.

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## For Victory of the General Strike

### An Editorial

The general strike is on in San Francisco!

Overwhelmingly, the workers of San Francisco have rejected every effort of the small group of decrepit misleaders who fought to stave off the general strike in support of the marine and dock workers.

Every worker throughout the country should joyously greet this action of the San Francisco workers. They are in the front ranks of the great battle against the vicious attacks of the bosses and their government on every elementary right of the American workers. They are fighting against the same bloody murder terrorism that is harrassing the workers throughout the country.

Now that the San Francisco workers are tying up every wheel of industry, the bosses resort to the most depraved charges, to the wildest provocations. They declare that the Communist Party wants to destroy the railroads, wants to turn the strike into an armed insurrection, into revolution. They know this is the sheerest nonsense. But it is done in order beforehand to justify the most bloody onslaught against the workers, particularly its most devoted, its most loyal, class-conscious leadership, the Communist Party, the revolutionary trade union leaders, and the rank and file militants.

The Communist Party is the first to declare that this

general strike is not for armed insurrection or revolution, but is a battle for the most elementary rights of the workers, the right to organize, union recognition, the right to strike without the strikers being murdered by the militia, for better conditions, and against the company unions and fink hiring halls. These rights are being shamelessly smashed by the Roosevelt government. The Communist Party is for the most effective united front of the workers, the rousing and rallying of the workers throughout the United States in support of this heroic general strike.

* * *

The workers in San Francisco took the correct steps. The whole government apparatus, the city, state, and federal forces, including representatives of the Roosevelt government, were lined up against the dockers and seamen who have been striking since May 9. The workers bitterly felt that their brothers were being attacked by the whole force of the capitalist government, and that if they lost their strike, it would be a blow to the whole labor movement. Hence, they decided to bring up the most powerful reinforcements of the working class in this battle—the general strike! Only in this way, they realized, could they beat back the superior enemy.

Now that the general strike has been called, the Communist Party, which has been exposing every move of the misleaders to prevent its being called, warns the workers against their treachery now more than ever. The greatest danger to the general strike now is the enemies of the workers in their own ranks who, finding they could not prevent it, go along only to be able better to stab it in the back at the most opportune moment.

The first step of Edward D. Vanderleur, heading the "strategy committee" (whose strategy consisted of how best to avoid and impede the strike) was bureaucratically to take it upon himself to "appoint" a committee of 25 "to lead the general strike." Here is where the great danger

lies! Even though Vandeleur was forced to appoint Harry Bridges, militant leader of the dockers, on the committee because he has been acclaimed as leader by thousands of workers in the general strike, unless the workers themselves, through a broad rank and file general strike committee, can take the destiny of the strike into their own hands, they are in for the most rotten treachery, as the history of all general strikes shows.

The great task before the workers, entering the struggle so enthusiastically with such high spirit of working class solidarity, is to make the most effective use of their powerful weapon, the general strike. All workers are coming out together, shoulder to shoulder, and should stick together until the victory has been won. All unions entering the strike should take up the question of union recognition, where this has not been won; unorganized workers who join the strike, should draw up their own demands; the fight of every union, the main aim, victory of the dock strike, should be directed against the company unions, against the terror, for the right to organize, strike and picket, for better conditions.

In every port in the United States, the Communists should take the lead in the most energetic campaign to extend the dock and seamen's strike to cover the whole country. Now is the time for the East, South and Gulf ports to join their brothers and win for themselves recognition and better conditions. Never in the history of the country has there been a more favorable opportunity for all marine workers to walk out and win what for many years they have been striving for.

Every ounce of energy, every step should be taken, to spread the marine strike to every port in the country.

* * *

Already, the capitalists and their government agents have seen to it that the whole country is propagandized with lying, poison blasts against the San Francisco general strike. On Saturday night, Mayor Rossi of San Francisco broadcast

a vicious speech against the strike over a nation-wide hook-up. He praised the strike-breakers, and besmirched the militant leaders of the strike.

The San Francisco strike has become the leading national issue before the entire American working-class. The San Francisco workers are fighting the battle so near to the heart of the steel workers, the coal miners, the railroad workers, the auto workers—in fact, of every worker in the United States.

Every worker is involved in this struggle, as his rights are involved, his living conditions will be affected by the outcome of the San Francisco strike.

Every worker, organized and unorganized, especially trade union members, must take immediate action in support of their brothers in the San Francisco general strike. The whole working class in the United States must take steps to help insure the victory of the San Francisco general strike.

Every A. F. of L. union should immediately pass resolutions of sympathy and solidarity with the San Francisco strike, which should be forwarded post-haste to the general strike committee. Resolutions of protest should be sent to Governor Merriam of California and Mayor Rossi of San Francisco! Protesting the slaughter of workers and the reign of terror. Wherever possible, sympathy strikes should be called, even if of the shortest duration, in support of the San Francisco general strike.

All workers' organizations should make it the first order of business to declare their support and solidarity with the San Francisco strikers. A flood of telegrams, letters, money for relief, protests to all government forces, should be sent out. Mass meetings should be arranged throughout the country to arouse and organize the workers in support of the strike.

The whole working class, which is following this strike like a hawk, should be mobilized for some form of action,

for some definite, tangible, concrete step in order to help our brothers in San Francisco win victory that will have the greatest effect on all future struggles of the workers in the United States.

For the victory of the general strike, above all, the main necessity is that the control of the strike shall rest in the hands of the most trusted, the most reliable, and most militant rank and file representatives of every union.

Workers throughout the United States! Mass your forces behind your brothers in the heroic General Strike in San Francisco! Leave no stone unturned in your union, in your shop, in your neighborhood, to win support for the general strike, in arousing the enthusiasm and sympathy and solidarity of every worker behind their brothers in San Francisco!

Rally behind the workers in San Francisco!

Defeat the terror and provocation and lies of the bosses!

Spread the marine strike to every port!

Act now to insure the victory of the general strike—which will be a victory for the entire working class of the United States!

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**Petitioner's Exhibit No. 158**

## THE COMMUNIST

OCTOBER, 1931

### THE XI PLENUM OF THE EXECUTIVE COMMITTEE OF THE COMINTERN

### EXTRACTS FROM REPORT TO 13TH PLENUM OF THE C. C. C. P. U. S. A.

By WILLIAM W. WEINSTONE

#### THE IMPENDING DANGER OF WAR

I wish now to pass over to the question of the war danger. As a result of the economic crisis and the revolutionary up-

surge, all imperialist tendencies of the bourgeois are becoming sharper, war preparations are increasing, the conflict among the imperialist powers is taking on more acute forms, in the center of which stands the antagonism between the United States and Great Britain. The main danger of war is the danger of a counter-revolutionary war of intervention against the U.S.S.R. Particularly aggressive is becoming the position of American capitalism against the U.S.S.R. American capitalism has always been the most hostile to the system in the Soviet Union. Of all major capitalist countries, it has been the only one that has refused recognition. As the crisis deepens, the aggressiveness against the Soviet Union increases and this imposes upon the Party the task of exposing the role of American imperialism, showing the true meaning of its pacifist phrases and maneuvers, of exposing the attacks against the Soviet Union under the cover of a host of viciously deceptive slogans such as "forced labor" in the U.S.S.R. and "dumping," which are accompanied with propaganda that American imperialism is trying to bring about peace in the world.

In this connection the Plenum combatted certain illusions in the ranks of the proletariat and revolutionary movement that it is useless to struggle against war, that wars being inevitable under capitalism, we can do nothing about them. This idea is a variation of the old Guesdist theme that "militarism is an effect of capitalism. Why fight against effects? Overthrow capitalism!" There is also an idea that the sooner the war, the better, because war will bring revolution, and along with this idea, the opportunists' conceptions that revolutions are possible only as a result of war. The position of the C.I. is that as long as the struggle against war does not lead to the overthrow of the capitalist society, wars are inevitable, but the struggle against war can prolong the period for the peaceful upbuilding of socialism in the U.S.S.R. while preparing the masses for the utilization and transformation of imperialist war into civil war; thus the proletariat under the leadership of the Communist Party

must play an active role in the postponement of war. Can anyone doubt that had the bourgeoisie not feared the action of the proletariat they would have already commenced war for the destruction of the Soviet Union? That was clearly brought out in the trial of the Industrial party and Mensheviks in the Soviet Union.

**Petitioner's Exhibit 158-A**

TASKS IN THE STRUGGLE AGAINST HUNGER, REPRESSION AND WAR

RESOLUTION OF THE 13TH PLENUM, CENTRAL COMMITTEE, C.P. U.S.A., ON THE MAIN TASKS IN THE ORGANIZATION OF MASS STRUGGLES AGAINST THE OFFENSIVE OF THE CAPITALISTS.

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The Central Committee emphasizes that the Party center and districts must take the most energetic measures to overcome all weaknesses and mobilize the widest front of struggle against imperialist war.

The Central Committee calls attention to the task assigned by the 11th Plenum of the E.C.C.I. which calls upon every member of the Communist Party to regard as a task of first importance the struggle against the war danger and the fight for the defense of the Soviet Union. As an important means to develop the struggle for the defense of the Soviet Union is the building of the *Friends of the Soviet Union* into a mass organization, the Communist Party organizations must assist in the building of the F.S.U. and in the organization of a workers' delegation to the November 7th celebrations, consisting chiefly of industrial workers from the basic industries.

**Petitioner's Exhibit No. 159**

THE COMMUNIST

OCTOBER, 1932

THE SHARPENING CAPITALIST OFFENSIVE, THE RISING TIDE OF MASS STRUGGLES AND THE NEXT TASKS OF THE PARTY
RESOLUTION OF THE FIFTEENTH PLENUM OF THE CENTRAL COMMITTEE, C. P., U. S. A.

f) The struggle against imperialist war, which becomes increasingly important and pressing each day, must be seriously strengthened. The lag in this work since the 14th Plenum, revealed in our agitation, but especially in the dropping off of the number of special actions (against shipment of munitions, against Japanese imperialism) and in the inadequate August 1 demonstrations, reveals weaknesses which must be overcome. The most systematic and energetic efforts must be made to carry out the directives given for this campaign, to rouse a mass movement against American imperialism and its war preparations, to defend the Chinese people, and to build a living wall of defense around the Workers' Fatherland, the Soviet Union.

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**Petitioner's Exhibit No. 160**

THE COMMUNIST

SEPTEMBER, 1933

THE FOURTEENTH ANNIVERSARY OF OUR PARTY

From the first our Party came forward as the Party of proletarian class struggle. It grew from the ranks of the matured American proletariat whose vanguard it is in the conduct of the day-to-day struggle toward its historic cul-

mination in the overthrow of the bourgeoisie and the establishment of the dictatorship of the proletariat.

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### Campaign Against Imperialist War and for Defense of the Soviet Union

In all our campaigns there must be tireless activity to mobilize the masses for struggle against the war plans of the imperialists, to protest and organize definite actions, such as stopping arms and munitions shipments. The feverish war preparations are a warning to the toiling masses that the most decisive actions must be taken against the conspiracies to unleash a new world slaughter, designed to be even more colossal and devastating than the war of 1914-18. In this connection special activity must be carried on among the toiling youth and particular assistance given to the Young Communist League in its anti-imperialist activity, in its work of penetrating the armed forces, etc.

The Communist Party rallies the American working class and all the toiling masses to defend the Soviet Union against the war plots of world imperialism, to defend the Chinese people against the ravages of imperialism, to demand that all war appropriations be converted into unemployment insurance for the millions of unemployed workers.

We constantly warn the American workers against the illusions of pacifism spread by liberals and Socialists. We bring before the masses the Marxist-Leninist analysis of capitalism to demonstrate that war is inherent in the capitalist system, that the only way to end war is to overthrow the capitalist system. Our Party equips the workers with the understanding that the struggle against the imperialist war must, in the event of war, be turned at the opportune moment into civil war for the overthrow of the war-breeding capitalist order. At the same time, we fight against the illusions prevalent among some Communists that revolution without imperialist war is impossible.

INTERNATIONALIZATION OF THE PARTY

As the United States section of the Communist International, our Communist Party takes part in the world revolutionary movement. It contributes in every possible way to aiding the fight of the working class and the oppressed masses in all parts of the world. It has representatives in the Communist International who study and contribute to the solution of the problems of all other Parties in the world. At the same time our Party has the benefit of the universal experiences of the revolutionary working class of the whole world which are expressed through the leadership of the Communist International. On many occasions since 1919 our Party has had the guidance of the Communist International in solving the most complicated problems.

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**Petitioner's Exhibit No. 162**

DAILY WORKER

NEW YORK, MONDAY, NOVEMBER 20, 1933

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RECOGNITION OF THE U.S.S.R. AND AMERICAN TOILING MASSES

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REVOLUTIONARY WAY OUT OF CRISIS

The Communist Party of the U. S. A., section of the Communist International, points out that the only guarantee of peace is the abolition of capitalism. Its main task is the abolition of capitalism in the United States.

The deepening of the crisis of American capitalism, the growing sympathy for the Soviet Union, gives the Communist Party of the U.S.A. the widest possibilities of convincing and winning the American toiling masses for the revolutionary way out of the crisis.

In this country, the Communist Party, section of the Communist International, basing itself on the principles of Lenin and Stalin, will more determinedly than ever strive to win

the American workers for the revolutionary way out of the crisis, for the emulation of the Soviet Union and its revolutionary victories.

Now, as before, the only guarantee against the anti-Soviet war moves, which thus far have been driven back by the tremendous strengthening of the economic, diplomatic and military position of the Soviet Union, lies in the mobilization of the widest movement for the defense of the Soviet Union among the oppressed masses in all lands and for the final overthrow of the capitalist war mongers.

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**Petitioner's Exhibit No. 183**

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES
(TRANSLATION)

The All-Union Communist Party (Bolshevik)
PRAVADA

No. 215(6461), August 6, 1935, p. 1. Organ of the Central Committee and of the Moscow Committee of the All-Union Communist Party (Bolshevik).

## THE PROGRAM OF THE STRUGGLE FOR THE UNITY OF THE WORKING CLASS

The brilliant report of Comrade Georgiy Dimitrov has already been discussed for the fourth day by the delegates of the Congress of the Comintern. A most urgent question is being discussed, which has occupied the thoughts of the proletarians of all the world, of all the working people. Before the working class, before the working people stands the alternative: *Fascism or Socialism, peace or war, freedom or slavery, bread or hunger.*

In the working masses there has now set in a turning from reformism toward a joint struggle with the Communists.

And if a single proletarian front, a people's anti-Fascist front, has not yet been brought about in all countries, this can be explained mainly by the resistance of the Second International and of the leaders of its sections. Comrade Dimitrov analyzed in detail the objections of the opponents of a single front with the Communists. And every honest workman, every laborer, every anti-Fascist, can be convinced of how groundless and artificial these objections are.

The Comintern does not impose any conditions as to the creation of unity of action except one: *that this unity be directed against Fascism, against the danger of a new imperialist war, against the offensive of capital.*

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The Communist parties are faced by a series of problems which determine the substance, the character and the direction of their struggle for the masses. Before each party there stands the problem of approaching closer to the masses than ever before, of developing work in all *mass* organizations more than ever, *irrespective of by whom they were created and for what purposes.*

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The life and struggle of the working masses is less like a system than anything else, and can be fitted into prepared patterns less than anything else. The Communists cannot be alien to anything that agitates the popular masses. Concern for the every-day interests of the working people, petty at first sight, and ability to sense closely the attitudes of the masses, to teach these masses and to learn from them—by this at the present time is verified the fighting ability and intensity of the revolutionary attitude of a Communist.

The Communists know that bourgeois democracy is not able at all to ensure firmly the interests of the proletariat and the working people. They know that *only the dictatorship* of the proletariat, *only the Soviet Government* is the sole salvation of the working class from the yoke of exploitation, from capitalistic barbarism, and is the only way to

socialism, one that has been tested by the experience of the U.S.S.R.

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The report of Comrade Dimitrov is a fighting program of action which even more decisively and under new conditions turns all the parties of the Communist International to face the masses, a program which brings the parties on the road of the struggle for the cause of Communism. This program has been tested in battles. And it must be carried out. Victory must be achieved, because on it depends the future of our class, the future of socialism, the future of humanity.

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**Petitioner's Exhibit No. 185**

THE COMMUNIST

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DECEMBER, 1935

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## THE SEVENTH WORLD CONGRESS OF THE COMMUNIST INTERNATIONAL AND THE TASKS OF OUR PARTY

### (RESOLUTION ADOPTED AT THE NOVEMBER PLENUM OF THE CENTRAL COMMITTEE OF THE C.P.U.S.A.)

The Central Committee of the C.P.U.S.A. endorses fully and wholeheartedly the decisions of the Seventh World Congress of the Communist International. These decisions are already proving the most powerful weapon for building the united front and the people's front against fascism and war, in the struggle for peace, for trade union unity, and for one working class political party.

It is vitally necessary that the decisions of the Seventh World Congress be made the property of the widest masses of American toilers. The Central Committee therefore greets the popularization campaign initiated by the Political Bureau through such means as open membership meetings, public symposium and debates, mass distribution of Dimi-

troff's report, etc. The enthusiastic reception given to the Browder reports, and the reports of the other comrades, by wide circles of workers, non-Communists as well as Communists, at such large gatherings as the memorable Madison Sq. Garden meeting and others throughout the country, proves the possibility for the widest mass popularization of the united front message of our Party.

The Central Committee urges the Party organizations to prosecute further this campaign with the utmost energy. We must strive especially to stimulate fraternal, comradely discussions with Socialists, trade unionists and farmer organizations, through symposiums and similar means, on the practical tasks of building the united and people's front. A most vital phase of this campaign is the popularization of the decisions of the Sixth World Congress of the Young Communist International to help build the widest anti-fascist youth front throughout the world. The Party press can and must play a most important role in this work.

The Central Committee approves wholeheartedly the work of the Party's delegation. The Central Committee notes especially the prominent part taken by the delegation —Party and Young Communist League—in the Congress deliberations and decisions, the coming forward of the C.P. U.S.A. as a major party in the world organization of the Communists and the harmonious working of the delegation as a body. From this arises a great responsibility, namely, the responsibility of making the united and people's front in the United States an example and a fortress of the world united front against fascism and war.

The Central Committee takes this occasion to send fraternal and revolutionary greetings to the Executive Committee of the Communist International, to its helmsman, Comrade Dimitroff, and to the great leader of the world revolutionary movement, Comrade Stalin.

Our chief task at present is to reorientate the work of the Party in accord with the tactical line of the Seventh World Congress. This line rests upon the central idea that the

working class is now in a position to exercise a decisive influence upon the affairs of its own country as well as upon world affairs. The final and irrevocable victory of socialism in the Soviet Union strengthens immeasurably the positions of the workers all over the world. The inability of the bourgeoisie to overcome the collapse of capitalist stabilization and the increasing urge of the Socialists and trade unionists to the united front enable the workers of every capitalist country to carry on an active revolutionary policy of weakening the positions of the bourgeoisie and of strengthening the positions of the proletariat and its allies. It is the policy of thwarting the imperialist designs of the bourgeoisie and its contemplated attacks upon the U.S.S.R. It is the policy of frustrating the offensive of the bourgeoisie upon the toilers and of checking its attempt to introduce fascism. It is a policy that is profoundly hostile to the policy of reforming capitalism which makes the working class the tail end of the bourgeoisie.

In order to help the American workers to pursue such an active revolutionary policy, the Communists must break with the remnants of the old methods of mere general propaganda, must eradicate all remnants of the old traditions of functioning as revolutionary oppositions to the Socialist Party, to the mass trade unions and other mass organizations of the toilers. The bankruptcy of reformist policies, the greater opportunities for winning the masses to revolutionary policies, and the growing urge to the united front—these developments are creating a condition where Communists can and must assume responsibilities for the fate and well-being of the working class and of all toilers today and everyday. We must seek to become an important political factor in the daily life of our country and in the life of the world.

To strengthen the positions of the proletariat in the United States, the Communists must carry on their daily work in such a way as will contribute most effectively to the organization of the millions of unorganized workers into industrial

unions and to the building up of the people's Farmer-Labor Party. This means also the organization and unification of the unemployed, much more serious work among the toiling farmers, the rendering of the most active assistance to the development of the people's liberation movement among the Negroes, the widest mobilization of the toiling women and youth. Only in this way will we enable the American working class to combat the capitalist offensive, to frustrate the incipient fascist movements, to fight effectively for peace and for the defense of the Soviet Union, to combat American imperialism and to render the utmost assistance to the national liberation movements especially in China, in the Caribbean and South America.

Our main weapon for accomplishing the above aims is the united front, trade union unity and trade union democracy. Despite the desperate opposition of the "Old Guard" in the Socialist Party and of the reactionaries in the American Federation of Labor the possibilities are growing more favorable every day for the realization of the united front between the Communists and Socialist Parties as well as for the struggle to realize trade union unity and trade union democracy. The Central Committee calls upon the Party organizations and every Party member to prosecute the struggle for the united front with the utmost determination and flexibility in the *new way* pointed out by the Seventh World Congress.

Every Party member must realize that in fighting for the realization of the united front of the working class we are fighting for the establishment of "the decisive link in the preparation of the toilers for the forthcoming great battles of the second round of proletarian revolutions". This is the link that will fuse the proletariat into a single mass political power and "will ensure its victory in the struggle against fascism, against the power of capital, for the dictatorship of the proletariat and the power of the Soviets". This gives us the line and methods to infuse the masses with the idea of Communism, the principles of Marxism-Leninism, in the

present period. This gives us the true weapon for the building and strengthening of the Communist Party, for the realization of the political unity of the American proletariat—one party—and for building the transition to the revolutionary struggle for a Soviet America.

The Central Committee calls upon the Party to do all in its power to help the Young Communist League to accomplish successfully the change in its character indicated by the Sixth World Congress of the Young Communist International. The cause of uniting the toiling youth is of the most vital importance for the successful struggle against fascism and war. Consequently we must help the Young Communist League to carry through its reconstruction in such a way as will make it most effective in the creation of a genuine mass non-Party youth organization "which will include in its ranks not only Communist youth but also Socialist, national revolutionary, pacifist, religious and other youth, which will educate all its members in the spirit of Marxism-Leninism".

The Central Committee places before the Party the important task of studying and devising the best ways of adjusting the Party organization and its structure to the practical tasks confronting us at present. The Central Committee especially urges the Party organizations to improve radically the quality of its cadres by promoting to responsible activity and leadership mass workers, leaders and organizers of mass struggles in the trade unions, among the unemployed, among the toiling farmers, among the youth and women, straining all efforts to enable these cadres to strengthen their theoretical and political education.

Realizing that sectarianism is the chief obstacle to the rapid reorientation of our work along the above lines, the Central Committee calls upon the Party to eradicate all vestiges of sectarianism, all stereotyped and mechanical approaches and methods, uprooting every resistance to effective mass revolutionary work and policies, and guarding vigilantly against Right opportunist tendencies. The Central Committee calls upon the Party membership to cultivate and display the utmost initiative, the ability to apply

in a living way the teachings of Marx, Lenin, Engels and Stalin, political alertness and tactical ability inseparably linked with firmness in the prosecution of our revolutionary aims and boundless loyalty to our revolutionary principles and program.

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**Petitioner's Exhibit No. 205**

*Daily Worker, May 26, 1943*

THE COMINTERN DECISION:

All the important implications and consequences of the proposed dissolution of the Comintern center are not yet fully apparent, nor can they be immediately visible.

The conditions which have made the Comintern as a guiding center both impossible and unnecessary will be discussed in a later article. What I want to emphasize at this point is that the Presidium does not propose to dissolve the Comintern center because the need to unite the workers on a world scale has disappeared. It proposes to do so because that particular organizational form for international proletarian unity, which was established at the First Congress of the Comintern in 1919

"and which corresponded to the needs of the initial period of the rebirth of the labor movement, more and more outlived itself in proportion to the growth of this movement and to the increasing complexity of problems in each country; and that this form even became a hindrance to the further strengthening of the national workers' parties."

That the leading body of any international workingclass organization frankly recognizes that it has outlived its useful function and has even become a hindrance to the growth of workers' parties in various lands must not be mistaken for a sign of weakness or of helpless collapse.

On the contrary, it is a token of the present strength, vitality and basic Marxist-Leninist approach to all those forces

throughout the world which for a quarter century maintained and sought to extend workers' unity through the medium of the Comintern.

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**Petitioner's Exhibit No. 206**

*Daily Worker, May 31, 1943*

COMINTERN DECISION MARKS NEW PERIOD OF WORKINGCLASS ACTIVITY

The dissolution of the Comintern is, therefore, a well-aimed blow at the very base of fascist propaganda, at Hitler, his Fifth Columns and their agents within the United Nations.

It is also a heavy blow at those who have been unable to overcome their prejudices against Communism, based mostly on the hard struggles of the past quarter century, and have themselves played into the hands of the nation's enemies by continuing their work against unity within the labor movement.

For these reasons the self-dissolution of the Comintern will help remove the obstacles to greater unity among the anti-Axis nations and to working class and national unity.

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**Petitioner's Exhibit No. 207**

THE COMMUNIST
JULY, 1943

RESOLUTIONS AND STATEMENTS OF THE NATIONAL COMMITTEE PLENUM

RESOLUTION ON THE DISSOLUTION OF THE COMMUNIST INTERNATIONAL

1. The Communist Party of the United States, through its National Committee, declares its full approval and agree-

ment with the proposal of May 15, 1943, by the Presiding Committee of the Communist International for the dissolution of the International. The C.P.U.S.A. discontinued its international affiliation in November, 1940, and is therefore not called upon to participate in the decision. The proposal is, however, of the greatest political importance, since it profoundly influences all political relationships, promotes the unification of the anti-Hitler coalition, disarms the Axis of its most potent weapon of disruption—the anti-Communist bogey—and opens the way within each nation toward more complete national unity in the prosecution of the war to victory.

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**Petitioner's Exhibit No. 208**

POLITICAL AFFAIRS

A MARXIST MAGAZINE DEVOTED TO THE ADVANCEMENT OF DEMOCRATIC THOUGHT AND ACTION

EARL BROWDER, *Editor;* EUGENE DENNIS, *Associate Editor;*
V. J. JEROME, *Managing Editor*
JULY, 1945

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ON THE DISSOLUTION OF THE COMMUNIST PARTY OF THE UNITED STATES

By JACQUES DUCLOS

REPRINTED FROM THE APRIL ISSUE OF CAHIERS DU COMMUNISME, THEORETICAL ORGAN OF THE COMMUNIST PARTY OF FRANCE.

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Without analyzing in detail Browder's full position on the dissolution of the C.P.U.S.A. and creation of the Communist Political Association, and without making a developed critique of this position, one can nevertheless deduce from it the following conclusions.

1. The course applied under Browder's leadership ended in practice in liquidation of the independent political party of the working class in the U. S.

2. Despite declarations regarding recognition of the principles of Marxism, one is witnessing a notorious revision of Marxism on the part of Browder and his supporters, a revision which is expressed in the concept of a long-term class peace in the United States, of the possibility of the suppression of the class struggle in the postwar period and of establishment of harmony between labor and capital.

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In truth, nothing justifies the dissolution of the American Communist Party, in our opinion.

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And as far as the American Communists are concerned, it is clear that their desire to serve the unity of their country and the cause of human progress places before them tasks which pre-suppose the existence of a powerful Communist Party.

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The American Communists have an especially important role to play in the struggle taking place between the progressive forces of the earth and fascist barbarism.

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**Petitioner's Exhibit No. 214-A**

*November 10, 1947, No. 1*

FOR A LASTING PEACE, FOR A PEOPLE'S DEMOCRACY!

A. ZHDANOV

## THE INTERNATIONAL SITUATION*

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*) A speech delivered at the Informative Conference of representatives of a number of the Communist Parties held in Poland at the end of September, 1947.

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## II.

## The New Post-War Alignment of Political Forces and the Formation of Two Camps: the Imperialist and Anti Democratic Camp, and the Anti-Imperialist and Democratic One.

A new alignment of political forces has arisen.

The principal driving force of the imperialist camp is the U.S.A. Allied with it are Great Britain and France.

The anti-fascist forces comprise the second camp. This camp is based on the U.S.S.R. and the new democracies. It also includes countries that have broken with imperialism and have firmly set foot on the path of democratic development, such as Rumania, Hungary and Finland.

All the forces of the anti-imperialist and anti-fascist camp are united in the effort to secure a just and democratic peace. It is this united effort that has brought about and strengthened friendly co-operation between the U.S.S.R. and democratic countries on all questions of foreign policy. These countries, and in the first place the new democracies—Yugoslavia, Poland, Czechoslovakia and Albania, which played a big part in the war of liberation from fascism, as well as Bulgaria, Rumania, Hungary and to some extent Finland, which have joined the anti-fascist front—have proved themselves in the post-war period staunch defenders of peace, democracy and their own liberty and independence against all attempts on the part of the United States and Great Britain to turn them back in their course and to bring them again under the imperialist yoke.

## III.

### The American Plan for the Enthrallment of Europe.

Under present conditions imperialist countries like the U.S.A., Great Britain and the states closely associated with them become dangerous enemies of national independence and the self-determination of nations, while the Soviet Union and the new democracies are a reliable bulwark against encroachments on the equality and self-determination of nations.

## IV.

### The Tasks of the Communist Parties in Uniting the Democratic, Anti-Fascist, Peace-Loving Elements to Resist the New Plans of War and Aggression

The Comintern was founded after the first world war, when the Communist Parties were still weak, when practically no ties existed between the working classes of the different countries, and when the Communist Parties had not yet produced generally recognized leaders of the labour movement. The service performed by the Comintern was that it restored and strengthened the ties between the working people of the different countries, that it elaborated theoretical questions of the labour movement in the new, post-war conditions of development, that it established general standards of propaganda of the ideas of Communism, and that it facilitated the preparation of leaders of the labour movement. This created the conditions for the conversion of the young Communist Parties into mass labour parties. But once the young Communist Parties had become mass labour parties, the direction of these parties from one centre became impossible and inexpedient. As a result, the Comintern, from a factor promoting the development of the Communist Parties began to turn into a factor hindering their development. The new stage in the development of the Communist Parties demanded new forms of contact among

the parties. It was these considerations that made it necessary to dissolve the Comintern and to devise new forms of connection between the parties.

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But the present position of the Communist Parties has its shortcomings. Some comrades understood the dissolution of the Comintern to imply the elimination of all ties, of all contact, between the fraternal Communist Parties. But experience has shown that such mutual isolation of the Communist Parties is wrong, harmful and, in point of fact, unnatural.

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There can be no doubt that if the situation were to continue it would be fraught with most serious consequences to the development of the work of the fraternal parties. The need for mutual consultation and voluntary coordination of action between individual parties has become particularly urgent at the present juncture when continued isolation may lead to a slackening of mutual understanding, and at times, even to serious blunders.

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The Communists must be the leaders in enlisting all antifascist and freedom-loving elements in the struggle against the new American expansionist plans for the enslavement of Europe.

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**Petitioner's Exhibit No. 217**

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES
(TRANSLATION)

. . . . . .

Workers of all countries, unite!
The All-Union Communist Party (Bolshevik).

PRAVDA

Organ of the Central Committee and of the Moscow Committee of the All-Union Communist Party (Bolshevik).
March 11, 1950, pp. 2-3.

Speech by Comrade V. M. Molotov at the meeting of the voters of the Molotov election district of the City of Moscow, delivered March 10, 1950.

Comrades!

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The victory over German fascism and Japanese imperialism and the decisive role of the USSR in the crushing of these aggressive forces brought about important changes in the international situation.

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Since the October Revolution in our country, the victory of the national liberation movement in China appears as a new and most powerful blow at the entire system of world imperialism and at all plans of imperialist aggression in our time.

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In the capitalist countries themselves we now have millions of active friends who are closing ranks more and more in a broad democratic, anti-imperialist movement.

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The democratic camp, which unites the USSR and the countries of the people's democracy, is opposed by the camp of the imperialist powers headed by the ruling circles of the United States of America.

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It is our permanent task and important duty to watch everything that is going on in the camp of imperialism.

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The ruling circles of the imperialist camp are steering an entirely different course.

The imperialists are countering the policy of enduring peace in the whole world with the policy of preparing a new world war.

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All kinds of blackmailers from this camp were yesterday trying to frighten us with the atom bomb. Today they are frightening us with the so-called "hydrogen bomb", which still does not actually exist. They should not brag so much and should remember that while they were practicing blackmail with regard to the monopolistic possession of the atom bomb, the Soviet people, as is well known, did not waste time but became the possessors of the secret of producing atomic energy and atomic weapons (Prolonged applause). Only fools, like one of the ministers who went mad, could devote themselves to the crazy idea of frightening the Soviet Union and confusing their own people by advertising various aggressive plans, not understanding that in the present conditions, by rejecting peaceful competition and unleashing a new war, the imperialists will unavoidably provoke such just and decisive indignation of peoples that it will sweep imperialism and aggression from the face of the earth forever. (Stormy applause).

We fully stand for the Leninist-Stalinist principles of peaceful coexistence of the two systems and their peaceful economic competition. But we know it to be true that while imperialism exists, there also exists the danger of new aggression and that in the presence of imperialism and its predatory plans wars are unavoidable. Therefore, the advocates of a durable peace among the peoples must not be passive and become empty pacifists who are charmed by phrases, but they must everyday conduct a stubborn and still more effective struggle for peace, drawing into it the masses of the people and not stopping before appropriate measures when the imperialists attempt to unleash new aggression.

**Petitioner's Exhibit No. 219**

POLITICAL AFFAIRS
JUNE, 1950

## PEOPLE'S FRONT AND PEOPLE'S DEMOCRACY

By WILLIAM Z. FOSTER

In using the at the time current phrase "new route to Socialism," which has since been rejected by the Parties in the People's Democracies, I, in the pamphlet *In Defense of the Communist Party and the Indicted Leaders,* was speaking in the tactical sense.

Of course, it is a matter of simple, ascertainable fact that, tactically speaking, the workers of the People's Democracies of Eastern Europe and of the Chinese People's Republic are not proceeding toward the achievement of Socialism with the identical tactics used by the Russian working class. And it could not be otherwise. They would not be Marxist-Leninists but political fools who would try to apply rigid, uniform tactics to all these widely ranging situations. These tactical variations are extremely important. Good or bad tactics in a given situation can make the difference between victory and defeat. But, regardless of tactical variations that may be necessary as the class struggle proceeds, the road to Socialism remains the same—through the defeat of the capitalist class and the establishment of the dictatorship of the proletariat.

**Petitioner's Exhibit No. 231**

# FOR A LASTING PEACE, FOR A PEOPLE'S DEMOCRACY!

BUCHAREST. ORGAN OF THE INFORMATION BUREAU OF THE COMMUNIST AND WORKERS' PARTIES.
FRIDAY, NOVEMBER 11, 1949

32ND ANNIVERSARY OF THE GREAT OCTOBER SOCIALIST REVOLUTION

REPORT DELIVERED BY G. M. MALENKOV AT ANNIVERSARY MEETING OF MOSCOW SOVIET, NOVEMBER 6, 1949

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## II.

### THE SOVIET UNION STANDS FOR PEACE AND DEFENDS THE CAUSE OF PEACE

Comrades.

If asked what is the main thing in our foreign policy, it is, to put it briefly, that the Soviet Union stands for peace and upholds the cause of peace. (Prolonged applause).

The Soviet Union steadfastly pursues the policy of peace and friendship among nations. We do not want war and we shall do everything in our power to prevent it.

Our peace policy arises from the very foundations of our Socialist system and from the interests of the Soviet people. Having completely abolished in our country the age-old exploitation of man by man, we have eliminated the reasons and conditions which, in the capitalist world, give rise to the policy of exploiting and enslaving other peoples.

Having created a model of fraternal co-operation among peoples of different races and nationalities, unparalleled in human history, we have abolished for ever the policy of basing the welfare of one State on the suppression of other States.

A policy, which has as its guiding principle the suppression of the national sovereignty of other peoples, is alien to us. A Socialist State does not need foreign expansion. It

does not need colonial seizures. The Soviet Socialist system has uprooted the causes giving rise to economic crises, from which the rulers of the capitalist world usually seek to escape along the road of military gambles.

. . . . . .

We live in an epoch when the movement of the masses toward democracy and Socialism daily becomes more powerful; when the camp of peace and democracy has become a mighty factor in the entire international arena.

History knows no such mass movement as that uniting the international supporters of peace. There is not a single country in which this movement does not possess a base nor one in which it is not growing and spreading.

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It is precisely the successes of the camp of peace that drive the warmongers to increasing frenzy. The programme of the main enemies of peace stands out clearer with every passing day; a programme which envisages the creation, by means of violence and new wars, of an American world empire which, in scale, would surpass any of the world empires built by any conqueror in history.

The idea is nothing more or less than that of turning the whole world into a colony of the American imperialists, of reducing sovereign peoples to a state of slavery.

**Petitioner's Exhibit No. 249**

*For A Lasting Peace, For A People's Democracy!*

M. Suslov

DEFENCE OF PEACE AND THE STRUGGLE AGAINST THE WARMONGERS

REPORT SUBMITTED TO THE MEETING OF THE INFORMATION BUREAU OF THE COMMUNIST PARTIES HELD IN THE SECOND HALF OF NOVEMBER 1949

FRIDAY, DECEMBER 2, 1949, No. 29 (56)

Comrades. A little more than two years have passed since the first Information Meeting of the representatives of a number of Communist Parties was held.

The Declaration issued by this Meeting gave a profound analysis of changes which had taken place in the international situation as a result of World War Two and during the first post-war years. It revealed the formation of two camps in the world arena and the contrast of their aims and tasks; it exposed the aggressive plans of the imperialist camp headed by the U.S.; plans aimed at establishing world domination of Anglo-American imperialism and destroying democracy; it laid bare the treacherous role of the chieftains of Right-Wing Social Democracy as accomplices of imperialism in all its anti-popular activities.

The entire course of events for the past two years has fully confirmed the correctness of the estimation of the international situation given by the first Meeting of the Information Bureau, and of the perspectives and tasks of the anti-imperialist camp as outlined by that Meeting.

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III.

COMMUNIST AND WORKERS' PARTIES IN THE VANGUARD OF THE STRUGGLE AGAINST WARMONGERS

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To frustrate the plans of imperialist aggression, the greatest vigilance by the peoples is essential, also the further ex-

tension of the front of peace and the further consolidation and active struggle of all forces standing for peace.

. . . . . .

Particular attention should be devoted to drawing into the peace movement trade unions, women's, youth, co-operative, sport, cultural-education, religious and other organisations, and also scientists, writers, journalists, cultural workers, parliamentary and other political and public leaders who act in defence of peace and against war.

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That is why the cardinal task of the Communist and Workers' Parties is to draw the broadest sections of the working class into the ranks of fighters for the cause of peace; to effect firm working class unity; resolutely combat the Right-Wing Socialist disrupters and disorganizers of the working class movement: organise joint actions of various sections of the proletariat on the basis of a joint platform of struggle for peace and for the national independence of their countries.

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Trade union bodies affiliated to the W.F.T.U. play a great role in organising peace supporters. In many countries they are the initiators of the national peace movement and of the formation of national committees in defence of peace.

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The democratic youth of all countries demonstrated its will for peace and the readiness to struggle for it at the World Conference of Working Youth held in Warsaw in 1947 and at World Youth congresses and festivals in 1948 and 1949. The World Federation of Democratic Youth, rallying in its ranks over 60 million young men and women, actively champions the cause of peace.

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The duty of Communist and working class parties in capitalist countries is to merge the struggle for national independence with the struggle for peace; tirelessly to ex-

pose the anti-national, treacherous nature of the policy of bourgeois governments which have become direct lieutenants of U.S. imperialism; to rally and consolidate all democratic patriotic forces in each country round the slogans of eliminating the shameful U.S. bondage, and the adoption of an independent foreign and home policy corresponding to the national interests of the peoples.

The Communist and Workers' parties should carry high the banner defending the national independence and sovereignty of their countries.

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**Petitioner's Exhibit No. 251**

DEPARTMENT OF STATE

(DIVISION OF LANGUAGE SERVICES)
(TRANSLATION)

. . . . . .

Workers of the world unite!
All-Union Communist Party (Bolshevik)

PRAVDA

Organ of the Central Committee and the Moscow Committee of the All-Union Communist Party (Bolshevik), No. 29 (11136), January 29, 1949, pp. 2-3.

## STATEMENT OF THE MINISTRY OF FOREIGN AFFAIRS OF THE USSR CONCERNING THE NORTH ATLANTIC PACT

On January 14th the Department of State of the United States of America published a wordy statement under the bombastic phrase "Let us build peace. Collective security in the North Atlantic area."

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### I. THE WESTERN ALLIANCE—A WEAPON OF THE AGGRESSIVE ANGLO-AMERICAN BLOC IN EUROPE

. . . . . .

The Western Alliance is expected also to include certain other European countries which are ready to adapt their

policy to the purposes of the said grouping, headed by Great Britain. Moreover, it is a known fact that the founders of the Western Alliance from the very beginning excluded the possibility of participation in this alliance on the part of all people's democracies and the Soviet Union, thereby revealing that the Western Alliance was created not for the purpose of uniting peace-loving European countries and in general not in the interest of assuring lasting peace in Europe but for other purposes which have absolutely nothing to do with the interests of strengthening peace and international security.

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Just as the execution of the Marshall Plan has not been directed toward the real economic recovery of European states but is a means of adapting the policy and economy of the "Marshall Plan" countries to the narrowly self-centered and strategic plans of Anglo-American domination in Europe, in the same way the formation of the new grouping is not at all designed for purposes of mutual assistance and collective defense of the members of the Western Alliance, since under the conditions of fulfillment of the Yalta and Potsdam Agreements these countries are not threatened by any aggression, but is endeavoring to strengthen and further expand the predominant influence of the Anglo-American ruling circles in Europe by subordinating to their narrow interests the entire foreign and domestic policy of the corresponding European states. The incompatibility of such political plans of the Anglo-American bloc with the interests of peace and the fulfillment of the principles of democracy in the European countries is absolutely manifest.

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## II.

### The North Atlantic Pact and Anglo-American Plans for World Domination

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The North Atlantic Draft Treaty and the circumstances accompanying its preparation clearly reveal the aspirations of the Anglo-American bloc for world domination.

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Finally, we must speak of the Soviet Union and the people's democracies, which are carrying out the real will of their people and the great principles of friendship and equal rights in relations with other nations.

The very existence of the Soviet State, with its growing power and its international authority, and likewise the powerful support given to it by the democratic forces in other countries constitute an insurmountable barrier in the way of all plans of any kind for the establishment of world domination by one power or another; this has already found its historical confirmation in the liquidation of the fascist states and their attempts to achieve their fantastic plans for world domination, which differ little from the present plans for establishing Anglo-American domination.

. . . . . .

No intelligent person can claim that this is being done for purposes of self-defense on the part of the USA. On the contrary, it is likewise known that since the Second World War, which ended with the destruction of the aggressive powers, no danger of aggression exists for the United States.

Moreover, can it be considered an accidental fact that the United States and Great Britain, even after the termination of the Second World War, have maintained their combined military staff in Washington, which is stealthily continuing its work and preparing new plans of aggression. If there were no such plans, there would be no reason for maintain-

ing this Washington staff under present world conditions and there would be no need for sending American and also British troops to the territories of a new and ever increasing number of states.

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The aggressive character of U.S. policy with respect to the growing democratic forces and entire democratic countries is widely known. Thus the Greek people cannot get out of the blind alley which has been created, since reactionary forces alien to the people find powerful support from abroad. Last year all the people of Czechoslovakia had to do was to check the reactionary circles of their own country somewhat and lend support to the leading democratic forces, and the ruling circles in the USA and in the entire Anglo-American bloc raised an incredible howl over the internal events in Czechoslovakia, with every kind of attempt at intervention in these internal affairs.

. . . . . .

This Pact is backed not only by the ruling aggressive circles in the USA and by its British exponents such as Churchill or Bevin, but also by quite a number of warmongers of lesser importance. However, it should not be forgotten that the signing of such or similar pacts still does not give a guarantee and still does not create the possibility of achieving the aggressive aims set by the authors of these pacts. In this connection we must remember the unanimous support given by the democratic circles in all countries to the famous statement made by J. V. Stalin, the head of the Soviet Government, to the effect that "the horrors of the recent war are too vivid in the memory of the nations and the social forces standing for peace are too great for Churchill's disciples in aggression to be able to overcome them and turn them in the direction of a new war."

## III

### The North Atlantic Alliance—An Undermining of the United Nations

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The said resolution gives free rein to the government of the USA in the matter of forming any kind of international alliances in time of peace and, under the pretext of assuring security, it permits the ruling circles of the USA to enter into any kind of groupings and to embark on any kind of adventure, which fully corresponds to the present aggressive moods of the ruling circles in the United States.

The adoption of this resolution by the United States Senate means that the ruling circles in the USA have not only broken all their principal obligations with respect to the United Nations but have also shifted to a new course in their foreign policy, which from now on is directed toward the forcible establishment of Anglo-American world domination. From this it follows that the resolution adopted by the United States Senate means that the ruling circles in the USA have expressed themselves in favor of a policy of aggression, in favor of a policy of unleashing a new war.

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Consequently, the so-called "new direction" in the foreign policy of the ruling circles of these states means that they *have returned* to the *old anti-Soviet course* of foreign policy, based on isolating the USSR, which they adhered to during the years preceding the Second World War and which almost led European civilization to ruin.

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### Fundamental Conclusions

#### *First Conclusion*

The Soviet Union has been compelled to take into consideration the fact that the ruling circles in the United States and Great Britain have shifted to an openly aggressive political course, the ultimate aim of which is the forcible

establishment of Anglo-American world domination, and that the policy of aggression adopted by them, the policy of unleashing a new war, serves this aim.

In view of this situation the Soviet Union must still more energetically and more consistently conduct the struggle against all and any warmongers, against the policy of aggression and of unleashing a new war, and in favor of universal and lasting democratic peace.

In this struggle for strengthening universal peace and international security the Soviet Union considers as its allies all other peace-loving states and all those countless champions of universal democratic peace who are the real spokesmen of the feelings and thoughts of nations which have carried on their shoulders the incredible burdens of the last world war and with legitimate reasons repudiate all aggressors and instigators of a new war.

*Second Conclusion*

Everybody sees that the United Nations is now being undermined, because to a certain extent it checks and restrains aggressive circles in their policy of aggression and unleashing a new war.

In view of this situation the Soviet Union must struggle still more firmly and still more persistently against the undermining and destruction of the United Nations by aggressive elements and their helpers and must strive to prevail upon the United Nations not to indulge such elements, as often happens these days, but to set a higher value on its authority when it is a case of thwarting those who are conducting a policy of aggression and unleashing a new war.

**Petitioner's Exhibit No. 258**

# FOR A LASTING PEACE, FOR A PEOPLE'S DEMOCRACY!

NOVEMBER 29, 1949

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## COMMUNIST PARTY OF YUGOSLAVIA IN THE POWER OF MURDERERS AND SPIES

### *Resolution of the Information Bureau*

The Information Bureau, consisting of representatives of the Communist Party of Bulgaria, Rumanian Workers' Party, Working People's Party of Hungary, United Workers Party of Poland, Communist Party of the Soviet Union (Bolsheviks), Communist Party of France, and the Czechoslovak and Italian Communist Parties, having considered the question: "The Yugoslav Communist Party in the power of murderers and spies," unanimously reached the following conclusions:

Whereas, in June 1948 the meeting of the Information Bureau of the Communist Parties noted the change over of the Tito-Rankovic clique from democracy and socialism to bourgeois nationalism, during the period that has elapsed since the meeting of the Information Bureau, this clique has travelled all the way from bourgeois nationalism to fascism and outright betrayal of the national interests of Yugoslavia.

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The change-over of the Tito clique to fascism was not fortuitous. It was effected on the order of their masters, the Anglo-American imperialists, whose mercenaries, it is now clear, this clique has been for long.

The Yugoslav traitors, obeying the will of the imperialists, undertook to form, in the People's Democracies political gangs consisting of reactionaries, nationalists, clerical and fascist elements and, relying on these gangs, to bring about counter-revolutionary coups in these countries, wrest them

from the Soviet Union and the entire socialist camp and subordinate them to the forces of imperialism.

The Tito clique transformed Belgrade into an American centre for espionage and anti-Communist propaganda.

When all genuine friends of peace, democracy and socialism see in the U.S.S.R. a powerful fortress of Socialism, a faithful and steadfast defender of the freedom and independence of nations and the principal bulwark of peace. The Tito-Rankovic clique, having attained power under the mask of friendship with the U.S.S.R., began on the orders of the Anglo-American imperialists, a campaign of slander and provocation against the Soviet Union, utilising the most vile calumnies borrowed from the arsenal of Hitler.

The transformation of the Tito-Rankovic clique into a direct agency of imperialism, and accomplices of the warmongers, culminated in the lining up of the Yugoslav Government with the imperialist bloc at U.N.O., where the Kardeljs, Djilas and Beblers, joined in a united front with American reactionaries on vital matters of international policy.

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The Information Bureau of the Communist and Workers' Parties considers therefore, that the struggle against the Tito clique—hired spies and murderers, is the international duty of all Communist and Workers' Parties.

It is the duty of Communist and Workers' Parties to give all possible aid to the Yugoslav working class and working peasantry who are fighting for the return of Yugoslavia to the camp of democracy and socialism.

A necessary condition for the return of Yugoslavia to the socialist camp is active struggle on the part of revolutionary elements both inside the Yugoslav Communist Party and outside its ranks, for the regeneration of the revolutionary, genuine Communist Party of Yugoslavia, loyal to Marxism-Leninism, to the principles of proletarian internationalism, and fighting for the independence of Yugoslavia from imperialism.

The loyal Communist forces in Yugoslavia, who, in the present brutal conditions of fascist terror, are deprived of

the possibility of engaging in open action against the Tito-Rankovic clique, were compelled in the struggle for the cause of Communism, to follow the path taken by the Communists in those countries where legal work is forbidden.

The Information Bureau expresses the firm conviction that, among the workers and peasants of Yugoslavia, forces will be found capable of ensuring victory over the bourgeois-restoration espionage Tito-Rankovic clique; that the toiling people of Yugoslavia led by the working class will succeed in restoring the historical gains of People's Democracy, won at the price of heavy sacrifice and heroic struggle by the peoples of Yugoslavia and that they will take the road of building socialism.

The Information Bureau considers one of the most important tasks of the Communist and Workers' Parties to be an all-round heightening of revolutionary vigilance in Party ranks; exposing and rooting out bourgeois-nationalist elements and agents of imperialism, no matter under what flag they conceal themselves.

The Information Bureau recognises the need for more ideological work in the Communist and Workers' Parties; more work to train Communists in the spirit of loyalty to proletarian internationalism; irreconcilability to any departure from the principles of Marxism-Leninism, and in the spirit of loyalty to Peoples' Democracy and Socialism.

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**Petitioner's Exhibit No. 264**

## FOR A LASTING PEACE, FOR A PEOPLE'S DEMOCRACY!

AUGUST 1st, 1948

POWERFUL DEMONSTRATION OF FORCES IN DEMOCRATIC CAMP

Comrade Stalin's telegram to the Central Committee of the Communist Party of Italy said: "The Central Com-

mittees of the Communist Party of the Soviet Union (Bolsheviks) is grieved that Comrade Togliatti's friends failed to protect him from this foul and cowardly attack."

The reply sent by the Central Committee of the Italian Communist Party to Comrade Stalin is worthy of this well-tested Party. In their answer the Italian comrades assure Comrade Stalin that the solidarity of the heroic Soviet people and Stalin's warning about vigilance will be for the Italian Communists "a spur to strengthen and develop the struggle of the united international front of peace, democracy and socialism."

All the Communist Parties took Comrade Stalin's message to the Italian Communist Party as the expression of his great solicitude for the international working class movement and its leaders.

Increased struggle against remnants and revivals of fascism, the welding of all supporters of democracy and progress into a single socialist camp will be the best answer of the Communists of all countries to Comrade Stalin's solicitude.

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**Petitioner's Exhibit No. 269**

*Daily Worker*

JUNE 9, 1950

## WORLD PEACE PLEDGE

We demand the unconditional prohibition of the atomic weapon as an instrument of aggression and mass extermination of people, and the establishment of strict international control over the fulfillment of this decision.

We will regard as a war criminal that government which first uses the atomic weapon against any country.

A historic campaign to sign up 5,000,000 Americans in a mighty crusade for peace was launched at Manhattan Center last night.

Thousands of New Yorkers, gathered in the Unite-for-Peace rally, gave their enthusiastic support to the World Peace Appeal, and pledged to participate in a swift, three-months drive to add 5,000,000 Americans to the roster of 100,000,000 who have already signed the appeal throughout the rest of the world.

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**Petitioner's Exhibit No. 270**

*Daily Worker*

JULY 13, 1950

THE PEACE MOVEMENT IS AMERICA'S ONLY SALVATION

BY MICHAEL RUSSO

*Assistant National Organizational Secretary, Communist Party*

The pages of history are crowded with examples of the infamy of the exploiting classes. But few, if any, match the infamous role of American imperialism in Korea. None has been fraught with more danger to the world. Wall Street's rapacious hand has shoved us to the very edge of the precipice; the fate of the world hangs in balance. Unless the people act at once to halt Wall Street's mad adventure, millions of people will pay with their lives, for the atomic catastrophe against which the decent people of the world have warned will become a tragic reality.

Not the least of Wall Street's objectives in its criminal attack upon the Korean people is to undermine and destroy the rapidly growing peace movement in our own country and to prevent its merging with the world movement for peace.

This powerful current for peace can, if organized, become a formidable obstacle to the further enfolding of Wall Street's design for war. Despite the sustained and furious campaign to condition them into accepting the inevitability

of a new world war, despite the lies about Soviet "aggression," despite the Korean provocation, the American people, in their overwhelming majority, still cling tenaciously to the view that peace can and must be won.

By confronting the American people with an accomplished fact, the Korean invasion was calculated, in part, to achieve what cold war propaganda could not accomplish, namely, the breaking down of the people's desire for peace and mounting resistance to war. The people, however, though momentarily confused by events, view the Korean provocation with deep suspicion and with growing fear that it will precipitate world war.

If the American people want to give expression to their desire for peace and against atomic war they must demand that Washington withhold all military aid from the Korean quislings and withdraw all American troops and military personnel.

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**Petitioner's Exhibit No. 292**

THE COMMUNIST

JULY, 1929

THE REVOLUTIONARY STRUGGLE AGAINST IMPERIALIST WAR

BY H. M. WICKS

The recognition on the part of Communists that the question of the imminence of another world war is the central problem of the day places sharply before us the question of revolutionary tactics in the struggle against imperialist war. August 1st has been set aside by the Communist International as a day of strikes and mighty mass demonstrations in every country in the world against the threats of the warmongers. This fifteenth anniversary of the outbreak of the last world war is a day of world-wide mobilization of the masses against capitalism, a challenge to the capitalist states

of the world that are driving relentlessly toward another world war.

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In this situation the Second International is an active aid of the capitalist states by trying to confuse the masses with pacifist phrases and openly assisting the bourgeoisie organize an anti-Bolshevik bloc. The social democratic international and all its sections have been placed at the disposal of the imperialist powers in their campaign against the workers' and peasants' government of the Soviet Union. The social-democratic press has become a publicity bureau for the imperialists by publishing the most malignant slanders against the Soviet Union, by talking about "red imperialism" and endeavoring to alienate the masses from defense of the Soviet Union so that their imperialist masters will not fear to wage a war of intervention in an effort to destroy it. The social democrats try to conceal their role as servants of capitalism by pacifist talk. They spread illusions concerning the possibility of preventing war by disarmament, by committees of arbitration, by reparations agreements, by the action of the League of Nations, etc.

Against this sort of deception is the clear call to action by the Communist International, which urges a determined revolutionary struggle against war. As a section of the world revolutionary party, the Communist Party of the United States, is engaged in mobilizing all its resources to organize mass demonstrations and strikes throughout the country.

The first prerequisite for any effective campaign is the internal strengthening and clarification of the Party. The face of the Party must be toward the industries. There must be activization of all the factory nuclei and careful preparations for enlisting the broadest masses in the demonstrations. The shop papers must expose the war plans of the government. The struggle against the war danger must be utilized to aid in the drive to organize the unorganized workers in the war industries. The Party district confer-

ences that are being held must not only mobilize the nuclei but must strengthen the departments of the Party organizationally. The women's departments must be strengthened and a drive made to enlist the working women in the demonstrations and strikes. The organization of defense groups is imperative not merely for one day's activity on International Red Day, but as permanent forces in the struggle against the tyranny of the police, the gangsters and thugs of the employers. The agitation and propaganda departments of the Party must be strengthened and conferences held so that the maximum of our resources may be concentrated on the ideological campaign for International Red Day during the remaining weeks before August 1st.

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But it is not sufficient in our drive against imperialist war merely to concentrate upon the war industries. We must be able to reach the masses in the armed forces of the nation with revolutionary agitation and propaganda calculated to cause defections and mutiny in the ranks.

We do not indulge in the social-democratic twaddle about disarmament. We will not tell the soldiers in the army to throw away their guns and run home. We tell them to hold their guns in their hands and use them against their own capitalist oppressors. When faced with an imperialist war as an accomplished fact we must be able to popularize definite revolutionary slogans among the armed forces. In case of a war between imperialist nations we raise the slogan of fraternization with the soldiers of the opposing army, refusal to obey commands of officers, mutinies, and other forms of disruptive work. In case of a war against the Soviet Union our main slogan will be different. We will then urge the soldiers in the imperialist armies to desert the army and with their guns and as much ammunition as they can get, go over to the side of the Red Army against the imperialist forces.

While the capitalists prepare for another imperialist war, we prepare to utilize the difficulties for capitalism arising

out of such a war in order to initiate the next stage of the world revolution.

We realize that such a conflict requires careful preparation under the leadership of a determined Bolshevik party. Turning an imperialist war between nations into a civil war against capitalism is not a simple matter, it is not a game for dilletantes to play. It requires the most highly developed revolutionary strategy and an ability to estimate the relative forces involved in the struggle as well as the precise moment for the launching of the insurrection.

When a revolutionary situation is developing, as a result of war or from any other cause, the Party of the proletariat must lead a direct attack against the capitalist state. The slogans put forth must be of such a nature as to guide the movement in its development, which will take the form at first of mass strikes and armed demonstrations. In that stage there arises the question of arming of the working class and disarming the capitalist class. Finally the highest form of struggle is reached wherein it culminates in the general strike and a merging of large sections of the military forces and the workers for armed insurrection against the capitalist state power.

We thus indicate the high-lights in the development of the revolutionary struggle against the bourgeoisie in order to emphasize the world-historic importance of the mobilization of the working class for the struggle against imperialist war. Every revolutionary worker, realizing the significance of August 1st, will work day and night to make our strikes and demonstrations the greatest concerted action on the part of the working class this country has ever seen.

**Petitioner's Exhibit No. 294**

*Daily Worker*

AUGUST 16, 1940

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WORKERS' ENEMIES EXPOSED

The New York State Committee of the Communist Party has expelled from its ranks Manning Johnson, who is running as a candidate for public office on the Democratic Party ticket. Johnson, an official of Local 302 of the Cafeteria Workers Union, has frequently in the past exhibited opportunistic tendencies and has more recently shown himself to be a politically degenerate and totally unreliable person.

All members and sympathizers are warned not to have anything to do with him.

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**Petitioner's Exhibit No. 296**

THE COMMUNIST

JANUARY, 1940

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ON THE DISTRIBUTION AND STUDY OF THE "HISTORY OF THE C.P.S.U.(B.)" AND THE PROPAGATION OF MARXISM-LENINISM IN THE WORLD COMMUNIST MOVEMENT

RESOLUTION ADOPTED AUG. 10, 1939

1. THE IMPORTANCE OF THE "HISTORY OF THE C.P.S.U.(B.)" FOR THE COMMUNIST WORLD MOVEMENT, THE INTERNATIONAL PROLETARIAT AND THE WORKING PEOPLE OF ALL COUNTRIES

The appearance of the *History of the Communist Party of the Soviet Union (Bolsheviks)* is one of the greatest events in the life of the Communist world movement and of the international labor movement, in the struggle of the working people of all countries for emancipation. Written with the immediate participation of Comrade Stalin and authorized by the Central Committee of the C.P.S.U.(B.),

the *History* occupies an extraordinary place among the classic works of Marxism-Leninism. The *History* is intended to play—and will undoubtedly play—a very important role in the successful mastering of Bolshevism by the Communists of the capitalist countries, in the consolidation of the Sections of the Communist International, and in raising their ideological and political level.

. . . . . .

The *History of the Communist Party of the Soviet Union (B.)* is the common property of the Communists, the labor movement, the toilers of all countries. It is the history of the Bolshevik Party of that country which has become the birthplace of Leninism, the fatherland of the Leninist-Stalinist theory of the socialist revolution, the country of the victorious dictatorship of the proletariat, the country of socialism, the fatherland of the toilers of all countries.

. . . . . .

The Communists must always remember Lenin's and Stalin's instructions that one must know how to apply the experiences of the C.P.S.U.(B.), to the new historical conditions of the struggle of the working class. The Communist Parties must always bear in mind that "some fundamental features of our revolution have no local, no specific national, exclusively Russian, but international importance" (Lenin), but the Communists of every country must "investigate, study, find out, judge and understand the specifically national feature in the concrete methods of every country in solving the uniform international task." (Lenin) This is the more necessary as the paths to the attainment of the proletarian dictatorship, Soviet power, may be different in the various capitalist countries.

The *History of the C.P.S.U.(B.)* teaches the international proletariat how the struggle for the fulfillment of the fundamental task, to defeat capitalism, can be successfully combined with the defense of the daily interests of the toilers and the fulfillment of the daily tasks confronting the prole-

tariat in the various stages of its struggle. By the study and thoroughgoing exposition of the *History of the C.P.S.U. (B.)* the Communist Parties obtain a powerful weapon for the struggle against fascism and the fascist warmongers, for the setting up and consolidation of the workers' united front and people's front, for the establishment of the united international front of the nations against the aggressors: they obtain a weapon enabling them to rally the millions of toilers round the great country of socialism.

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By their improved mastery of the theory of Marxism-Leninism the Communists can, in applying the tactics of the united front, avoid both its Right-opportunist distortion and lapses into sectarianism. They are able to isolate and defeat the capitulators and other enemies in the labor movement and overcome the difficulties in the way of rallying the toilers under the leadership of the working class.

"But theory can become the greatest force in the labor movement if it is built up in indissoluble connection with revolutionary practice, for it, and it alone, can give to the movement confidence, the power of orientation and an understanding of the inner connection between events; for it, and it alone, can help us in our practical work to discern how and in which direction classes are moving not only at the present time, but also how and in which direction they will move in the near future."[1]

## 2. On the Distribution of the "History of the C.P.S.U.(B.)"

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It would be a mistake to compare the distribution of the *History* with that of other earlier published books. In their sales campaigns for the *History* the Communist Parties must bear in mind that behind each member of the Communist Party (as can be seen by the votes cast for the Commun-

[1] Joseph Stalin, *Leninism*, Vol. I, p. 27. International Publishers, New York.

ist Party candidates at elections in the countries with a legal Communist movement) there stand ten to fifteen sympathizers who are ready to support the Party. It is necessary to make the appearance of the *History* the turning point in the sale of Marxist-Leninist literature, the powerful lever, in order to spread the ideas of Marxism-Leninism among the broad masses.

In order to secure a broad and correct distribution of the book it is necessary to adopt the following measures:

(a) To see that every member of the Party gets a copy of the *History*, studies it and makes it his or her textbook;

(b) To employ every method to distribute the *History* among the Social-Democratic workers and cadres of the Social-Democratic parties;

(c) To devote particular attention to the distribution of the book among the members, and in particular the officials, of the trade unions, the mass labor organizations and the democratic organizations (cooperatives, cultural organizations, etc.); to see to it that the libraries of these organizations are supplied with the *History;*

(d) To organize the sale of the book among the progressive intelligentsia, including the progressive section of the students;

(e) To devote greatest attention to the distribution of the *History* among the youth, to overcome the inadmissible lagging behind in this sphere (even in France where up to now the distribution of the work has been successfully conducted); the young Communists must become the champions for the distribution of the *History.*

(f) To organize the distribution of the book also among the progressive elements of the peasantry, and thereby to put an end to the prejudice of some Communists that "the peasants are unable to read and study a serious Marxist book."

(g) For the distribution of the *History* in the countries of fascist dictatorship and in the colonies where the work of the Communist Parties is encountering great difficulties, it

is necessary that the legal Communist Parties (Communist Parties of France, United States, Great Britain, Holland and other countries) assist the illegal and weaker Communist Parties.

(h) The guidance of the distributive work of the *History* must by no means be left entirely in the hands of the publishers. It must be in the hands of the Central Committee of the Party. All Party organizations, propagandists and agitators, as well as those persons who sympathize with the Party, must be drawn into the work of distribution. It is advisable to publish in the press comments of readers, Communists, non-Party people, trade union officials, prominent members of the progressive intelligentsia, etc., on the book. The reporting on the distribution must be made in an exact manner (as is being done in France). It is necessary to ascertain in every locality how this work is being carried on, whereby inadequate and wrong methods must be corrected. The achieved results are to be published in the press and reported at meetings and conferences, as is being done in France and in the United States in order to stimulate the increased sale of the *History*.

It is particularly important in the countries with a legal labor movement to maintain a permanent contact with the purchasers of the book, to assist them in the study and to try to make them active propagandists and canvassers for the *History*.

3. On the Organization of the Study of "The History of the C.P.S.U.(B.)"

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The organizing of the study of the *History* must not bear the character of a temporary campaign. A systematic activity must be initiated which should in every way arouse among the Communists and the toilers the desire to study more of the Marxist-Leninist theory.

In organizing the study of the *History* attention must be directed that in the first place the Party cadres, the Com-

munist officials, the officials of the Young Communist League, of the trade unions and other mass organizations study the book. It must be considered as an axiom in the Party that only those members can be real Bolsheviks who study the "Short Course" and indefatigably work to raise their level of theoretical knowledge.

At the same time it is necessary that the leadership of the Party adopt every measure in order to draw also sympathizers, Social-Democratic workers, trade union officials who are not Communists, and others into the study of the *History*.

In considering the peculiarities of the various capitalist countries it would be advisable to take into account the following suggestions as guiding lines for the study of the *History*.

I. In Countries With A Legal Communist Movement

(a) The study of the *History* should be organized according to groups, and care must be taken to bring in all Party members. A great political educational task must be accomplished, and all necessary organizational measures must be carried out so that the Party members really participate in the study of the *History* and do not restrict themselves to formal resolutions of the leadership to the effect that participation of Communists in the study is necessary.

(b) For the responsible functionaries who are politically more educated, for the leading cadres of the Party, it is considered necessary to organize in the main centers of the countries some special circles of a higher type at which the source material, and primarily the works quoted in the *History* are used for study.

(c) Side by side with the study of the *History* in the groups and circles, independent study of the *History of the C.P.S.U.(B.)* must throughout be organized and furthered, particularly among the more politically educated cadres of the Party.

(d) For the propaganda of the *History* and of the theory

of Marxism-Leninism among the non-Party elements and among the membership of anti-fascist parties and organizations, lectures, readings and discussions should be organized within these organizations, with particular reference to theoretical questions which have an immediate importance.

It is necessary that the most highly educated Communists, politically and theoretically, should, under the direction of the Party organizations, form circles in factories and working class districts for the study of the *History* among the non-Party workers, particularly Social-Democrats.

### II. In Countries Where the Communist Movement is Illegal

The correct organization of the study of the *History* is, in the countries under fascist dictatorship, the most important means for the creation of a strong illegal Communist Party, capable, in spite of the raging terror, of carrying on systematic mass work and of organizing and leading the struggle of the working class and of the toilers for the overthrow of the fascist power. The study of the *History* must become an effective factor in the establishment of new lower Party organizations, in the recruitment of new members, and in the building up and strengthening of the illegal Communist Parties. In these countries, it is necessary to apply the most various and elastic forms of study of the *History*.

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### IV. The Study of the "History" in the Party Schools

For the more rapid and more basic education of strong Marxist-Leninist cadres, it is necessary to extend the network of schools, to transform their curriculum, and critically to examine all literature used by the schools, in accordance with the viewpoints given in the *History*.

The most important measures with regard to the schools are as follows:

(a) To introduce in the central Party schools a course, "Foundations of Marxism-Leninism," as the sole course for

the study of the science of Marxism-Leninism. The *History* and Comrade Stalin's *Leninism* to be used as the basis of this study program. The course on "History of the Working Class" of the particular country in question is to be maintained as an independent course in the school's program, and must be most closely related to the *History of the C.P.S.U.(B.)* and to *Leninism*.

(b) Whenever conditions of legality permit, care should be taken to establish evening courses for the study of the *History* to the widest possible extent throughout the lower and middle cadres of the Party.

(c) In the short-term schools the chief effort should be directed towards enabling those Party cadres who have been through the school to continue independently a more thorough study of the *History* and of the other works of Marxism-Leninism.

### 4. The Propagation of Marxism-Leninism Must be Brought to A Higher Level

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A situation must be brought about in which every Party functionary without exception not only himself studies the *History of the C.P.S.U.(B.)* and works to raise the level of his theoretical knowledge, but also that he undertakes alongside his general Party work a specific task of teaching.

. . . . . .

(g) The work of the publishing houses is to be so organized that, besides the contemporary agitational literature, they not only publish the works of Marx, Engels, Lenin and Stalin, but also strive to achieve for them the very widest distribution.

. . . . . .

The history of the Communist Party of the Soviet Union teaches us that:

"Only a party which has mastered the Marxist-Leninist theory can confidently advance and lead the working class forward."*

Only such a Party will be capable of defending the interests of the proletariat and of the toiling masses, of fusing the forces of the anti-fascist front, of repelling fascism and the fascist incendiaries and of bringing about the overthrow of the hated fascist dictatorship. Only such a Party will be capable of leading the working class in the attack upon capitalism, of standing at the head of the struggle of the toilers for their liberation from capitalist slavery, and leading them, through the achievement and consolidation of the dictatorship of the proletariat, to the gleaming summits of the Communist society.

Signed by the Communist Parties of France, Great Britain, the U.S.A., Germany and Italy.

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**Petitioner's Exhibit No. 323**

*Daily Worker*

JULY 17, 1951

CP ASKS PEOPLE UNITE FOR KOREA ARMISTICE AND WORLD PEACE

The National Committee of the Communist Party yesterday urged that the people unite to bring about the speedy conclusion of an armistice in Korea and the "peaceful settlement of all other issues." The statement declared that "broadest united front actions, around this demand as well as in the fight against the war-economy measures, and against the fascist trampling of the Bill of Rights, are urgently necessary and possible of realization."

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* *History of the C.P.S.U.(B.)*, p. 355. International Publishers, New York.

"The fight for peace can be immeasurably strengthened and advanced," the National Committee asserted, "if the American people intervened at this critical stage and make their voices heard in no uncertain terms."

Warning against "further pretexts" by the Truman Administration and the military brass to disrupt ceasefire negotiations, the statement said that "the American people ought to challenge the Truman Administration's propaganda about the 'danger of peace,' which is used to cover up their desire to go full speed ahead with all war preparations, with the consequent militarization and fascization of the country; with the attacks on labor, the Negro people, and the constitutional rights of all Americans; with its continued undermining of the people's standard of living and economic welfare while war profits soar to fantastic heights. The American people do not fear the so-called danger of peace; "they fear only the danger of war and all the consequences of a war economy."

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**Petitioner's Exhibit No. 328**

## THE CONSTITUTION OF THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA

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### CONSTITUTION

#### PREAMBLE

The Communist Party of the United States of America is a working class political party carrying forward today the traditions of Jefferson, Paine, Jackson, and Lincoln, and of the Declaration of Independence; it upholds the achievements of democracy, the right of "life, liberty, and the pursuit of happiness," and defends the United States Constitution against its reactionary enemies who would destroy democracy and all popular liberties; it is devoted to defense of the immediate interests of workers, farmers, and all toilers against capitalist exploitation, and to preparation

of the working class for its historic mission to unite and lead the American people to extend these democratic principles to their necessary and logical conclusions:

By establishing common ownership of the national economy, through a government of the people, by the people, and for the people; the abolition of all exploitation of man by man, nation by nation, and race by race, and thereby the abolition of class divisions in society; that is, by the establishment of socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Communist International; and the free cooperation of the American people with those of other lands, striving toward a world without oppression and war, a world brotherhood of man.

To this end, the Communist Party of the United States of America establishes the basic laws of its organization in this Constitution.

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ARTICLE VI

THE PARTY: RIGHTS AND DUTIES OF MEMBERS

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*Section 15.* No Party member shall have personal or political relationship with confirmed Trotskyites, Lovestoneites, or other known enemies of the Party and of the working class.

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**Petitioner's Exhibit No. 329**

CONSTITUTION OF THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA

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PREAMBLE

The Communist Party of the United States is the political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism. It champions the immediate and fundamental interests of the

workers, farmers and all who labor by hand and brain against capitalist exploitation and oppression. As the advanced party of the working class, it stands in the forefront of this struggle.

The Communist Party upholds the achievements of American democracy and defends the United States Constitution and its Bill of Rights against its reactionary enemies who would destroy democracy and popular liberties. It uncompromisingly fights against imperialism and colonial oppression, against racial, national and religious discrimination, against Jim Crowism, anti-Semitism and all forms of chauvinism.

The Communist Party struggles for the complete destruction of fascism and for a durable peace. It seeks to safeguard the welfare of the people and the nation, recognizing that the working class, through its trade unions and by its independent political action, is the most consistent fighter for democracy, national freedom and social progress.

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The Communist Party holds as a basic principle that there is an identity of interest which serves as a common bond uniting the workers of all lands. It recognizes further that the true national interests of our country and the cause of peace and progress require the solidarity of all freedom-loving peoples and the continued and ever closer cooperation of the United Nations.

The Communist Party recognizes that the final abolition of exploitation and oppression, of economic crises and unemployment, of reaction and war, will be achieved only by the socialist reorganization of society—by the common ownership and operation of the national economy under a government of the people led by the working class.

The Communist Party, therefore, educates the working class, in the course of its day-to-day struggles, for its historic mission, the establishment of Socialism. Socialism, the highest form of democracy, will guarantee the full realization of the right to "life, liberty and the pursuit of happi-

ness," and will turn the achievements of labor, science and culture to the use and enjoyment of all men and women.

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In the struggle for democracy, peace and social progress, the Communist Party carries forward the democratic traditions of Jefferson, Paine, Lincoln and Frederick Douglass, and the great working class traditions of Sylvis, Debs and Ruthenberg. It fights side by side with all who join in this cause.

For the advancement of these principles, the Communist Party of the United States establishes the basic laws of its organization in the following Constitution:

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*Adopted by the Convention of the Communist Party of the State of New York, held in New York City, August 10-11-12, 1945.*

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**Petitioner's Exhibit No. 330**

# HISTORY OF THE COMMUNIST PARTY OF THE SOVIET UNION

(BOLSHEVIKS)

*Short Course*

EDITED BY A COMMISSION OF THE CENTRAL COMMITTEE OF THE C.P.S.U.(B.)

AUTHORIZED BY THE CENTRAL COMMITTEE OF THE C.P.S.U.(B.)

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## CHAPTER FIVE

## THE BOLSHEVIK PARTY DURING THE NEW RISE OF THE WORKING-CLASS MOVEMENT BEFORE THE FIRST IMPERIALIST WAR (1912-1914)

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## 2. The Bolshevik Newspaper "Pravda." The Bolshevik Group in the Fourth State Duma

A powerful instrument used by the Bolshevik Party to strengthen its organization and to spread its influence among the masses was the Bolshevik daily newspaper *Pravda* (*Truth*), published in St. Petersburg. It was founded, according to Lenin's instructions, on the initiative of Stalin, Olminsky and Poletayev. *Pravda* was a mass working-class paper founded simultaneously with the new rise of the revolutionary movement. Its first issue appeared on April 22 (May 5, New Style), 1912. This was a day of real celebration for the workers. In honour of *Pravda's* appearance it was decided henceforward to celebrate May 5 as workers' press day.

Previous to the appearance of *Pravda*, the Bolsheviks already had a weekly newspaper called *Zvezda*, intended for advanced workers. *Zvezda* played an important part at the time of the Lena events. It printed a number of trenchant political articles by Lenin and Stalin which mobilized the working class for the struggle. But in view of the rising revolutionary tide, a weekly newspaper no longer met the requirements of the Bolshevik Party. A daily mass political newspaper designed for the broadest sections of the workers was needed. *Pravda* was such a newspaper.

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The tsarist government suppressed *Pravda* eight times in the space of two and a half years; but each time, with the support of the workers, it reappeared under a new but similar name, *e.g.*, *Za Pravdu* (*For Truth*), *Put Pravdy* (*Path of Truth*), *Trudovaya Pravda* (*Labour Truth*).

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What did *Pravda* write about?

Every issue contained dozens of letters from workers describing their life, the savage exploitation and the various forms of oppression and humiliation they suffered at the

hands of the capitalists, their managers and foremen. These were trenchant and telling indictments of capitalist conditions. *Pravda* often reported cases of suicide of unemployed and starving workers who had lost hope of ever finding jobs again.

*Pravda* wrote of the needs and demands of the workers of various factories and branches of industry, and told how the workers were fighting for their demands. Almost every issue contained reports of strikes at various factories. In big and protracted strikes, the newspaper helped to organize collections among the workers of other factories and branches of industry for the support of the strikers. Sometimes tens of thousands of rubles were collected for the strike funds, huge sums for those days when the majority of the workers received not more than 70 or 80 kopeks per day. This fostered a spirit of proletarian solidarity among the workers and a consciousness of the unity of interests of all workers.

The workers reacted to every political event, to every victory or defeat, by sending to *Pravda* letters, greetings, protests, etc. In its articles *Pravda* dealt with the tasks of the working-class movement from a consistent Bolshevik standpoint. A legally published newspaper could not call openly for the overthrow of tsardom. It had to resort to hints, which, however, the class-conscious workers understood very well, and which they explained to the masses. When, for example, *Pravda* wrote of the "full and uncurtailed demands of the Year Five," the workers understood that this meant the revolutionary slogans of the Bolsheviks, namely, the overthrow of tsardom, a democratic republic, the confiscation of the landed estates, and an 8-hour day.

*Pravda* organized the advanced workers on the eve of the elections to the Fourth Duma. It exposed the treacherous position of those who advocated an agreement with the liberal bourgeoisie, the advocates of the "Stolypin Labour Party"—the Mensheviks. *Pravda* called upon the workers

to vote for those who advocated the "full and uncurtailed demands of the Year Five," that is, the Bolsheviks.

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*Pravda* helped to organize the mass actions of the proletariat. At the time of a big lockout in St. Petersburg in the spring of 1914, when it was inexpedient to declare a mass strike, *Pravda* called upon the workers to resort to other forms of struggle, such as mass meetings in the factories and demonstrations in the streets. This could not be stated openly in the newspaper. But the call was understood by class-conscious workers when they read an article by Lenin bearing the modest title "Forms of the Working-Class Movement" and stating that at the given moment strikes should yield place to a higher form of the working-class movement—which meant a call to organize meetings and demonstrations.

In this way the illegal revolutionary activities of the Bolsheviks were combined with legal forms of agitation and organization of the masses of the workers through *Pravda*.

*Pravda* not only wrote of the life of the workers, their strikes and demonstrations, but also regularly described the life of the peasants, the famines from which they suffered, their exploitation by the feudal landlords. It described how as a result of the Stolypin "reform" the kulak farmers robbed the peasants of the best parts of their land. *Pravda* drew the attention of the class-conscious workers to the widespread and burning discontent in the countryside. It taught the proletariat that the objectives of the Revolution of 1905 had not been attained, and that a new revolution was impending. It taught that in this second revolution the proletariat must act as the real leader and guide of the people, and that in this revolution it would have so powerful an ally as the revolutionary peasantry.

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At the time *Pravda* was founded the illegal Social-Democratic organizations were entirely under the direction of the

Bolsheviks. On the other hand, the legal forms of organization, such as the Duma group, the press, the sick benefit societies, the trade unions, had not yet been fully wrested from the Mensheviks. The Bolsheviks had to wage a determined struggle to drive the Liquidators out of the legally existing organizations of the working class. Thanks to *Pravda*, this fight ended in victory.

*Pravda* stood in the centre of the struggle for the Party principle, for the building up of a *mass* working-class revolutionary party. *Pravda* rallied the legally existing organizations around the illegal centres of the Bolshevik Party and directed the working-class movement towards one definite aim—preparation for revolution.

*Pravda* had a vast number of worker correspondents. In one year alone it printed over eleven thousand letters from workers. But it was not only by letters that *Pravda* maintained contact with the working-class masses. Numbers of workers from the factories visited the editorial office every day. In the *Pravda* editorial office was concentrated a large share of the organizational work of the Party. Here meetings were arranged with representatives from Party nuclei; here reports were received of Party work in the mills and factories; and from here were transmitted the instructions of the St. Petersburg Committee and the Central Committee of the Party.

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The Bolsheviks at that time were called "Pravdists." A whole generation of the revolutionary proletariat was reared by *Pravda*, the generation which subsequently made the October Socialist Revolution. *Pravda* was backed by tens and hundreds of thousands of workers. During the rise of the revolutionary movement (1912-14) the solid foundation was laid of a mass Bolshevik Party, a foundation which

no persecution by tsardom could destroy during the imperialist war.

"The *Pravda* of 1912 was the laying of the corner-stone of the victory of Bolshevism in 1917." (*Stalin.*)

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## CHAPTER SIX

## THE BOLSHEVIK PARTY IN THE PERIOD OF THE IMPERIALIST WAR. THE SECOND REVOLUTION IN RUSSIA (1914-MARCH 1917)

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### 3. THEORY AND TACTICS OF THE BOLSHEVIK PARTY ON THE QUESTION OF WAR, PEACE AND REVOLUTION

The Bolsheviks were not mere pacifists who sighed for peace and confined themselves to the propaganda of peace, as the majority of the Left Social-Democrats did. The Bolsheviks advocated an active revolutionary struggle for peace, to the point of overthrowing the rule of the bellicose imperialist bourgeoisie. The Bolsheviks linked up the cause of peace with the cause of the victory of the proletarian revolution, holding that the surest way of ending the war and securing a just peace, a peace without annexations and indemnities, was to overthrow the rule of the imperialist bourgeoisie.

In opposition to the Menshevik and Socialist-Revolutionary renunciation of revolution and their treacherous slogan of preserving "civil peace" in time of war, the Bolsheviks advanced the slogan of "*converting the imperialist war into a civil war.*" This slogan meant that the labouring people, including the armed workers and peasants clad in soldiers' uniform, were to turn their weapons against their own bourgeoisie and overthrow its rule if they wanted to put an end to the war and achieve a just peace.

In opposition to the Menshevik and Socialist-Revolutionary policy of defending the bourgeois fatherland, the Bolsheviks advanced the policy of "*the defeat of one's own*

*government in the imperialist war.*" This meant voting against war credits, forming illegal revolutionary organizations in the armed forces, supporting fraternization among the soldiers at the front, organizing revolutionary actions of the workers and peasants against the war, and turning these actions into an uprising against one's own imperialist government.

The Bolsheviks maintained that the lesser evil for the people would be the military defeat of the tsarist government in the imperialist war, for this would facilitate the victory of the people over tsardom and the success of the struggle of the working class for emancipation from capitalist slavery and imperialist wars. Lenin held that the policy of working for the defeat of one's own imperialist government must be pursued not only by the Russian revolutionaries, but by the revolutionary parties of the working class in *all* the belligerent countries.

It was not to *every kind* of war that the Bolsheviks were opposed. They were only opposed to wars of conquest, imperialist wars. The Bolsheviks held that there are two kinds of wars:

a) *Just* wars, wars that are not wars of conquest but wars of liberation, waged to defend the people from foreign attack and from attempts to enslave them, or to liberate the people from capitalist slavery, or, lastly, to liberate colonies and dependent countries from the yoke of imperialism; and

b) *Unjust* wars, wars of conquest, waged to conquer and enslave foreign countries and foreign nations.

Wars of the first kind the Bolsheviks supported. As to wars of the second kind, the Bolsheviks maintained that a resolute struggle must be waged against them to the point of revolution and the overthrow of one's own imperialist government.

Of great importance to the working class of the world was Lenin's theoretical work during the war. In the spring of 1916 Lenin wrote a book entitled *Imperialism, the Highest Stage of Capitalism*. In this book he showed that imperial-

ism is the highest stage of capitalism, a stage at which it has already become transformed from "progressive" capitalism to parasite capitalism, decaying capitalism, and that imperialism is moribund capitalism. This, of course, did not mean that capitalism would die away of itself, without a revolution of the proletariat, that it would just rot on the stalk. Lenin always taught that without a revolution of the working class capitalism cannot be overthrown. Therefore, while defining imperialism as moribund capitalism, Lenin at the same time showed that "imperialism is the eve of the social revolution of the proletariat."

Lenin showed that in the era of imperialism the capitalist yoke becomes more and more oppressive, that under imperialism the revolt of the proletariat against the foundations of capitalism grows, and that the elements of a revolutionary outbreak accumulate in capitalist countries.

Lenin showed that in the era of imperialism the revolutionary crisis in the colonial and dependent countries becomes more acute, that the elements of revolt against imperialism, the elements of a war of liberation from imperialism accumulate.

Lenin showed that under imperialism the unevenness of development and the contradictions of capitalism have grown particularly acute, that the struggle for markets and fields for the export of capital, the struggle for colonies, for sources of raw material, makes periodical imperialist wars for the redivision of the world inevitable.

Lenin showed that it is just this unevenness of development of capitalism that gives rise to imperialist wars, which undermine the strength of imperialism and make it possible to break the front of imperialism at its weakest point.

From all this Lenin drew the conclusion that it was quite possible for the proletariat to break the imperialist front in one place or in several places, that the victory of Socialism was *possible* first in several countries or even in one country, taken singly, that the simultaneous victory of Socialism in all countries was *impossible* owing to the un-

evenness of development of capitalism, and that Socialism would be victorious first in one country or in several countries, while the others would remain bourgeois countries for some time longer.

Here is the formulation of this brilliant deduction as given by Lenin in two articles written during the imperialist war:

1) "Uneven economic and political development is an absolute law of capitalism. Hence, the victory of Socialism is possible first in several or even in one capitalist country, taken singly. The victorious proletariat of that country, having expropriated the capitalists and organized its own Socialist production, would stand up *against* the rest of the world, the capitalist world, attracting to its cause the oppressed classes of other countries: . . ." (From the article, "The United States of Europe Slogan," written in August, 1915.—Lenin, *Selected Works*, Vol. V, p. 141.)

2) "The development of capitalism proceeds extremely unevenly in the various countries. It cannot be otherwise under the commodity production system. From this it follows irrefutably that Socialism cannot achieve victory simultaneously *in all* countries. It will achieve victory first in one or several countries, while the others will remain bourgeois or pre-bourgeois for some time. This must not only create friction, but a direct striving on the part of the bourgeoisie of other countries to crush the victorious proletariat of the Socialist country. In such cases a war on our part would be a legitimate and just war. It would be a war for Socialism, for the liberation of other nations from the bourgeoisie." (From the article, "War Program of the Proletarian Revolution," written in the autumn of 1916.—Lenin, *Collected Works*, Russ. ed., Vol. XIX, p. 325.)

This was a *new* and complete theory of the Socialist revolution, a theory affirming the possibility of the victory of Socialism in separate countries, and indicating the conditions of this victory and its prospects, theory whose fundamentals were outlined by Lenin as far back as 1905 in his

pamphlet, *Two Tactics of Social-Democracy in the Democratic Revolution.*

This theory fundamentally differed from the view current among the Marxist in the period of *pre-imperialist* capitalism, when they held that the victory of Socialism in one separate country was impossible, and that it would take place simultaneously in all the civilized countries. On the basis of the facts concerning *imperialist* capitalism set forth in his remarkable book, *Imperialism, the Highest Stage of Capitalism,* Lenin displaced this view as obsolete and set forth a new theory, from which it follows that the simultaneous victory of Socialism in all countries is *impossible,* while the victory of Socialism in one capitalist country, taken singly, is *possible.*

The inestimable importance of Lenin's theory of Socialist revolution lies not only in the fact that it has enriched Marxism with a new theory and has advanced Marxism, but also in the fact that it opens up a revolutionary perspective for the proletarians of separate countries, that it unfetters their initiative in the onslaught of their own, national bourgeoisie, that it teaches them to take advantage of a war situation to organize this onslaught, and that it strengthens their faith in the victory of the proletarian revolution.

Such was the theoretical and tactical stand of the Bolsheviks on the questions of war, peace and revolution.

It was on the basis of this stand that the Bolsheviks carried on their practical work in Russia.

## Chapter Seven

## The Bolshevik Party in the Period of Preparation and Realization of the October Socialist Revolution (April 1917-1918)

### 4. The Bolshevik Party Adopts the Course of Preparing for Armed Uprising. Sixth Party Congress

The congress adopted a resolution on the Youth Leagues, which at that time frequently sprang up spontaneously. As a result of the Party's subsequent efforts it succeeded in definitely securing the adherence of these young organizations which became a reserve of the Party.

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The Sixth Congress adopted new Party Rules. These rules provided that all Party organizations shall be built on the principle of *democratic centralism.*

This meant:

1) That all directing bodies of the Party, from top to bottom, shall be elected;

2) That Party bodies shall give periodical accounts of their activities to their respective Party organizations;

3) That there shall be strict Party discipline and the subordination of the minority to the majority;

4) That all decisions of higher bodies shall be absolutely binding on lower bodies and on all Party members.

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## The Bolshevik Party in the Period of Foreign Military Intervention and Civil War (1918-1920)

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### 2. Defeat of Germany in the War. Revolution in Germany. Founding of the Third International. Eighth Party Congress.

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The tide of revolution in Europe began to mount. A revolutionary movement started in Austria, and a Soviet Republic arose in Hungary. With the rising tide of the revolution Communist parties came to the surface.

A real basis now existed for a union of the Communist parties, for the formation of the Third, Communist International.

In March 1919, on the initiative of the Bolsheviks, headed by Lenin, the First Congress of the Communist Parties of various countries, held in Moscow, founded the Communist International. Although many of the delegates were prevented by the blockade and imperialist persecution from arriving in Moscow, the most important countries of Europe and America were represented at this First Congress. The work of the congress was guided by Lenin.

Lenin reported on the subject of bourgeois democracy and the dictatorship of the proletariat. He brought out the importance of the Soviet system, showing that it meant genuine democracy for the working people. The congress adopted a manifesto to the proletariat of all countries, calling upon them to wage a determined struggle for the dictatorship of the proletariat and for the triumph of Soviets all over the world.

The congress set up an Executive Committee of the Third, Communist International (E.C.C.I.).

Thus was founded an international revolutionary proletarian organization of a new type—the Communist International—the Marxist-Leninist International.

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## Chapter Nine

## The Bolshevik Party in the Period of Transition to the Peaceful Work of Economic Restoration (1921-1925)

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### 5. The Soviet Union Towards the End of the Restoration Period. The Question of Socialist Construction and the Victory of Socialism in Our Country. Zinoviev-Kamenev "New Opposition." Fourteenth Party Congress. Policy of Socialist Industrialization of the Country

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But the Party knew that the problem of the victory of Socialism in one country did not end there. The construction of Socialism in the Soviet Union would be a momentous

turning point in the history of mankind, a victory for the working class and peasantry of the U.S.S.R., marking a new epoch in the history of the world. Yet this was an internal affair of the U.S.S.R. and was only a part of the problem of the victory of Socialism. The other part of the problem was its international aspect. In substantiating the thesis that Socialism could be victorious in one country, Comrade Stalin had repeatedly pointed out that the question should be viewed from two aspects, the domestic and the international. As for the domestic aspect of the question, *i.e.*, the class relations within the country, the working class and the peasantry of the U.S.S.R. were fully capable of vanquishing their own bourgeoisie *economically* and building a complete Socialist society. But there was also the international aspect of the question, namely, the sphere of foreign relations, the sphere of the relations between the Soviet Union and the capitalist countries, between the Soviet people and the international bourgeoisie, which hated the Soviet system and was seeking the chance to start again armed intervention in the Soviet Union, to make new attempts to restore capitalism in the U.S.S.R. And since the U.S.S.R. was as yet the only Socialist country, all the other countries remaining capitalist, the U.S.S.R. continued to be encircled by a capitalist world, which gave rise to the danger of capitalist intervention. Clearly, there would be a danger of capitalist intervention as long as this capitalist encirclement existed. Could the Soviet people by their own efforts destroy this external danger, the danger of capitalist intervention in the U.S.S.R.? No, they could not. They could not, because in order to destroy the danger of capitalist intervention the capitalist encirclement would have to be destroyed; and the capitalist encirclement could be destroyed only as a result of victorious proletarian revolutions in at least several countries. It followed from this that the victory of Socialism in the U.S.S.R., as expressed in the abolition of the capitalist economic system and the building of a Socialist economic system, could not be considered a *final* victory, inasmuch as the

danger of foreign armed intervention and of attempts to restore capitalism had not been eliminated, and inasmuch as the Socialist country had no guarantee against this danger. To destroy the danger of foreign capitalist intervention, the capitalist encirclement would have to be destroyed.

Of course, as long as the Soviet Government pursued a correct policy, the Soviet people and their Red Army would be able to beat off a new foreign capitalist intervention just as they had beaten off the first capitalist intervention of 1918-20. But this would not mean that the danger of new capitalist intervention would be eliminated. The defeat of the first intervention did not destroy the danger of new intervention, inasmuch as the source of the danger of intervention—the capitalist encirclement—continued to exist. Neither would the danger of intervention be destroyed by the defeat of the new intervention if the capitalist encirclement continued to exist.

It followed from this that the victory of the proletarian revolution in the capitalist countries was a matter of vital concern to the working people of the U.S.S.R.

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## Chapter Eleven

## The Bolshevik Party in the Struggle for the Collectivization of Agriculture (1930-1934)

### 1. International Situation in 1930-34. Economic Crisis in the Capitalist Countries. Japanese Annexation of Manchuria. Fascists' Advent to Power in Germany. Two Seats of War

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The world economic crisis further aggravated the contradictions between the imperialist states, between the victor countries and the vanquished countries, between the imperialist states and the colonial and dependent countries, between the workers and the capitalists, between the peasants and the landlords.

In his report on behalf of the Central Committee to the Sixteenth Party Congress, Comrade Stalin pointed out that the bourgeoisie would seek a way out of the economic crisis, on the one hand, by crushing the working class through the establishment of fascist dictatorship, *i.e.*, the dictatorship of the most reactionary, most chauvinistic, most imperialistic capitalist elements, and, on the other hand, by fomenting war for the redivision of colonies and spheres of influence at the expense of the poorly defended countries.

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## Chapter Twelve

## The Bolshevik Party in the Struggle to Complete the Building of the Socialist Society. Introduction of the New Constitution (1935-1937)

### 1. Internatonal Situation in 1935-37. Temporary Mitigation of the Economic Crisis. Beginning of a New Economic Crisis. Seizure of Ethiopia by Italy. German and Italian Intervention in Spain. Japanese Invasion of Central China. Beginning of Second Imperialist War.

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This war, it will be seen, is of a rather strange and one-sided character. But that does not prevent it from being a brutal war of unmitigated conquest waged at the expense of the poorly defended peoples of Ethiopia, Spain and China.

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Clearly, the U.S.S.R. could not shut its eyes to such a turn in the international situation and ignore the ominous events. Any war, however small, started by the aggressors, constitutes a menace to the peaceable countries. The second imperialist war, which has so "imperceptibly" stolen upon the nations and has involved over five hundred million people, is bound all the more to represent a most serious

danger to all nations, and to the U.S.S.R. in the first place. This is eloquently borne out by the formation of the "Anti-Communist Bloc" by Germany, Italy and Japan. Therefore, our country, while pursuing its policy of peace, set to work to further strengthen its frontier defences and the fighting efficiency of its Red Army and Navy. Towards the end of 1934 the U.S.S.R. joined the League of Nations. It did so in the knowledge that the League, in spite of its weakness, might nevertheless serve as a place where aggressors can be exposed, and as a certain instrument of peace, however feeble, that might hinder the outbreak of war. The Soviet Union considered that in times like these even so weak an international organization as the League of Nations should not be ignored. In May 1935 a treaty of mutual assistance against possible attack by aggressors was signed between France and the U.S.S.R. A similar treaty was simultaneously concluded between the Soviet Union and Czechoslovakia. In March 1936 the U.S.S.R. signed a treaty of mutual assistance with the Mongolian People's Republic, and in August 1937 a pact of non-aggression with the Republic of China.

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## Conclusion

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2) The history of the Party further teaches us that a party of the working class cannot perform the role of leader of its class, cannot perform the role of organizer and leader of the proletarian revolution, unless it has mastered the advanced theory of the working-class movement, the Marxist-Leninist theory.

The power of the Marxist-Leninist theory lies in the fact that it enables the Party to find the right orientation in any situation, to understand the inner connection of current events, to foresee their course and to perceive not only how and in what direction they are developing in the present, but

how and in what direction they are bound to develop in the future.

Only a party which has mastered the Marxist-Leninist theory can confidently advance and lead the working class forward.

On the other hand, a party which has not mastered the Marxist-Leninist theory is compelled to grope its way, loses confidence in its actions and is unable to lead the working class forward.

It may seem that all that is required for mastering the Marxist-Leninist theory is diligently to learn by heart isolated conclusions and propositions from the works of Marx, Engels and Lenin, learn to quote them at opportune times and rest at that, in the hope that the conclusions and propositions thus memorized will suit each and every situation and occasion. But such an approach to the Marxist-Leninist theory is altogether wrong. The Marxist-Leninist theory must not be regardod as a collection of dogmas, as a catechism, as a symbol of faith, and the Marxists themselves as pedants and dogmatists. The Marxist-Leninst theory is the science of the development of society, the science of the working-class movement, the science of the proletarian revolution, the science of the building of the Communist society. And as a science it does not and cannot stand still, but develops and perfects itself. Clearly, in its development it is bound to become enriched by new experience and new knowledge, and some of its propositions and conclusions are bound to change in the course of time, are bound to be replaced by new conclusions and propositions corresponding to the new historical conditions.

Mastering the Marxist-Leninist theory does not at all mean learning all its formulas and conclusions by heart and clinging to their every letter. To master the Marxist-Leninist theory we must first of all learn to distinguish between its letter and substance.

Mastering the Marxist-Leninist theory means assimilating *the substance* of this theory and learning to use it in the

solution of the practical problems of the revolutionary movement under the varying conditions of the class struggle of the proletariat.

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The Marxist-Leninist theory is not a dogma but a guide to action.

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However, the Russian Revolution of 1905, and especially the Revolution of February 1917, advanced a new form of political organization of society—the Soviets of Workers' and Peasants' Deputies. As a result of a study of the experience of the two Russian revolutions, Lenin, on the basis of the theory of Marxism, arrived at the conclusion that the best political form for the dictatorship of the proletariat was not a parliamentary democratic republic, but a republic of Soviets. Proceeding from this, Lenin, in April 1917, during the period of transition from the bourgeois to the Socialist revolution, issued the slogan of a republic of Soviets as the best political form for the dictatorship of the proletariat. The opportunists of all countries clung to the parliamentary republic and accused Lenin of departing from Marxism and destroying democracy. But it was Lenin, of course, who was the real Marxist who had mastered the theory of Marxism, and not the opportunists, for Lenin was advancing the Marxist theory by enriching it with new experience, whereas the opportunists were dragging it back and transforming one of its propositions into a dogma.

What would have happened to the Party, to our revolution, to Marxism, if Lenin had been overawed by the letter of Marxism and had not had the courage to replace one of the old propositions of Marxism, formulated by Engels, by the new proposition regarding the republic of Soviets, a proposition that corresponded to the new historical conditions? The Party would have groped in the dark, the Soviets would have been disorganized, we should not have had a Soviet power, and the Marxist theory would have

suffered a severe setback. The proletariat would have lost, and the enemies of the proletariat would have won.

. . . . . .

It may be said without fear of exaggeration that since the death of Engels the master theoretician Lenin, and after Lenin, Stalin and the other disciples of Lenin, have been the only Marxists who have advanced the Marxist theory and who have enriched it with new experience in the new conditions of the class struggle of the proletariat.

And just because Lenin and the Leninists have advanced the Marxist theory, Leninism is [illegible] development of Marxism; it is Marxism in the new conditions of the class struggle of the proletariat, Marxism of the epoch of imperialism and proletarian revolutions, Marxism of the epoch of the victory of Socialism on one-sixth of the earth's surface.

The Bolshevik Party could not have won in October 1917 if its foremost men had not mastered the theory of Marxism, if they had not learned to regard his theory as a guide to action, if they had not learned to advance the Marxist theory by enriching it with the new experience of the class struggle of the proletariat.

. . . . . .

3) The history of the Party further teaches us that unless the petty-bourgeois parties which are active within the ranks of the working class and which push the backward sections of the working class into the arms of the bourgeoisie, thus splitting the unity of the working class, are smashed, the victory of the proletarian revolution is impossible.

. . . . . .

4) The history of the Party further teaches us that unless the Party of the working class wages an uncompromising struggle against the opportunists within its own ranks, unless it smashes the capitulators in its own midst, it cannot preserve unity and discipline within its ranks, it cannot

perform its role of organizer and leader of the proletarian revolution, nor its role as the builder of the new, Socialist society.

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**Petitioner's Exhibit No. 331**

*Daily Worker, March 3, 1949*

U. S. COMMUNISTS WILL OPPOSE WALL ST. WAR, SAY FOSTER, DENNIS

William Z. Foster and Eugene Dennis, chairman and general secretary of the Communist Party, yesterday declared that, in the event Wall Street succeeded in starting a new world war, despite the efforts of peace forces to prevent it, American Communists would oppose such "an unjust, aggressive, imperialist war" and would work "with all democratic forces" to bring that war to an end.

Their statement came after requests by newspapers that they comment on the recent statements of Maurice Thorez of France and Palmiro Togliatti of Italy in respect to war and peace in Europe. Foster and Dennis hailed the Thorez and Togliatti statements, saying they "emphatically serve the cause of peace."

Six questions seeking elaboration on the statement were sent in by reporters to Dennis, who was engaged in a conference concerning the trial of the Communist Party leaders set to open next Monday. Dennis replied that he would seek to answer the questions in the course of the trial.

A seventh question, whether the Foster-Dennis statement came in response to "orders from Moscow," was termed "nonsense" by a spokesman for the Party. Text of the Foster-Dennis statement follows:

"The Thorez and Togliatti statements emphatically serve the cause of universal peace.

"Only those who plot a third world war and seek to embroil France and Italy in aggressive military operations against our great ally of World War II, the Soviet Union,

could read anything un-French or un-Italian in these statements.

"French and Italian sovereignty and independence are threatened today solely by Wall Street's schemes of world domination as expressed in the Marshall Plan and the proposed Atlantic war alliance. It is our military and those of the British who have established a General Headquarters at Fontainbleau. Not Russian but Americans have military bases and are intervening in the internal affairs of Greece, Turkey, Iran, China, Canada, Greenland, Brazil, as well as France and Italy.

"On Feb. 27 the 'New York Times' editorially termed the danger of an invasion of our shores wildly improbable. What the 'Times' failed to say, however, was that the threat of aggression against other nations is not wildly improbable—and that this threat emanates precisely from Wall Street and its cartel-connected trusts. It is this which explains the colossal peace-time military budget, the effort to stampede the nation into the Atlantic war alliance and plunge America and the world into an atomic war.

OPPOSE NEW WAR

"We Communists join with millions of other patriotic Americans in opposing those who seek a new world war. We strive for peace and friendship between the U. S. A., the USSR, the new democracies, the colonial and all other peoples. We do not regard a new world holocaust as inevitable. We hold the peaceful co-existence of two different social systems wholly possible. We believe that efforts of the peoples to achieve peace can check the war-makers and create new opportunities to achieve peace. The peace camp is infinitely stronger than the war camp.

"It is this which makes the war camp so reckless and ruthless. An atmosphere is rapidly being created in our nation that to work for peace and American-Soviet amity is considered equivalent to treason. The trial of the Communist leaders, the current witch-hunts and other attacks on civil liberties are indicative of today's political climate.

"If, despite the efforts of the peace forces of America and the world, Wall Street should succeed in plunging the world into war, we would oppose it as an unjust, aggressive, imperialist war, as an undemocratic and an anti-Socialist war, destructive of the deepest interests of the American people and all humanity. Even as Lincoln while a Congressman opposed the unjust, annexationist Mexican War and demanded its termination, so would we Communists cooperate with all democratic forces to defeat the predatory war aims of American imperialism and bring such a war to a speedy conclusion on the basis of a democratic peace.

"American security and American peace lie in world security and world peace—not in any Wall Street-Ueber-Alles policy decked out in the trappings of 'the American century.'

"For our part we will work with all those who seek peace, democracy and social progress. The American people, assuming their historic responsibility, must reject the war policies of the Wall Street-Churchill cartelists and their bipartisan puppets and return our nation to the peace policies of Franklin D. Roosevelt; the 'Grand Design' and cornerstone of which is firm American-Soviet friendship."

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**Petitioner's Exhibit No. 332**

*The Worker, March 13, 1949*

FRANKFELD ANSWERS SUNPAPER

Baltimore.—Philip Frankfeld, chairman of the Communist Party of Maryland and the District of Columbia announced that Communist Party members in this country would oppose Wall Street's plans to embroil this country in any war of aggression and would "co-operate with all democratic forces to defeat the predatory war aims of American imperialism and bring such a war to a speedy conclusion on the basis of a democratic peace."

This declaration was a response to a query by the Baltimore Sun on a statement made by William Z. Foster and Eugene Dennis.

"I believe the statement in its entirety represents a patriotic contribution in the struggle for peace which is for the general welfare of all Americans," Frankfeld declared.

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**Petitioner's Exhibit No. 333**

## FOR A LASTING PEACE, FOR A PEOPLE'S DEMOCRACY!

MARCH 1, 1949

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### COMMUNIST PARTY OF FRANCE LEADS STRUGGLE OF MASSES FOR PEACE

(PLENUM CENTRAL COMMITTEE, COMMUNIST PARTY, FRANCE)

A Plenum of the Central Committee of the Communist Party of France was held in Paris on February 22 and 23. Jacques Duclos, Secretary of the Central Committee, reported on the political line of the Party and on the cantonal elections.

In his report Comrade Duclos thoroughly analysed the international situation and said that the forthcoming cantonal elections should be fought under the slogan of the struggle for peace and against the instigators of a new war.

The same day, Maurice Thorez, General Secretary of the Party addressed the Plenum, reports "l'Humanite". He made the following statement:—

Hoping to confuse us, the enemies of the people put the question: "What would you do if the Red Army occupied Paris?"

Here is our answer:

1. The Soviet Union has never been and can never be an aggressor against any country. The land of Socialism, by its very essence, cannot pursue the policy of aggression and

war characteristic of the imperialist powers. The Soviet Army, the army of the heroic defenders of Stalingrad, has never attacked another nation. It has fulfilled its glorious mission of liberator of the peoples from Hitler Germany and has won the heartfelt gratitude of those peoples.

2. We base our stand on facts, not on suppositions. Today the facts are these: the French Government is cooperating actively in the aggressive policy of the Anglo-American imperialists; a foreign general staff has been set up at Fontainbleau; our country and its over-seas territories have been turned into bases of aggression against the Soviet Union and the people's democracies.

3. Since this question has been raised, we shall answer firmly: should the joint efforts of all French lovers of freedom and peace fail to bring our country back to the camp of democracy and peace; if, as a result, our people are involved against their will in a war against the Soviet Union; if under such conditions the Soviet Army—defending the cause of the peoples, the cause of Socialism—in its battle against the aggressor were forced to enter our territory, could the working people and the entire people of France conduct themselves any differently in relation to the Soviet Army than the working people and the peoples of Poland, Rumania, Yugoslavia had done?

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We are faithful to the genuine traditions of Socialism, the traditions of the international working class movement. Illustrating this statement, Thorez quoted from the resolutions adopted at national and international Socialist congresses. At the Fourth Congress of the French Socialist Party held in Nancy in 1907 a resolution was adopted which called on the proletariat to prepare and organise united action to set in motion all the forces of the working class and the Socialist Party in each country, according to the circumstances, in order to fight the danger of war in every possible way, in Parliament, by public agitation, popular demonstrations, a general strike and insurrection.

The people who asked these questions would like to insult and slander us. Now they are screaming for repression. But what hypocrisy there is in their venomous outbursts and how many admissions. We affirm that because of its very nature, the land of Socialism can never wage an aggressive war.

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**Petitioner's Exhibit No. 334**

## FOR A LASTING PEACE, FOR A PEOPLE'S DEMOCRACY!

MARCH 15, 1949

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COMMUNIST PARTIES AND WORKING PEOPLE OF ALL COUNTRIES RAISE BANNER OF STRUGGLE IN DEFENCE OF PEACE AND ACTIVELY OPPOSE THE WARMONGERS—THE ANGLO-AMERICAN AGGRESSORS

The statement made by Maurice Thorez, General Secretary of the Communist Party of France, about the attitude of the working class and working people of France in the event of aggression against the Soviet Union and the New Democracies has been echoed by the Communist Parties and working people of the capitalist countries. Millions have voiced their determination to frustrate the plans of the Anglo-American warmongers and to defend the bulwark of peace—the Soviet Union and the countries of People's Democracy.

Below we publish excerpts from the statements made by the leaders of the Communist and Workers' Parties of Italy, Great Britain, Norway, Denmark, Mexico, Canada, Finland, Argentina, Australia and Columbia. Similar statements were made by the Communist Parties of the United States, Austria, Japan, Cuba, Uruguay and other countries.

## Curb the Aggressor and Defend the Peace

Replying to questions put by a correspondent of the "Giornala della Sera", Palmiro Togliatti, General Secretary of the Communist Party of Italy stated:

"There are no grounds whatsoever for assuming that the Soviet Union entertains even the slightest intention of attacking any country or that the Soviet Union has taken action, or intends to take action, that runs counter to the national interests of Italy. On the contrary, it was the Soviet Union which delivered the decisive blows that brought about the defeat of fascism.

"Consequently, I consider it absurd to discuss the hypothesis of war arising between the Soviet Union and Italy. If there is anybody who advances such a hypothesis it merely means that he is of the opinion that Italy should wage war against the Soviet Union for the very same reasons that the American multimillionaires would like to wage war against the Soviet Union, precisely because the U.S.S.R. is not a capitalist state, but a socialist state of working people.

"It is quite clear that this is not the hypothesis of a national war but the typical line of a class and ideological war by reactionaries and capitalists against social progress and against the working people.

It is also quite clear what would be the position in this event of those who stand for social progress and Socialism and against reaction.

"As for the hypothesis about pursuit of an aggressor by the Soviet Army on our territory, in this event I think it would be the direct duty of the Italian people, who cannot but condemn any and every aggression, to render the Soviet Army the most effective aid and to teach the aggressor the lesson he deserves to be taught. To announce immediately to the whole world that the Italian people—at any rate the overwhelming majority of the active and militant sections—view the matter in just this way means, unquestionably, to contribute to curbing the aggressor and preserving the peace."

### The Working Class Will Resist

In a recent statement Comrade Sharkey, General Secretary of the Australian Communist Party, declared:

I support the declaration of Maurice Thorez, leader of the French Communist Party. The task of Communists is to fight to prevent war and to educate the mass of the people in the spirit of struggle against war ideology. But if the fascists in Australia resort to force to prevent the workers achieving this aim, the Communists will tell the workers to meet force with force.

### To Combat the Aggressor in Every Way and to the Bitter End

A resolution passed by the Central Committee of the Communist Party of Belgium states:

If the servants of American imperialism ruling our country succeeded in drawing Belgium into an aggressive war against the Soviet Union, the Communists and the vast majority of the Belgian workers, would refuse to share such shame. They would fight in every way and to the bitter end against those who will expose themselves as the worst enemies of the Belgian people and of mankind.

### Call For Anti-Imperialist Front in Western Hemisphere

At its recent meeting, the Executive Committee of the Communist Party of Argentina declared that the Party would do everything to secure the victory of the Soviet Union if a third world war should break out. The Party called for an anti-imperialist front in the Western hemisphere. It also called on all citizens of Argentina to support the Congress for Peace and Democracy which will be an important step toward forming an anti-imperialist front.

### The Working Class—Organiser of the Struggle for Peace

Addressing a recent meeting in Oslo dedicated to the cause of peace and to the memory of members of the Communist Party of Norway who gave their lives for the libera-

tion of the country, Emil Levlien, Chairman of the Communist Party, said:

"The decisive national and socialist task of the people of Norway today is to refuse to join the Atlantic Pact. It is to be feared that new aggressors will continue their economic and political occupation of our country, and that they will intensify their military plans for turning Norway into a bridgehead in preparation for their criminal aggressive war against the land of Socialism. Only a people's movement, embracing the entire country can put a stop to this harmful policy and prevent our country from being handed over to the war politicians.

"To actively resist the war policy we must form a broad united front of Norwegian people like that created during the liberation war against fascism. We must consolidate and activise the forces of peace.

"We must raise the working class to the level where it will fight for peace instead of being dragged into a criminal war policy. If we prosecute this work with vigour and singleness of purpose, we shall be fighting for those aims for which our comrades fought and died, we shall be acting in their spirit."

FORM A BROAD FRONT OF PEACE SUPPORTERS

In his report to the recent Extended Meeting of the Executive Committee of the Communist Party of Britain, Harry Pollitt, General Secretary of the Party, stated:

Pressure must be directed to the reduction of Britain's armed forces to their former level and to end our present overseas military commitments, with the removal of British troops from Malaya, the Middle East, Greece and other areas where their presence aroused the indignation of the people against whom they have been sent.

Pressure must be equally forceful for the withdrawal of all American military forces and aircraft from Britain and the refusal to provide military bases.

The struggle for peace cannot be separated from the need to reduce the armed forces and armaments and to outlaw the atom bomb.

Moreover, it is quite clear against what countries these bellicose preparations are directed. Unquestionably, the U.S.S.R., which is not interested in war, in imperialist markets, or spheres of investments and exploitation, is a more natural ally of the British working-class movement than the aggressive imperialists of the United States.

An alliance between Britain and the Soviet Union would quite definitely make war impossible.

Pollitt stated that it was necessary to organise a broad front of peace supporters: We are so much more numerous and much stronger than the warmongers.

In another statement Pollitt declared:

If we are asked what we will do in the event of an imperialist aggressive war against the U.S.S.R., we will reply in the same way as Ernest Bevin in 1920: organise strikes and councils of action to prevent that war from being carried through.

## Canadian Workers Are Against War

In the opinion of the Labour Progressive Party of Canada the country is not threatened with a hostile invasion, neither is there any sign of such a danger.

The Labour Progressive Party opposes and will oppose the Government proposal which, before the event, binds Canada to take part in the war the American imperialists want to start. We are fighting to prevent Canada from being drawn into war. That is why we are against Canada signing the North Atlantic military pact. That is why we insist that all United States troops must be withdrawn from Canada.

The Labour Progressive Party opposes the attempts of the imperialists to smash Socialism by war.

### Peace Forces are Strong Enough to Avert War

Addressing a gathering of several thousand people held to protest against Denmark joining the North Atlantic Pact, Axel Larsen, Chairman of the Communist Party of Denmark, said:

"There is a real danger of war at present. Our peace and national independence are likewise menaced. But the danger threatens from the West, not the East. Denmark's adherence to the North Atlantic bloc would enhance the danger of war for our country and our people.

"Should war break out we shall rally the people to fight against the aggressor, irrespective of whether it will be one country, or a coalition such as the North Atlantic bloc, we shall fight together with all who will resist the aggressor."

### Remove the Danger of Imperialist Aggression

Dionisio Ensina, General Secretary of the Mexican Communist Party, commenting on the Thorez and Togliatti declarations said that a common front would be formed in Mexico in the near future, uniting all elements who are determined to oppose any imperialist war which the United States or Britain may unleash against the U.S.S.R.

### Statement of Columbia Communists

The Communist Party of Columbia declares that in the event of war "we, Communists, will stand at the side of the armies fighting against our mortal enemy—American imperialism."

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**Petitioner's Exhibit No. 335**

# MASTERING BOLSHEVISM

By Joseph Stalin

## Note

*This pamphlet contains the text of the report by Joseph Stalin, General Secretary, to the plenary meeting of the Central Committee of the Communist Party of the Soviet Union, on March 3, 1937, together with his concluding speech in reply to the discussion, delivered March 5, 1937.*

New Century Publishers, 832 Broadway, New York 3,
New York, November, 1946.

## 2: Capitalist Encirclement

What are these facts which our Party comrades forgot, or which they simply did not notice?

They forgot that Soviet power has conquered only one-sixth of the world, that five-sixths of the world is in possession of capitalist powers. They forgot that the Soviet Union is in the conditions of capitalist encirclement. It is an accepted thing to talk loosely about capitalist encirclement, but people do not want to ponder upon what sort of thing this capitalist encirclement is.

Capitalist encirclement—that is no empty phrase; that is a very real and unpleasant feature. Capitalist encirclement means that here is one country, the Soviet Union, which has established the socialist order on its own territory and besides this there are many countries, bourgeois countries, which continue to carry on a capitalist mode of life and which surround the Soviet Union, waiting for an opportunity to attack it, break it, or at any rate to undermine its power and weaken it.

Our comrades forgot this fundamental fact. But it is that

precisely, which determines the basis of relations between the capitalist encirclement and the Soviet Union.

. . . . . .

4. It should be remembered and never forgotten that as long as capitalist encirclement exists there will be wreckers, diversions, spies, terrorists, sent behind the frontiers of the Soviet Union by the intelligence services of foreign states; this should be remembered and a struggle should be carried on against those comrades who underestimate the significance of the fact of capitalist encirclement, who underestimate the strength and significance of wrecking.

It should be explained to our Party comrades that no economic successes whatsoever, no matter how great they are, can annul the fact of capitalist encirclement and the results arising therefrom.

. . . . . .

On the contrary, the further forward we advance, the greater the successes we achieve, the greater will be the fury of the remnants of the broken exploiting classes, the sooner will they resort to sharper forms of struggle, the more will they seek to harm the Soviet state and the more will they clutch at the most desperate means of struggle, as the last resort of doomed people.

It should be borne in mind that the remnants of the broken classes in the U.S.S.R. are not alone. They have the direct support of our enemies beyond the bounds of the U.S.S.R. It would be a mistake to think that the sphere of the class struggle is limited to the bounds of the U.S.S.R. While one end of the class struggle has its operation within the bounds of the U.S.S.R., its other stretches to the bounds of the bourgeois states surrounding us. The remnants of the broken classes cannot but be aware of this. And precisely because they are, they will continue their desperate assaults in the future.

This is what history teaches us. This is what Leninism teaches us.

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**Petitioner's Exhibit No. 338**

October 8th, 1945

Dear Comrade:

On next Monday night, October 13th, we are holding a meeting of discussion group leaders to prepare a course of study on Principles of Communism.

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If you have time re-read the Communist Manifesto before the meeting.

Comradely,
FANNY HARTMAN
(for the District Board)

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**Petitioner's Exhibit No. 339**

5 SESSION INTRODUCTORY COURSE ON PRINCIPLES OF COMMUNISM

Draft Outline

1. Purpose of the introductory class.

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As an introductory course, these sessions can only highlight some aspects of Marxist theory. They do not, for example, treat separately such basic questions as the role of the state, the national question, the nature of fascism, etc., but refer to them under general topics. Thus the role of the state will enter into all sessions; the national question and specifically the position of the Negro people in the United States is dealt with in all of the last 4 sessions; the struggle against revisionism and Social Democracy in Sessions 3 and 5.

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2. Method of Using Outline.

The outline is meant to serve only as a *guide* to instructors. It should be adapted or changed to the level of the students in the group, with particular aspects of a problem

stressed based upon the group's activities. The suggested reading list given below is for the instructors. Reading assignments for the students should be determined by the character of the group.

2. Proposed Session Topics and Reading Material.

SESSION I. MARXIST METHOD OF STUDYING SOCIAL AND ECONOMIC PROBLEMS

Reading Material:

Communist Manifesto

Engels: Socialism, Utopian and Scientific. Sect. 3

Stalin: Dialectical and Historical Materialism. pp. 34-39 or in History of CPSU

SESSION II. FUNDAMENTAL FEATURES OF CAPITALIST SOCIETY

Reading Material:

Marx; Value Price and Profit. Chapters VI-XI

Leontiev: Political Economy. Chapters III and IV

SESSION III. IMPERIALISM

Reading Material:

Lenin; Imperialism. Chapters VII-X

Monopoly in the USA. TNEC Pamphlet

SESSION IV. SOCIALISM

Reading Material:

Constitution of the USSR

Stalin: Foundations of Leninism, Ch. IV.

Fischer, Ernst: What is Socialism

Dean of Canterbury: Soviet Power

SESSION V. THE COMMUNIST PARTY

Reading Material:

Stalin: Foundations of Leninism. Ch. VIII.

Bittelman: Milestones in the History of the CPUSA

Dennis, E.: America Needs the Communist Party. Pol. Affairs, Oct. '45

Constitution of the CPUSA

Petitioner's Exhibit No. 343

# STRATEGY AND TACTICS OF THE PROLETARIAN REVOLUTION

INTERNATIONAL PUBLISHERS
NEW YORK

## I. FORMULATION OF THE QUESTION OF STRATEGY AND TACTICS IN LENINISM

### 1. BOLSHEVIK STRATEGY AND TACTICS AS A SCIENCE OF LEADERSHIP OF THE CLASS STRUGGLE OF THE PROLETARIAT

The period of the domination of the Second International was mainly the period of the formation and instruction of the proletarian armies in an environment of more or less peaceful development. This was the period when parliamentarism was the outstanding form of class struggle. Questions of great class conflicts, of preparing the proletariat for revolutionary combats, of the ways and means leading to the conquest of the dictatorship of the proletariat, did not seem to be on the order of the day at that time. The task reduced itself to utilizing all paths of legal development for the formation and instruction of the armies of proletarians; for the utilization of parliamentarism in conformity with the conditions under which the proletariat was (and as it seemed then, was destined to remain) in the opposition. It need hardly be pointed out that during such a period and with such a conception of the tasks of the proletariat, there could be neither complete strategy nor any elaborated tactics. There were fragmentary and detached ideas about tactics and strategy, but no tactics or strategy as such.

The mortal sin of the Second International was not that it adopted the tactic of utilizing the parliamentary forms of struggle, but that it overestimated the importance of these forms, that it considered them to be virtually the only forms; and when the period of open revolutionary combats arrived and the question of extra-parliamentary forms of struggle

came to the fore, the parties of the Second International turned their backs on these new tasks and refused to shoulder them.

Only in the subsequent period, the period of direct action by the proletariat, in the period of proletarian revolution, when the question of the overthrow of the bourgeoisie became a question of immediate practice, when the question of the reserves of the proletariat (strategy) became one of the most burning questions, when all forms of struggle and of organization, parliamentary and extra-parliamentary (tactics), assumed definite shape—only in this period could a complete strategy and detailed tactics for the struggle of the proletariat be elaborated. It was precisely in that period that Lenin dragged into the light of day the brilliant ideas of Marx and Engels on tactics and strategy, that had been immured by the opportunists of the Second International. But Lenin did not rest content with restoring certain tactical theses of Marx and Engels. He developed them further and supplemented them with new ideas and new theses, correlating them all in a system of rules and guiding principles for the leadership of the class struggle of the proletariat. Lenin's pamphlets, such as *What Is to Be Done?; Two Tactics; Imperialism; State and Revolution; The Proletarian Revolution and Renegade Kautsky; "Left-Wing" Communism, etc.*, will doubtless be treasured as priceless contributions to the general store of Marxism and to its revolutionary arsenal. The strategy and tactics of Leninism constitute the science of leadership of the revolutionary struggle of the proletariat.

**Joseph Stalin, *Leninism*, Vol. I, pp. 72-73.**

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### 3. Leadership in a Situation and Consideration for Its Peculiarities—the Main Characteristic of Leninist Strategy and Tactics

". . . while the working class movement is everywhere passing through what is practically a similar preparatory school for victory over the bourgeoisie, it is in each country achiev-

ing this development in *its own way*. The big, advanced capitalist countries are marching along this road *much more rapidly* than did Bolshevism, which history granted a period of fifteen years to prepare itself for victory as an organized political trend. The Third International has already scored a decisive victory in the short space of one year; it has defeated the yellow, social-chauvinist Second International, which only a few months ago was incomparably stronger than the Third International, and which seemed to be firm and strong, enjoying the all-round support—direct and indirect, material (ministerial posts, passports, the press) and ideological—of the world bourgeoisie.

The main thing now is that the Communists of every country should quite consciously take into account the fundamental tasks of the struggle against opportunism and "Left" doctrinairism as well as the concrete *peculiar features* which this struggle assumes and inevitably must assume in each separate country in accordance with the peculiar features of its economics, politics, culture, national composition (Ireland, etc.), its colonies, religious divisions, etc.

. . . . . .

As long as national and state differences exist among peoples and countries—and these differences will continue to exist for a very long time, even after the dictatorship of the proletariat has been established on a world scale—the unity of international tactics of the communist working class movement of all countries demands, not the elimination of variety, not the abolition of national differences (this is a foolish dream at the present moment), but such an application of the *fundamental* principles of Communism (Soviet power and the dictatorship of the proletariat) as will *correctly modify* these principles in *certain particulars*, will properly adapt, apply them to the national and national-state differences. To investigate, study, seek out, divine, grasp that which is specifically national in the *concrete manner* in which each country *approaches* the fulfillment of the *single* international task, the victory over opportunism and

"Left" doctrinairism in the working class movement, the overthrow of the bourgeoisie, the establishment of a Soviet republic and a proletarian dictatorship—this is the main task of the historical period through which all the advanced (and not only the advanced) countries are now passing. The main thing—not everything, by a long way—but the main thing has already been achieved, in that the vanguard of the working class has been won over, in that it has gone over to the side of the Soviet power against parliamentarism, to the side of the dictatorship of the proletariat against bourgeois democracy. Now all efforts, all attention, must be concentrated on the *next* step—which means, and from a certain standpoint really is, less fundamental, but which in fact is much closer to the practical carrying out of the task—namely, on seeking out the forms of *transition or approach* to the proletarian revolution.

. . . History generally, and the history of revolutions in particular, is always richer in content, more varied, more many-sided, more lively and "subtle" than the best parties and the most class conscious vanguards of the most advanced class imagine. This is understandable, because the best vanguards express the class consciousness, the will, the passion, the phantasy of tens of thousands, while the revolution is made, at the moment of its climax and the exertion of all human capabilities, by the class consciousness, the will, the passion, and the phantasy of tens of millions who are urged on by the very acutest class struggle. From this follow two very important practical conclusions: first, that the revolutionary class, in order to fulfill its task, must be able to master *all* forms or sides of social activity without exception (and complete after the capture of political power, sometimes at great risk and amidst very great dangers, what it did not complete before the capture of power); second, that the revolutionary class must be ready to pass from one form to another in the quickest and most unexpected manner.

V. I. Lenin, *"Left-Wing" Communism: An Infantile Disorder*, pp. 71-72; 75.

### 4. International Significance of Bolshevik Strategy and Tactics

The Bolshevik's tactics were correct; they were the *only* internationalist tactics, because they were based, not on the cowardly fear of a world revolution, not on a philistine "disbelief" in it, not on the narrow nationalist desire to protect "one's own" fatherland (the fatherland of one's bourgeoisie), and not "care a hang" for all the rest; they were based on a correct (and universally admitted, before the war and before the renegacy of the social-chauvinists and social-pacifists) *estimation* of the revolutionary situation in Europe. These tactics were the only internationalist tactics, because they did the utmost possible in one country for the development, support and stirring up of *the revolution in all countries.* The correctness of these tactics has been confirmed by the enormous success that has been achieved, because Bolshevism (owing, not to the merits of the Russian Bolsheviks, but to the most profound sympathy the *masses* everywhere displayed for tactics that are revolutionary in practice) has become *world*-Bolshevism, it has produced an idea, a theory, a program, and tactics, which differ concretely and in practice from those of social-chauvinism and social-pacifism. Bolshevism has vanquished the old, decayed International of the Scheidemanns and Kautskys, the Renaudels and Longuets, the Hendersons and the MacDonalds, who, henceforth, will be treading on each other's heels, dreaming about "unity" and trying to revive a corpse. Bolshevism *created* the ideological and tactical foundations of a Third International, a really proletarian and Communist International, which will take into consideration both the gains of the peaceful epoch and the experience of the *epoch of revolution, which has now begun.*

* * * * * * * * * * *

Bolshevism has helped in a practical way to develop the proletarian revolution in Europe and America more power-

fully than any party in any other country has ever succeeded in doing.

. . . . . .

Not only the European, but the world proletarian revolution is maturing before the eyes of all, and it has been assisted, has been accelerated, has been supported, by the victory of the proletariat in Russia. Is all this enough for the complete victory of socialism? Certainly not. One country cannot do more. But thanks to the Soviet government, this one country has nevertheless done so much that even if the Russian Soviet government is crushed by world imperialism tomorrow, as a result of an agreement between German and Anglo-French imperialism, for example—even in this worst possible case, Bolshevik tactics will still have brought enormous benefit to Socialism; and will have assisted the growth of the invincible world revolution.

*V. I. Lenin, The Proletarian Revolution and Renegade Kautsky*, pp. 71-73.

### 5. Dependence of Strategy on the Party Program

#### A. *Two Aspects of the Working Class Movement*

Political strategy, like tactics, is concerned with the working class movement. But the working class movement itself consists of two elements: the objective, or spontaneous element and the subjective, or conscious element. The objective, or spontaneous element is made up of the group of processes that take place irrespective of the consciousness and regulating will of the proletariat. The economic development of the country, the development of capitalism, the disintegration of the old government, the spontaneous movements of the proletariat and the classes surrounding it, the collision of classes, and so forth—all these are phenomena, the development of which proceeds irrespective of the will of the proletariat. This is the objective aspect of the movement. Strategy is not concerned with these processes, because, it can neither stop them nor modify them; all that it can do is to reckon with them and to base itself on them. This is

a field to be dealt with by the theory of Marxism and the program of Marxism.

But the movement has also a subjective, a conscious side. The subjective side of the movement consists in the reflection in the minds of the workers of the spontaneous processes of the movement; it is the conscious and deliberate movement of the proletariat towards a definite goal. This aspect of the movement interests us because, as distinct from the objective aspect of the movement, it is entirely subject to the directing influence of strategy and tactics. While strategy is unable to produce any change in the operation of the objective processes of the movement, here, on the other hand, in the subjective sphere, in relation to the conscious aspect of the movement, the field of application of strategy is broad and varied, because strategy can accelerate or retard the movement, direct it along the shortest path or divert it into a more difficult and painful path, depending on the perfections or shortcomings of strategy itself.

Accelerating or retarding the movement, facilitating or hindering it, such is the field and the limits within which political strategy and tactics can be applied.

### B. *The Theory and Program of Marxism*

Strategy is not concerned with the actual study of the objective processes of the movement. Nevertheless, it must know them and take due account of them if gross and fatal errors are not to be committed in the leadership of the movement. It is the theory of Marxism primarily and also the program of Marxism that are concerned with the study of the objective processes of the movement. Strategy, therefore, must base itself entirely on the data provided by the theory and program of Marxism.

From a study of the objective processes of capitalism in their development and decline, the theory of Marxism arrives at the conclusion that the fall of the bourgeoisie and the seizure of power by the proletariat, and the replacement of capitalism by socialism, are inevitable. Proletarian strat-

egy may be considered truly Marxist only when it makes this fundamental conclusion of the theory of Marxism the basis of its operations.

• • • • • • • • • • • •

## 1. Strategy

### A. *Strategy in the Various Stages of the Revolution*

Strategy is the determination of the direction of the main blow of the proletariat at a given stage of the revolution; the elaboration of a corresponding plan of disposition of the revolutionary forces (the main and secondary reserves); the struggle to carry out this plan during the whole period of the given stage of the revolution.

Our revolution had already passed through two stages and, after the October Revolution, entered upon a third stage. Our strategy was changed accordingly.

*First stage,* 1903 to February 1917. Aim: to overthrow tsarism and completely liquidate the survivals of medievalism. The main force of the revolution: the proletariat. Immediate reserve: the peasantry. Direction of the main blow: the isolation of the liberal-monarchist bourgeoisie which was striving to win over the peasantry and liquidate the revolution by *compromising* with tsarism. Plan for the disposition of forces: alliance of the working class with the peasantry. "The proletariat must carry out to the end the democratic revolution, and in this unite to itself the masses of the peasantry in order to crush by force the resistance of the autocracy and to paralyse the instability of the bourgeoisie." (V. I. Lenin, *Collected Works,* Russian edition, Vol. III, p. 93.)

*Second stage,* March 1917, to October 1917. Aim: to overthrow imperialism in Russia and to withdraw from the imperialist war. The main force of the revolution: the proletariat. Immediate reserve: the poorest peasantry. Probable reserve: the proletariat of neighboring countries. Favorable circumstances: the protracted war and the crisis of imperialism. Direction of the main blow: isolation of the petty-

bourgeois democrats (Mensheviks and Social-Revolutionaries) who were striving to win over the toiling peasantry and put an end to the revolution by *compromising* with imperialism. Plan for the disposition of the forces: alliance of the proletariat with the poorest peasantry. "The proletariat must accomplish the socialist revolution and in this unite to itself the mass of the semi-proletarian elements of the population in order to crush by force the resistance of the bourgeoisie and to paralyse the instability of the peasantry and petty bourgeoisie." (*Ibid.*)

*Third stage,* commenced after the October Revolution. Aim: consolidation of the dictatorship of the proletariat in one country, using it as a stronghold for the overthrow of imperialism in all countries. The revolution goes beyond the confines of one country and the period of world revolution commences. The main forces of the revolution: the dictatorship of the proletariat in one country and the revolutionary movement of the proletariat in all countries. Main reserves: the semi-proletarian and small peasant masses in the advanced countries and the liberation movement in the colonies and dependent countries. Direction of the main blow: the isolation of the petty-bourgeois democrats and the isolation of the parties of the Second International which constitute the main support of the policy of *compromise* with imperialism. Plan for the disposition of forces: alliance of the proletarian revolution with the liberation movement of the colonies and the dependent countries.

Strategy deals with the main forces of the revolution and their reserves. It changes with the transition of the revolution from one stage to another, but remains essentially unchanged throughout the entire duration of a given stage.

Joseph Stalin, *Leninism*, Vol. I, pp. 74-75.

## 2. Tactics—a Doctrine of the Forms of Working Class Struggles

### A. *Tactics in Connection with the Ebb and Flow of the Revolution*

Tactics are the determination of the line of conduct of the proletariat for the comparatively short period of the ebb or flow of the movement, of the rise or decline of the revolution, the struggle to carry out this line by replacing old forms of struggle and of organization by new ones, old slogans by new ones, by combining these forms, etc. While the aim of strategy is to win the war, let us say against tsarism or against the bourgeoisie, to carry the struggle against tsarism or against the bourgeoisie to its end, tactics concern themselves with less important aims, as they strive, not to win the war as a whole, but rather to win a particular engagement, or a particular battle; to carry through successfully a particular campaign or action corresponding to the concrete circumstances of the rise or decline of the revolution. Tactics are a part of strategy, subordinate and subservient to it.

Tactics change according to ebb and flow. While during the first stage of the revolution (1903 to February 1917), the strategic plan remained unchanged, tactics changed several times during that period. From 1903 to 1905 the Party pursued offensive tactics because the tide of the revolution was flowing, the movement rose and tactics had to be based on this fact.

Accordingly, the forms of struggle were revolutionary in compliance with the requirements of the flowing tide of the revolution. Local political strikes, political demonstrations, the general political strike, the boycott of the Duma, insurrection, revolutionary fighting slogans—such were the successive changes which the struggle underwent during that period. These changes in the forms of struggle were accompanied by corresponding changes in the forms of organization. Factory and shop committees, revolutionary peasant committees, strike committees, soviets of workers' deputies,

a workers' party operating more or less openly—such were the forms of organization during that period.

In the period from 1907 to 1912 the Party was compelled to resort to tactics of retreat, as we then experienced a decline in the revolutionary movement, the tide of the revolution was at an ebb, and tactics necessarily had to take this fact into consideration. The forms of struggle as well as the forms of organization were correspondingly changed: in place of the boycott of the Duma, there was participation in the Duma; in place of open, direct revolutionary action outside of the Duma there were parliamentary speeches and work in the Duma; in place of general political strikes, there were partial economic strikes, or simply a lull in activities. Of course, the Party had to go underground during that period, while cultural, educational, cooperative, insurance and other organizations permitted by the law took the place of revolutionary mass organizations.

The same must be said of the second and third stages of the revolution during which tactics changed dozens of times whereas the strategic plans remained unchanged.

Tactics deal with the forms of struggle and the forms of organization of the proletariat, with their changes and correlations. Tactics may have to be changed several times in the period of a given stage of the revolution according to the flow and ebb, the rise and fall of the revolution.

Joseph Stalin, *Leninism*, Vol. I, pp. 75-76.

## V. Principal Tasks of the Strategy and Tactics of the Comintern

### 1. The Fight to Win the Majority of the Working Class and Gain for It the Hegemony Over the Toiling Masses

The successful struggle of the Communist International the dictatorship of the proletariat presupposes the existence in every country of a compact Communist Party, hardened in the struggle, disciplined, centralized, and closely linked up with the masses.

*The Party* is the vanguard of the working class, and consists of the best, most class-conscious, most active and most courageous members. It incorporates the whole body of experience of the proletarian struggle. Basing itself upon the revolutionary theory of Marxism and representing the general and lasting interests of the whole of the working class, the Party personifies the unity of proletarian principles, of proletarian will and of proletarian revolutionary action. It is a revolutionary organization, bound by iron discipline and strict revolutionary rules of democratic centralism, which can be carried out owing to the class-consciousness of the proletarian vanguard, to its loyalty to the revolution, its ability to maintain inseparable ties with the proletarian masses and to its correct political leadership which is constantly verified and clarified by the experiences of the masses themselves.

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D. *For Soviet Power!*

In the struggle to defend against fascism the bourgeois-democratic liberties and the gains of the toilers, in the struggle to overthrow fascist dictatorship, the revolutionary proletariat prepares its forces, strengthens its fighting contacts with its allies and directs the struggle toward the goal of achieving real democracy of the toilers—Soviet power.

The further consolidation of the Land of the Soviets, the rallying of the world proletariat around it, and the mighty growth of the international authority of the Communist Party of the Soviet Union, the turn toward revolutionary class struggle which has set in among the Social-Democratic workers and the workers organized in the reformist trade unions, the increasing mass resistance to fascism and the growth of the revolutionary movement in the colonies, the decline of the Second International and the growth of the Communist International, *are all accelerating and will con-*

*tinue to accelerate the development of the world Socialist revolution.*

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B. *From the Struggle for Peace to the Struggle for Revolution*

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At the present historical juncture, when on one-sixth part of the globe the Soviet Union defends Socialism and peace for all humanity, the most vital interests of the workers and toilers of all countries demand that in pursuing the policy of the working class, in waging the struggle for peace, the struggle against imperialist war before and after the outbreak of hostilities, the defense of the Soviet Union must be considered paramount.

If the commencement of a counter-revolutionary war forces the Soviet Union to set the Workers' and Peasants' Red Army in motion for the defense of Socialism, the Communists will call upon all toilers *to work, with all their means at their disposal and at any price, for the victory of the Red Army over the armies of the imperialists.*

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**Petitioner's Exhibit No. 344**

## RESOLUTION OF THE INFORMATION BUREAU CONCERNING THE SITUATION IN THE C. P. OF YUGOSLAVIA*

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TEXT OF THE RESOLUTION

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1. The Information Bureau notes that recently the leadership of the Communist Party of Yugoslavia has pursued an

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* Reprinted from *For a Lasting Peace, for a People's Democracy*, organ of the Information Bureau of the Communist and Workers' Parties, Bucharest, No. 16, July 1, 1948.

incorrect line on the main questions of home and foreign policy, a line which represents a departure from Marxism-Leninism.

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2. The Information Bureau declares that the leadership of the Yugoslav Communist Party is pursuing an unfriendly policy toward the Soviet Union and the C.P.S.U.(B.).

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The Information Bureau denounces this anti-Soviet attitude of the leaders of the Communist Party of Yugoslavia as being incompatible with Marxism-Leninism and only appropriate to nationalists.

• • • • • • • • • • • •

The Yugoslav leaders are pursuing an incorrect policy in the countryside by ignoring the class differentiation in the countryside and by regarding the individual peasantry as a single entity, contrary to the Marxist-Leninist doctrine of classes and class struggle, contrary to the well-known Lenin thesis that small, individual farming gives birth to capitalism and the bourgeoisie continually, daily, hourly, spontaneously and on a mass scale.

• • • • • • • • • • • •

Concerning the leading role of the working class, the leaders of the Yugoslav Communist Party, by affirming that the peasantry is the "most stable foundation of the Yugoslav state" are departing from the Marxist-Leninist path and are taking the path of a populist, kulak party. Lenin taught that the proletariat is the "only class in contemporary society which is revolutionary to the end . . . must be the leader in the struggle of the entire people for a thorough democratic transformation, in the struggle of all working people and the exploited against the oppressors and exploiters."

The Yugoslav leaders are violating this thesis of Marxism-Leninism.

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4. The Information Bureau considers that the leadership of the Communist Party of Yugoslavia is revising the Marxist-Leninist teachings about the Party. According to the theory of Marxism-Leninism, the Party is the main, guiding and leading force in the country, which has its own, specific program, and does not dissolve itself among the non-Party masses. The Party is the highest form of organization and the most important weapon of the working class.

• • • • • • • • • • •

6. The Information Bureau considers that the criticism made by the Central Committee of the Communist Party of the Soviet Union (B.) and Central Committees of the other Communist Parties of the mistakes of the Central Committee of the Communist Party of Yugoslavia, and who in this way rendered fraternal assistance to the Yugoslav Communist Party, provides the Communist Party of Yugoslavia with all the conditions necessary to speedily correct the mistakes committed.

• • • • • • • • • • •

The refusal of the Yugoslav Party to report to the Information Bureau on its actions and to listen to criticism by other Communist Parties means, in practice, a violation of the equality of the Communist Parties and is, in fact, tantamount to a demand for a privileged position for the Communist Party of Yugoslavia in the Information Bureau.

• • • • • • • • • • •

The Information Bureau unanimously concludes that by their anti-Party and anti-Soviet views, incompatible with Marxism-Leninism, by their whole attitude and their refusal to attend the meeting of the Information Bureau, the leaders of the Communist Party of Yugoslavia have placed themselves in opposition to the Communist Parties affiliated

to the Information Bureau, have taken the path of seceding from the united socialist front against imperialism, have taken the path of betraying the cause of international solidarity of the working people, and have taken up a position of nationalism.

The Information Bureau condemns this anti-Party policy and attitude of the Central Committee of the Communist Party of Yugoslavia.

The Information Bureau considers that, in view of all this, the Central Committee of the Communist Party of Yugoslavia has placed itself and the Yugoslav Party outside the family of the fraternal Communist Parties, outside the united Communist front and consequently outside the ranks of the Information Bureau.

* * *

The Information Bureau considers that the basis of these mistakes made by the leadership of the Communist Party of Yugoslavia lies in the undoubted fact that nationalist elements, which previously existed in a disguised form, managed in the course of the past five or six months to reach a dominant position in the leadership of the Communist Party of Yugoslavia and, that consequently, the leadership of the Yugoslav Communist Party has broken with the international traditions of the Communist Party of Yugoslavia and has taken the road of nationalism.

* * * * * * * * * *

The Information Bureau does not doubt that inside the Communist Party of Yugoslavia there are sufficient healthy elements, loyal to Marxism-Leninism, to the international traditions of the Yugoslav Communist Party and to the united socialist front.

Their task is to compel their present leaders to recognize their mistakes openly and honestly and to rectify them; to break with nationalism, return to internationalism; and in every way to consolidate the united socialist front against imperialism.

Should the present leaders of the Yugoslav Communist Party prove to be incapable of doing this, their job is to replace them and to advance a new internationalist leadership of the Party.

The Information Bureau does not doubt that the Communist Party of Yugoslavia will be able to fulfill this honorable task.

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**Petitioner's Exhibit No. 346**

## OUTLINE FOR NINE-DAY SCHOOL

SATURDAY—1. INTRODUCTION—IMPORTANCE OF MARXIST-LENINIST THEORY. Need to Struggle for Correct Theory and Line.

Reading material: FOUNDATIONS OF LENINISM—Chapt. III.

SUNDAY—2. POLITICAL ECONOMY—CAPITALIST EXPLOITATION—CRISES.

Reading material: Communist Manifesto. Value Price & Profit, Chapt. VI, VII, VIII. Socialism, Utop. & Scient.—Chapt. III. War Economy and Econ. Crisis (WORKER, July 4).

MONDAY—3. IMPERIALISM—WAR—FASCISM—STRUGGLE FOR PEACE.

Reading material: Imperialism—Chapt. VII. United Front Against Fasc.—1st Chapt. Draft Resolution.

TUESDAY—4. PEOPLE'S COALITION AND THE NEW PARTY.

Reading material: Third Party & 1948 Elections—Dennis Draft Resolution.

WEDNESDAY—5. TRADE UNION PROBLEMS—ECONOMISM—OPPORTUNISM.

Reading material: What Is To Be Done, Chapt. II, III, IV. History CPSU. Capt. II, Sec. 1 and 2. Convention Discussion—Lessons of Steel. Elections (WORKER, Sund. July 18). Political Affairs—June—J. W. article. Draft Resolution.

THURSDAY—6. NEGRO QUESTION.

Reading material: Path of Negro Liberation—Ben Davis. Communist Position on the Negro Ques. Resolution of the National Com. of CP.

FRIDAY—7. THE COMMUNIST PARTY—FUNDAMENTAL PRINCIPLES OF ORGANIZATION.

Reading Material: Foundations of Leninism—Chapt. VIII. History of CPSU, Chapt. II, Sect. 3-4. For Lasting Peace—June 15 issue. Communist Party and You—Betty Gannett.

SATURDAY—8. THE STATE—BOURGEOIS STATE—PROLETARIAN DICTATORSHIP—NEW PEOPLE'S DEMOCRACIES EUROPE, CHINA.

Reading Material: State and Revolution, Chapt. I. Foundations of Leninism, Chapt. IV. Cominform Statement on Yugoslavia.

SUNDAY—9. PRESENT TASKS OF THE PARTY—SUMMARY.

Reading Material: Draft Resolution. Resolutions Ohio Convention C.P.

In order to achieve a maximum concreteness of discussion around each subject, specific sections of the Draft Resolution should be read and applied to the subject matter. Much valuable material is also provided in the Pre-Convention Discussion Supplement of the Worker, especially discussion articles on Party, Press, Crisis, Experiences in Steel, etc. This will help to relate our Marxist theory to the problems and tasks of the present period.

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**Petitioner's Exhibit No. 348**

RUTHENBERG PARTY BUILDING DRIVE
BULLETIN No. 1

MARCH 4, 1947

This plan for Party building shall be considered part of our recently adopted County Plan of work. Its success will depend upon the extent to which our County Plan, which is based upon the decisions of our recent National Committee meeting, is carried out. READ AND DISCUSS THIS IN YOUR SECTION AND CLUB AND MAKE YOUR PLANS ACCORDINGLY.

. . . . . .

However, the difficulty of a task (and we are now entering a period when difficulties will steadily increase) can never be the criterion of work for a Communist Party. It is in *boldly, realistically* facing and solving difficult problems that a Party not only grows numerically, but in its Bolshevik character.

. . . . . .

I. WHY WE MUST

It is not only that we *need more* members so that we can *do* more to build the democratic coalition to defeat the all-out offensive of reaction by organizing the counter-offensive of the people led by a unitedly fighting labor. That, of course, is the central task facing our Party, our class, our nation today.

It is that above all—to prevent reaction from disorganizing, dividing and demoralizing labor and the democratic forces in our country—our Party must place itself in a position to *effectively* play the role of a vanguard.

Reaction is feverishly attempting to separate and isolate our Party from the people of America in order to behead labor and the democratic forces. In order to accomplish this, it is attempting to whip up the most rabid red-baiting hysteria. DEFEND THE PARTY BY BUILDING THE PARTY.

. . . . . .

II. WHY WE CAN

. . . . . .

2) *International situation*

The democratic trend throughout the world, especially in Central and Eastern Europe, is and will continue to exert a deep influence upon our country, especially amongst the nationality groups.

. . . . . .

III. How We Can

1) *Political Mobilization means convincing!* The essence of our drive must be the political mobilization of our entire membership, not only to initiate it (as is usual), but throughout the drive. The essence of political mobilization is *convincing,* answering the questions in the minds of our members, arming them *ideologically.*

. . . . . .

Struggle Is The Key, But A Key Does Not Unlock By Itself! As was pointed out, the success of our Party Building Drive will be determined by the extent to which we carry out our County Plan, develop and participate in the struggles and broad movements that will weld the democratic coalition.

However, our past is rich in examples of militant mass victorious struggles, during which we were "too busy" to recruit. The Most Important Gain that the Working Class Can Achieve—Is the Building of the Party.

. . . . . .

2. *Composition*

*C.I.O.*

To recruit a minimum of 60 steel workers (of which 10 in Amer. Steel, 10 J. & L., 20 Rep.)

To recruit 60 auto workers (10 Midl., 5 Diesel, 10 White, 15 Fisher)

To recruit 60 electrical, of which 10 West., 10 GE, 5 Rel., 10 UE735, 5 White Sewing

To recruit 50 Aluminum (of which 30 USAlum., 10 Natl. Smelt.)

To recruit 10 Maritime workers
To recruit 15 White Collar and Professional

*A. F. L.*

*To recruit a minimum of 140 A. F. L. workers*

| | | | |
|---|---|---|---|
| Foundry Molders | 30 | Food & Hotel | 8 |
| Machinists | 25 | Transit | 15 |
| Needle | 15 | Carp.-Painters | 15 |
| Teachers | 8 | Teamsters | 8 |
| Pullman | 5 | Maritime | 5 |
| White Collar and Government | | | 10 |

*Youth and Veterans*

To be one-third of total recruits.

Youth Commission to be specifically responsible to bring in 35.

*Negro*

To be 40% of total recruits.

PARTY BUILDING IS CLUB BUILDING!
STRENGTHEN YOUR CLUB—BUILD NEW CLUBS!

3. *New Clubs to be Set Up*

| *A. F. L.* | *C. I. O.* |
|---|---|
| National Malleable (Cedar-Central) | Weatherhead (Glenville) |
| Superior Foundry (S.E. and AFL Section) | Diesel (West Side) |
| Molders-Foundry (AFL Sec.) | Amer. Steel & Wire (Steel Club) |
| Teachers (Professional) | White Sewing |
| Transit (AFL Section) | *Neighborhood Clubs* |
| Stone Knitting Mill (Needle and AFL Sec.) | Miles Heights |
| Carpenters (W.S. and AFL Section) | Bedford |
| | Lakewood |
| | Ward 10 |

Teamsters (County and AFL Section)
Chase Brass

## V. How To Organize the Drive

*Meetings*

1) *City-wide membership meeting*, Friday, March 28, 7:30 P.M. East Side Hungarian Home, 11123 Buckeye Rd.

Mobilize for it like a Public Auditorium rally. Soviet movie—cultural program—admission by ticket.

Letter or phone call to every member.

Present a recruiter's kit to every one at meeting containing application cards, pamphlets, sub blanks, etc.

2) *Industry meetings*—organize during month of March. Following to be responsible for calling specific industry meetings and directing the drive.

| | | |
|---|---|---|
| *Steel*—Ed & Mike | *Alum.*—Hy | *A.F.L.*—Jake |
| *Auto*—Gus | *Electr.*—Fred | *R.R.*—Betty |

3) *Nationality meetings*—Organize during month of March. Following to be responsible for calling meeting and directing drive in specific nationality groups. Minimum recruiting goals for each particular nationality group to be set.

Czech, Slovak, Polish: Helen K. Objective—25 Czechs and Slovaks, 10 Poles.

Croatian, Serbian, Slovenian: Jack. Recruit 50.

Hungarian: Greenie & Hung. Club leader. Recruit 20.

Jewish: Abe S. Recruit 30.

*Suggestions*

a) Recruit from language readers
b) Special appeal to youth
c) Organize Party meeting of sympathizers
d) Leaflets in particular language

*House Parties*—Organize 125 house parties. Use list of house parties held during last elections.

Southeast, 25; Glenville, 30; West Side, 15; Collinwood, 10; Cedar-Central, 15; Professional, 10; Bdwy-Steel, 10; A. F. L., 10.

**Petitioner's Exhibit No. 349**

## RECOMMENDATIONS OF NOMINATING COMMITTEE

STATE

Arnold Johnson, State President; Jack Kling, Communist Leader; Adeline Kohl, State Secretary.

CLEVELAND

H. Becker, R.R.; Pete Chaunt, Nationality leader; Ray Dennis; Negro leader, Mine Mill; Eugene Duchan, Jewish Work; Betty Erhart, Youth leader; Leo Fenster, leader UAW; Ben Gray, Shop worker, St. Member. Direc.; Elizabeth Hall, Steel Worker; Frank Hashmall, Youth Leader; Fred Hall, U.E. Leader; Al. Jones, AFL Union Leader; Frieda Katz, Pres. Ward 30 Club; A. Kilpatrick, Negro Leader, Mine Mill; Joe Kelly, CIO Leader; H. Larkin, Shop Worker, AFL union leader; Abe Lewis, Negro Leader; Hy Lewis, instructor—AFT; Daisy Lolich, Nationality Leader; B. Mack, AFL union leader; Pete Margetich, Shop Worker, Croatian Ld.; Marie Rice, U.E. leader; Betty Riley, Worker Correspondent; Wendell Ringholtz, Gas, Coke & Chem.; Oscar Rucker, Negro leader, U.E. sh. work; Rose Schneider, Pres. Glenville Club; Esther Schweitzer, Charter Mem. CP, ILGW; Flora Wall, State Lit. Director; Max Wall, State Worker Director.

AKRON

Karl Carrigan, Rubber Worker; D. Clyde, Rubber Worker; Saw Easley, Rubber Worker, Negro leader; Joe Friedman, Akron President; Thelma Furry, Akron Secretary; George L., Rubber Worker; Tom L., Rubber Worker; Amos Murphy, V.P. Akron C.P.

CANTON

Paul Bohus, Steel Worker; Russ Reemsnyder, Canton Secretary.

CINCINNATI

Max Smith, CIO leader.

YOUNGSTOWN & WARREN

Mike Babinchak, Steel Worker, Co. Pres.; John Beskid, Leading U.E. worker; Bud Erhart, former Sec. Org., on sick lv.; Mary Hawk, Negro Leader; Tommy Miller, leading Steel Worker; Tommy West, leading Steel Worker.

OHIO VALLEY

Joe Green, Coal Miner, U.M.W.A.; A. Kirchmarek, C.P. organizer; C. H. Palmer, leading Steel Worker.

TOLEDO

Bill Cummings, Negro Auto Worker, City Secretary; Francis Murphy; Auto Worker; Gene Stoll, Acting City President.

DAYTON

K. Ball, CIO Union Leader; Clara Furing, Union and C.P. leader.

COLUMBUS

Lucille Blecher, Student Leader; Anne Brown, CIO union leader; LaVerne Slagle, City President; Harley Waite. UAW leader; Jerome Woodward, Negro UAW leader.

YELLOW SPRINGS

Ruth Sanders, Student.

ON LEAVE—IN SERVICE

Ben, Atkins, Joe Brandt, Ed Chaka, Mike Davidow, Elmer Fehlhaber, Gus Hall, Joe Sokol, Sig Wenger.

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**Petitioner's Exhibit No. 350**

July 28, 1947

Communist Party of Ohio,
2056 E. 4th St.,
Cleveland, Ohio.

Gentlemen:

I hereby wish to submit my resignation to the Communist Party effective August 1, 1947.

Yours truly,

John V. Bland
Sent by mail 7/28/47

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**Petitioner's Exhibit No. 353**

COMMUNIST PARTY DUES
COLLECTION RECORD

63042—1
—2
—3
63112—4
—5
—6
—7
—8

Auto-lite CP.
Shop Bill Joe Sokol
1948—CP Nos.

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**Petitioner's Exhibit No. 361**

*Daily Worker, January 17, 1950*

JOHN LAUTNER EXPELLED BY CP AS A TRAITOR

The National Review Commission of the Communist Party has been conducting an investigation to determine how the

FBI agents exposed in the Foley Square trial penetrated and functioned in the ranks of the Party.

In the course of its examination, the Review Commission ascertained that several months ago John Lautner, a member of the New York State Review Commission, was instrumental in preventing the expulsion of the spy, Calomiris, and that he had also recommended a number of untrustworthy individuals for work in the Defense Office during the period of the trial.

Further investigation revealed that Lautner himself is an enemy agent of long standing. A full disclosure will be made at the proper time.

In view of the already established facts, the National Review Commission approves the recommendation of the subcommittee which examined the case of John Lautner and hereby expels him from the Communist Party as a traitor and enemy of the working class.

The Review Commission calls upon the Party leadership and membership to heighten their Communist vigilance and to redouble their efforts to safeguard and strengthen the Party.

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**Petitioner's Exhibit No. 362**

*For A Lasting Peace, For A People's Democracy*
*February 3, 1950*

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## ROOTING OUT TRAITORS FROM THE RANKS OF THE COMMUNIST PARTIES

The New York "Daily Worker" reports that a special commission of the Communist Party of the United States has expelled from its ranks John Lowther who has been exposed as a traitor. The commission has called upon the leadership and members of the Party to display increased Communist vigilance. The commission, continues the "Daily Worker", carried out its investigation with the aim of dis-

covering by what means the F.B.I. agents, exposed during the trial of the eleven Party leaders at Foley Square, succeeded in penetrating into the Party and in carrying on their activities there. It established that Lowther was an old enemy agent.

"Unita", organ of the Italian Communist Party, has published a photo of Pellegata Fernando, expelled from the Milan Federation of the Party for treachery.

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**Petitioner's Exhibit No. 363**

## POLITICAL AFFAIRS

MAY 1950

. . . . . .

### FOR COMMUNIST VIGILANCE*

By Gilbert Green

. . . . . .

*Report to the Plenum on the Need for Strengthening Communist Vigilance.

. . . . . .

Our whole Party has not yet drawn the full lessons from the experience at the Foley Square trial, from certain incidents since the trial, particularly from the valuable experience of the world Communist movement in the past few years. These prove, beyond a doubt, that the ruling class of this country is assiduously cultivating every known stool-pigeon and agent-provocateur method of the past, and adding a few new ones, in its attempt to infiltrate and disrupt the world Communist movement from within.

. . . . . .

### SOURCE OF LACK OF VIGILANCE

What explains this tolerance, this softness, this rotten liberalism and lack of vigilance? It can be explained only

in one way—the reflection of opportunism in the thinking and work of the Party and in the first place the leadership.

• • • • • • • • • • • •

THE NEED FOR BOLSHEVIK CRITICISM AND SELF-CRITICISM

For this reason the European parties have tied up the struggle for revolutionary vigilance with the struggle for Bolshevik criticism and self-criticism and for inner-Party democracy. We must understand that criticism and self-criticism is not just another feature of Communist organization; *it is the law of development of Communist parties.*

Here is how a recent issue of *For a Lasting Peace, For a People's Democracy!*, deals with this subject in its leading editorial:

Criticism and self-criticism is that revolutionary weapon, that tried method, by means of which the Marxist Parties ruthlessly expel from their ranks all that is alien, all that is bourgeois, which still persists in their ranks.

Criticism and self-criticism is inherent only in the revolutionary Marxist-Leninist Parties. The Communist Parties are distinguished from the reformist, Social-Democratic and Right-wing Socialist Parties in that they never evade painful questions, never hush them up, nor do they slur over them, but always openly, profoundly and as a matter of principle, reveal and criticize their mistakes, drawing fresh strength from criticism and self-criticism, and renewed energy for improving their work and for ensuring their development.

• • • • • • • • • • • •

And Comrade G. Malenkov, writing on the seventieth anniversary of the birth of Comrade Stalin, deals with the Stalinist-Bolshevik tradition of leadership. He writes:

Comrade Stalin teaches that it is necessary to wage a merciless struggle against instances of the suppression and persecution of self-criticism. To persecute self-criticism, says Comrade Stalin, means to kill all independent activity in the Party organization, to undermine the authority of

its leadership among the Party masses, to cause the Party to disintegrate, and to establish in the life of the Party organization the anti-Party customs of the bureaucrats—the mortal enemies of the Party.

And further Comrade Malenkov writes:

Comrade Stalin constantly warns of the fact that it is not vanity, but modesty that becomes the Bolshevik, that any leader, irrespective of the post he occupies, is a servant of the people. The unbroken tie between the leaders and the masses, willingness to learn from the masses, to correct the shortcomings which the workers point out—this is the tradition of Bolshevik leadership. (*Pravda*, December 21, 1949, in *Soviet Press Translations*.)

* * * * * * * * * * *

THE IMMEDIATE TASKS

* * * * * * * * * * *

3. We must raise the ideological-political Marxist-Leninist level of understanding of our whole Party and especially of our cadres. We must fight stubbornly for our working-class ideology, for the line of the Party. We must eradicate all manifestations of white chauvinism in our ranks, and also of Negro bourgeois nationalism. We must also intensify our struggle for proletarian internationalism, the most important aspect of which is a many-sided and continuous exposure of the lies and slanders directed against the first land of Socialism, the Soviet Union.

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Petitioner's Exhibit No. 367

POLITICAL AFFAIRS

FEBRUARY, 1948

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## THE ACTIVITIES OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY OF THE SOVIET UNION (BOLSHEVIKS)*

By Georgi M. Malenkov

[Reprinted from *For a Lasting Peace, for a People's Democracy*, organ of the Information Bureau of the Communist Parties in Belgrade, No. 2, December 1, 1947.]

. . . . . .

* Informative report to the Conference of representatives of a number of Communist Parties held in Poland at the close of September, 1947.

. . . . . .

The C.P.S.U. (B.) devotes much attention to problems of foreign policy and shows special concern for the selection and proper training of cadres capable of putting into effect the Party's line in the sphere of foreign policy..

The Party devotes much attention to equipping its cadres with the knowledge of the laws of international development, with an understanding of the international situation. It teaches them to defend the interests of the Socialist state on the international scene, to distinguish between friend and foe, to detect the insiduous designs and methods of the imperialists and their agents.

. . . . . .

The absence of contact between Communist Parties is a hindrance in coordinating the actions of Communists in various countries in their resistance to the plans of the imperialists, particularly now, when American monopoly capital is organizing an offensive against Communism and democracy, against the U.S.S.R. and the new democracies, developing its expansionist plans with the intention, under the guise of "aid," of enslaving a number of European and other countries, and when Communists are called upon to

define their attitude to these plans of American imperialism.

In our opinion it is necessary to put into effect definite measures designed to eliminate the present abnormal situation in this respect.

That is why we consider it necessary to discuss at the present conference both the international situation and the question of improving contact between Communist Parties, of establishing regular connections between them with a view to achieving mutual understanding, exchange of experience and voluntary coordination of activities of the Communist Parties whenever they consider this necessary.

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**Petitioner's Exhibit No. 369**

CURRICULUM FOR 6 DAY SUMMER TRAINING SCHOOL

*Monday*

| | |
|---|---|
| Introduction—From Free Competition to Monopoly | July 7th |
| | July 14th |
| 1. Imperialism—the Final Stage of Capitalism | July 21st |
| | July 28th |
| a) Characteristics of Imperialism | Aug. 4th |
| b) Development of Monopoly in the USA | Aug. 11th |
| | Aug. 18th |
| c) Development of Finance Capital in USA | |
| d) Monopoly and the Struggle against Revisionism. | |

*Tuesday*

2. The Role of American Imperialism Today—Truman Doctrine
   a) Objectives of the Doctrine at Home.
   b) Objectives of the Doctrine Abroad—Marshall Plan—cover up for Truman Doctrine.

*Wednesday*

3. Impending Crisis—Economic outlook.
   a) Mass Unemployment as an Inevitable Feature under Capitalist Production.

b) Cyclical Economic Crisis are Inevitable under Capitalism
c) Crisis in the Epoch of Imperialism
d) Economic Outlook and Tasks of the Party—Based on Plenum Reports.

*Thursday*

4. Negro Question

*Friday*

5. Strategy and Tactics.
   a) Strategic Aims and the Party and Tactics Struggles for Peace—Coalition and Third Party Movement—(Based on Plenum Reports)

*Saturday*

6. The Party—Theory and Organization. (Based on Plenum Reports)

P.S. Same material in Spanish on August 4th.

NEW YORK COUNTY 6 DAY SCHOOLS
Bibliography

1. Lenin—Imperialism
2. Stalin—Foundations of Leninism
3. Rochester—The Nature of Capitalism
4. Foster-Williamson—Marxism Leninism vs. Revisionism
5. History of the C.P.S.U.
6. Marx and Engels—The Communist Manifesto
7. Engels—Socialism Utopian and Scientific
8. Davis—The Path of Negro Liberation
9. Dimitrov—Report to 7th World Congress of C.I.
10. Lenin and Stalin—Marxism and Revisionism
11. Dennis—People Against the Trusts
12. Foster—The New Europe
13. Constitution C.P.U.S.A.
14. Political Affairs, 1947
    February—Resolution on Negro Question & Thompson
    March—Lu Ting Yi

May—Bittelman
June—Kardelg
July—Allen

P.S. Check your literature. What you don't have will be made available at the first session.

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6 Day Schools—N. Y. County
Daily Reading

*Monday—Required*

1. Lenin's Imperialism
   Ch. I—first 2 pages
   Ch. VII—first 2 pages
   Ch. VIII—all
   Ch. IX—all
   Ch. X—first 5 pages
2. Foster—Marxism Leninism vs. Revisionism—pp. 36-44

*Additional*

1. Rochester—Nature of Capitalism—Ch. VIII
2. Stalin—Foundations of Leninism—Introduction—Ch. I—first 2 pages

*Tuesday—Required*

1. History CPSU—Ch. VI Sect. III—first 3 pages
2. Political Affairs—June—article by Kardelj
3. Foster—The New Europe—Ch. XIII and XV

*Additional*

1. Political Affairs—July—article by James Allen
2. Political Affairs—March—article by Lu Ting Yi

*Wednesday—Required*

1. Marx and Engels—Communist Manifesto—top page 12—middle page 15
2. Engels—Socialism Utopian and Scientific—pp. 36-37
3. Political Affairs—May—article by Bittelman

*Additional*

1. Mimeographed booklet on Crisis

*Thursday—Required*

1. Political Affairs—February—Resolution on Negro Question—article by Thompson
2. Davis—Path of Negro Liberation

*Additional*

1. Mimeographed material—Question and Answers

*Friday—Required*

1. Stalin—Foundations of Leninism—Ch. VII
2. Dimitrov—Report to 7th Congress—mimeo extracts
3. June, 1947—Plenum material

*Additional*

1. Lenin and Stalin—Marxism and Revisionism—Ch. II
2. Anna Louise Strong—The Thoughts of Mao Tse Tung

*Saturday—Required*

1. Stalin—Foundations of Leninism—Ch. VIII
2. Foster—The New Europe—Ch. V
3. Party Constitution CPUSA

*Additional*

1. Williamson's article—Marxism Leninism v. Revisionism
2. History CPSU—conclusion

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**Petitioner's Exhibit No. 370**

## OUTLINE ON FUNDAMENTALS OF MARXISM

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ISSUED BY

NATIONAL EDUCATIONAL COMMISSION

COMMUNIST PARTY, U.S.A.

35 EAST 12TH ST., N.Y.C.

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## Lesson I

### Introduction—Marxist-Leninist Theory

I. The Importance of Marxist-Leninist Theory

A. "Without a revolutionary theory there can be no revolutionary movement . . ."

Lenin, *What Is To Be Done?*

"Theory is the experience of the labour movement in all countries taken, in its general form. Of course theory becomes immaterial if it is not connected with revolutionary practice, just as practice gropes in the dark if its path is not illumined by revolutionary theory. But theory can become the greatest force in the labor movement if it is built up in indissoluble connection with revolutionary practice, for it, and it alone, can give to the movement confidence, the power of orientation and an understanding of the inner connection between events; for it, and it alone, can help us in our practical work to discern how and in which direction classes are moving not only at the present time, but also how and in which direction they will move in the near future."

Stalin, *Foundations of Leninism*

"The role of the vanguard can be fulfilled only by a party that is guided by an advanced theory."

Lenin, *What Is To Be Done?*

* * * * * * * * * * *

*Reading:*

*Communist Manifesto*—Chapter 1

*Socialism, Utopian and Scientific*—(Engels)—Chapters I and II

*History of the CPSU*—Middle of page 114 to bottom of page 126

*Foundations of Leninism*—(Stalin)—Introduction

The Struggle Against Revisionism—(Foster)—Part 1, September *Political Affairs*

*Additional Reading:*

Lenin—*Karl Marx*

Lenin—*Marxism and Revisionism*

Lenin—*Differences in the European Labour Movement*

Lenin—*Three Sources and Three Component Parts of Marxism*

(These four references may be found either in Vol. XI, *Selected Works* or in Marx-Engels—Marxism)

Lenin—*What Is To Be Done?* Chapter II, Sections A & B Chapter III, Sections A, B, E

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## Lesson II

### The General Features of the Capitalist System

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*Reading:*

Engels, *Socialism, Utopian and Scientific,* Ch. III

Marx, *Value Price and Profit,* Chs. VI, VII, VIII, IX, XIII and XIV

*Communist Manifesto,* Ch. I

National Convention Resolution on the Present Situation and the Next Tasks, Part I, Section 4

Foster, *The Menace of American Imperialism,* pp. 9-12

*Additional Reading:*

Leontiev, *Political Economy*, Chapters I through VIII

Dennis, Report to National Committee, Section on Economic Perspectives and Markets

Marx, *Wage Labour and Capital*

Lenin, *Karl Marx*, Sections on Marx's Economic Doctrine and on Socialism

. . . . . .

## Lesson III

## The Class Struggle

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III. The Development of the Class Struggle

. . . . . .

B. Role of the trade unions

1) Struggles for immediate economic interests of the workers

2) "Schools for Communism"

3) Limitations of the trade unions—"trade union politics" are not the same as Communist politics.

—"Trade unionism does not always exclude 'politics' altogether, as some imagine. Trade Unions have always conducted political (but not Social Democratic—i.e. Communist) agitation and struggle."

—"*However much we may try* to give to the economic struggle itself a political character, *we shall never be able* to develop the political consciousness of the workers (to the degree of Social-Democratic, i.e. Communist consciousness) by confining ourselves to the economic struggle, for the *limits of this task are too narrow.*"

Lenin, *What Is To Be Done*

. . . . . .

IV. Mistakes of the American Communist Party in the Recent Period in Connection with the Foregoing

. . . . . .

*Reading*

Stalin—Wells Interview

*Communist Manifesto*—Ch. II

Lenin, *Karl Marx*—Section on the Class Struggle (In Marx-Engels Marxism)

Lenin, *Left Wing Communism*—Ch. VI.

*Additional Reading*

Lenin, *What Is To Be Done?*—Ch. II, and Ch. III—A,C, D,E,F

*History of the C.P.S.U.*—Ch. II, Sections 1 and 2

. . . . . .

## Lesson IV

## The State

. . . . . .

III. The State Following the Socialist Revolution

A. The "dictatorship of the proletariat is the state during the transition period between capitalism and socialism."

1) The historic role of the dictatorship of the proletariat is the destruction of capitalism and the organization of socialism.

. . . . . .

2) The dictatorship of the proletariat is a *new type* of state, a new type of democracy.

—"The working class cannot simply take possession of the ready-made state machine and use it for its own purposes."

Marx, *The Civil War in France*

—What is required is "the shattering of the former state power and its replacement by a new and really democratic state . . ."

Engels, *Introduction to the Civil War in France*

—"the dictatorship of the proletariat cannot be 'complete' democracy, a democracy for *all*, for rich and poor alike; the dictatorship of the proletariat 'must be a state

that is democratic *in a new way*—against the bourgeoisie' (State and Revolution, Lenin) . . . .

"Democracy under the capitalist system is a *capitalist* democracy, the democracy of an exploiting minority based upon the restriction of the rights of the exploited majority and directed against this majority . . . Under the dictatorship of the proletariat, democracy is proletarian democracy —the democracy of the exploited majority based upon the restriction of the rights of the exploiting minority and directed against this minority."

Stalin, *Leninism*, Vol. I

. . . . . .

*Reading*

Lenin, *State and Revolution*, Chapter I, II, III (Sections 3 and 5) and Chapter V.

Lenin, *Left Wing Communism*, Chapter VII

*Communist Manifesto*—last two pages of Chapter II

Stalin, *Foundations of Leninism*—Chapter IV

Stalin, *From Socialism to Communism*—pp. 49-57

Dimitrov, *Working Class Unity—Bulwark Against Fascism*—Chapter I

*Additional Reading*

Lenin, *State and Revolution*, Chapter IV and VI (Section 2)

Stalin, *The October Revolution and Tactics*, Chapter II (in *Leninism*)

Engels, *Origin of the Family*, Chapter 9, espec. pp. 205-217 (139-147 old edition)

. . . . . .

## Lesson V

### Imperialism—Present-Day Capitalism

. . . . . .

*Reading*

Lenin, *Imperialism*, Chapters VII, VIII, IX and X

Stalin, *Foundations of Leninism*, Introduction and first two pages of Chapter I

*Short Course History of the CPSU*, pp. 167-172

*Additional Reading*

Lenin, "Imperialism and the Split in Socialism" *Selected Works*, Vol. XI

Lenin, *Imperialism*, Chapter I through VI

Varga, *The Great Crisis*, Chapter II first four pages

Varga, *New Data on Lenin's Imperialism*

## Lesson VI

## The Negro Question

III. The Struggle for Negro Liberation

A. The goal: The right of self-determination.

*Reading*

Stalin, *Marxism and the National and Colonial Question*, Chs. I and II

James Allen, *Negro Liberation* (pamphlet)

National Convention Resolution on the Present Situation and Next Tasks, Section 7 in Part II

Claudia Jones, Article, Jan. 1945 *Political Affairs*

Chokalin, *The National Question in the Soviet Union* (pamphlet)

*Additional Reading*

Stalin, *The National Question, The October Revolution and the National Policy of the Russian Communists*, The National Question (extract from series of lectures)

Allen, *Reconstruction* and *The Negro Question in the United States*

## Lesson VII

## Socialism

II. Socialism in the Soviet Union

A. Victory of socialism has been achieved in the Soviet Union.

1) Socialist system of economy in Soviet Union—Industrialization; collectivization of agriculture

2) Elimination of antagonistic classes in the Soviet Union.

3) The Soviet Constitution reflects the present social relations and the final victory of socialism.

B. Soviet Union—a community of nations living in harmony—national equality

C. The foreign policies of the U.S.S.R. (outline policies since inception)

1) The role of the Socialist Soviet Union in the war against fascism

2) The Red Army of the Soviet Union

D. Victory of Socialism in Soviet Union (in one country) split world economy into two systems

1) Break in imperialist chain

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*Reading*

*The Soviet Constitution*

*History of the CPSU,* Chapters 3, 6, 7

Stalin, *From Socialism to Communism,* Chapter 1, 2, and Chapter 3 part 4.

Stalin, *Foundations of Leninism,* Chapter III, part 3

National Convention Resolution on the *Present Situation and Next Tasks,* Part 1, Section 4.

*Additional Reading*

*History of the CPSU,* Chapters 8, 9, 10, 11, 12

Stalin, "The October Revolution and Tactics" in *Leninism*

Readings in *Leninism,* Volume on the *Proletarian Revolution*

Stalin, *Problems of Leninism,* Chapter 4 and 5

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## Lesson VII

## The Communist Party

. . . . . .

B. Main features of the Communist Party which mark it as a party of a new type, distinct from the Social-Democratic parties:

. . . . . .

2. The Party as an *organized detachment* of the working class, with its own discipline, and unity of will and action.

a. *Principles of membership* in the Communist Party.

. . . . . .

d. The source of *unity and discipline* in the Communist Party

"Iron discipline in the Party is impossible without unity of will and without absolute and complete unity of action on the part of all members of the Party. This does not mean of course that the possibility of a conflict of opinion within the Party is thus excluded. On the contrary, iron discipline does not preclude but presupposes criticism and conflicts of opinion within the Party. Least of all does it mean that this discipline must be 'blind' discipline. On the contrary, iron discipline does not preclude but presupposes conscious and voluntary submission, for only conscious discipline can be truly iron discipline. But after a discussion has been closed, after criticism has run its course and a decision has been made, unity of will and unity of action of all Party members become indispensable conditions without which Party unity and iron discipline in the Party are inconceivable."

Stalin, *Fundamentals of Leninism*

e. The practice of *criticism and self-criticism*

"The attitude of a political party towards its own mistakes is one of the most important and surest ways of judging how earnest the party is, and how it *in practice* fulfills its obligations towards its *class* and the toiling *masses*.

Frankly admitting a mistake, ascertaining the reasons for it, analyzing the conditions which led to it, and thoroughly discussing the means of correcting it—that is the earmark of a serious party, that is the way it should perform its duties, that is the way it should educate and train the *class*, and then the masses."

Lenin, *Selected Works*, Volume X

* * * * * * * * * *

*Reading*

Williamson, Report on Constitution of CPUSA—September, 1945 *Political Affairs*

Foster, Building the Communist Party—*The Worker*, Sept. 23

Foster, The Struggle Against Revisionism, Sept. *Political Affairs*, (1945)—Part II

Resolution of Present Situation and Next Tasks—*National Convention*—Part II, Ibid

Stalin, *Foundations of Leninism*, Ch. VIII (*The Party*), Chapter II (*The Method*)

History of the CPSU—pp. 46-52

Eugene Dennis—"America Needs the Communist Party" Oct. *Political Affairs*

John Williamson—The Reconstitution of the CP—Sept. *Political Affairs.*

*Additional Reading*

Lenin, *Left Wing Communism, An Infantile Disorder*, Ch. II and IV and appendix Sec. IV

Thorez, Organizational Problems of the CP of France—Aug. 1945, *Political Affairs*

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## Lesson IX

### Strategy and Tactics

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II. Strategy

A. Dependence of Strategy on the Theory and Program of Marxism

1. "From a study of the objective processes of capitalism in their development and decline, the theory of Marxism arrives at the conclusion that the fall of the bourgeoisie and the seizure of power by the proletariat, and the replacement of capitalism by socialism, are inevitable. *Proletarian strategy may be considered truly Marxist only when it makes this fundamental conclusion of the* theory of Marxism the basis of its operations."

(Stalin—*Strategy and Tactics of Russian Communists*)

B. Principle features of strategy—Plan and direction of Party policy during an entire historical period. Direction of main blow and distribution of forces. Remains unchanged during entire period, changes only with new stage of revolution.

—"The most important task of strategy is to determine the main direction to be taken by the movement of the working class, the direction along which the proletariat can most advantageously deliver its main blow against its enemy in order to achieve this aim outlined in the program."

(Stalin)

C. Strategic leadership involves the mobilization of all possible allies for the working class, and of all splits in the ranks of its enemies during the given period.

* * * * * * * * * * *

III. Tactics

A. Tactics subordinate to strategy—deals with forms of struggle and forms of organization of working class, changing with new tasks and new political situation.

—"At each stage of development, at each moment, proletarian tactics must take account of these objectively unavoidable dialectics of human history, utilizing, on the one hand, the periods of political stagnation, or periods when things are moving at a snail's pace along the road of so-called 'peaceful' development, to increase the class consciousness, strength, and fighting capacity of the advanced

class; on the other hand, conducting this work in the direction of the 'final aim' of the movement of this class."

(Lenin—*Marx-Engels—Marxism*)

B. What determines tactics?

1. "In determining its line of tactics, each Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie, the degree of preparedness of the proletariat, the position taken by the various intermediary strata in its country, etc. The Party determines its slogans and methods of struggle in accordance with those circumstances, with the view to organizing and mobilizing the masses on the broadest possible scale and on the highest possible level of this struggle."—Program of the C.I.

* * * * * * * * * * *

*Reading*

Stalin, *Foundations of Leninism,* Ch. VII, Strategy and Tactics

*History of the CPSU,* Ch. III, Section 3, pp. 62-77

Dimitrov, *Working Class Unity, Bulwark Against Fascism* (Report to Seventh World Congress of the C.I.) pp. 17-40, 59-83

Lenin, *Left Wing Communism, An Infantile Disorder,* (Principal Stages in the history of Bolshevism) Ch. VIII, IX and X

Resolution on the Present Situation and Next Tasks, National Convention, CPUSA, Sections 1 through 5

*Additional Reading*

Lenin, *Two Tactics of Social Democracy*

Readings in Leninism Vol. on Strategy and Tactics (Review Ch. VI and VII)

**Petitioner's Exhibit No. 372**

POLITICAL AFFAIRS

SEPTEMBER, 1945

. . . . . .

## THE STRUGGLE AGAINST REVISIONISM*

By William Z. Foster

. . . . . .

* Report to the Special Convention of the Communist Political Association, held in New York, July 26-28, 1945, which reconstituted the Communist Party of the United States of America.

. . . . . .

### I. OUR PARTY'S REVISIONIST MISTAKE: ITS ORIGIN AND COURSE

. . . . . .

*E. Browder's line is a rejection of the Marxian-Leninist perspective of Socialism.*

. . . . . .

From all of this, it should be clear that Browder is preaching anti-Marxism, in fact "a notorious revision of Marxism," as Duclos said. He is fighting our Party and with it, what he has designated as "the Marxists of Europe." But like all other revisionists, he presents his opportunism under the false flag of a Marxism brought up to date. That he realizes he is making a head-on attack upon the whole body of Marxist-Leninist principles, however, is clear from his often-expressed scorn for the "old books" and "old formulas," by which, of course, he means Marxist-Leninist books and formulas. Browder would have us throw away the Marxist-Leninist classics and adopt instead his Right-wing bourgeois liberalism, which he misnames Marxism.

. . . . . .

Before the Duclos article was published, Browder also contemplated sending a public letter to the British Communist Party urging it to orientate itself in the then approaching Parliamentary elections on the perspective of an elec-

tion alliance between the British democratic forces and the Churchill group of Tories against the reactionaries (sic). How preposterous this sounds now in view of the Labor Party's victory—over Churchill. Browder's plan, apparently, was to develop some sort of a loosely integrated cooperation between such Communist parties as he could influence, with the C.P.A. as a new world center, with himself as its leader, and with his revisionist policies as its program. The Duclos article smashed this whole plan.

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The full destructive force of Browder's revisionism would have been felt, however, if we had attempted to extend his policies over into the postwar period. This would have proved disastrous to our mass work and to our Party itself. The corrective Duclos article arrived at a most opportune time for us.

* * * * * * * * * * *

Had the Duclos article been published a few months earlier, its reception in our Party would have been much less unanimous. As things turned out, however, it appeared at just the right time. The objective situation was ripe for it, and so, increasingly, were our Party leaders and members. Hence, the stage was all set for the sudden switch in Party opinion that has perplexed so many people. Our Party has suddenly reverted to its basic Communist principles.

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## II. The Next Tasks in the Struggle Against Revisionism

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While at the conclusion of this convention our formal general Party discussion will end and we will close our ranks and proceed in unity and discipline to the application of the line we have adopted, we must, however, conduct the broadest and deepest campaign of enlightenment we have ever led in our Party. As never before, we must train our Party in the fundamentals of Marxism-Leninism. To this

end we must check over the curricula, teaching personnel and textbooks of all our schools. We must re-examine all our recent literature. We must prepare new propaganda and agitation material in harmony with our new line.

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Only by applying the sound principles of Leninist democratic-centralism can our Party keep its mistakes to a minimum and develop the clear-thinking unity of action and resolute discipline that are the great strength of Communist parties all over the world.

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**Petitioner's Exhibit No. 373**

POLITICAL AFFAIRS

DECEMBER, 1949

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STALIN: ON HIS SEVENTIETH BIRTHDAY

By Alexander Bittelman

On December 21, 1949, Stalin will be 70 years old; and all over the world, the working class and its progressive allies, whole peoples and nations, will celebrate in confidence and triumph.

It will be a historic moment of overwhelming significance. It will be a historic moment in which hundreds of millions of people throughout the world will demonstrate their belief and confidence in Stalin's cause, in Stalin's leadership. They will express their undying faith in the victory of the camp of peace, democracy and Socialism, headed by the Soviet Union and led by Stalin. They will express their firm determination to bring this victory about.

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WHAT STALIN MEANS TO THE WORLD

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Informed people are well aware by this time that from its very inception the Soviet Union has waged a consistent

fight for world peace. The October Revolution itself took place under the banner of the struggle for peace. At different times, it applied different forms and methods of struggle, but the U.S.S.R. always fought for peace.

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WHAT STALIN MEANS TO THE INTERNATIONAL WORKING-CLASS MOVEMENT AND TO THE COLONIAL LIBERATION MOVEMENTS

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A theoretical contribution of Stalin which, like the *Foundations of Leninism*, and his other theoretical works, ranks with the fundamental theoretical and philosophical works of Marx, Engels and Lenin is the *History of the Communist Party of the Soviet Union*. The *History* is a fountain-head of Marxist-Leninist knowledge—theory, ideology, strategy, tactics, principles of organization. It is a guide to Marxist-Leninist action. It embodies the theoretical and programmatic positions of Marxism-Leninism.

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**Petitioner's Exhibit No. 374**

## CONSTITUTION OF THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA

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PUBLISHED BY THE COMMUNIST PARTY, U.S.A.
NATIONAL OFFICE
35 EAST 12TH STREET, NEW YORK 3, N. Y.

*Printed in the U.S.A.* *209* *October, 1948*

### PREAMBLE

The Communist Party of the United States is a political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism. It champions the immediate and fundamental interests of the workers, farmers and all who labor by hand and brain, against capitalist exploitation and oppression. As the ad-

vanced party of the working class, it stands in the forefront of this struggle.

The Communist Party upholds the achievements of American democracy and defends the United States Constitution and its Bill of Rights against it reactionary enemies who would destroy democracy and popular liberties. It uncompromisingly fights against imperialism and colonial oppression, against racial, national and religious discrimination, against Jim-Crowism, anti-Semitism and all forms of chauvinism.

The Communist Party struggles for the complete destruction of fascism and for a durable peace. It seeks to safeguard the welfare of the people and the nation, recognizing that the working class, through its trade unions and by its independent political action, is the most consistent fighter for democracy, national freedom and social progress.

The Communist Party holds as a basic principle that there is an identity of interest which serves as a common bond uniting the workers of all lands. It recognizes further that the true national interests of our country and the cause of peace and progress require the solidarity of all freedom-loving peoples and the continued and ever closer cooperation of the United Nations.

The Communist Party recognizes that the final abolition of exploitation and oppression, of economic crises and unemployment, of reaction and war, will be achieved only by the socialist reorganization of society—by the common ownership and operation of the national economy under a government of the people led by the working class.

The Communist Party, therefore, educates the working class, in the course of its day-to-day struggles, for its historic mission, the establishment of Socialism. Socialism, the highest form of democracy, will guarantee the full realization of the right to "life, liberty and the pursuit of happiness," and will turn the achievements of labor, science and culture to the use and enjoyment of all men and women.

In the struggle for democracy, peace and social progress, the Communist Party carries forward the democratic tra-

ditions of Jefferson, Paine, Lincoln and Frederick Douglass, and the great working-class traditions of Sylvis, Debs and Ruthenberg. It fights side by side with all who join in this cause.

For the advancement of these principles, the Communist Party of the United States establishes the basic laws of its organization in the following Constitution:

## Article I

### *Name*

Section I. The name of the organization shall be Communist Party of the United States of America.

## Article II

### *Purposes*

Section I. The purposes of this organization are to promote the best interests and welfare of the working class and the people of the United States, to defend and extend the democracy of our country, to prevent the rise of fascism, and to advance the cause of progress and peace with the ultimate aim of ridding our country of the scourge of economic crises, unemployment, insecurity, poverty and war, through the realization of the historic aim of the working class—the establishment of Socialism by the free choice of the majority of the American people.

## Article III

### *Membership*

Section I. Any resident of the United States, 18 years of age or over, regardless of race, color, national origin, sex or religious belief, who subscribes to the principles and purposes of the Communist Party, shall be eligible for membership.

Section 2. An applicant for membership shall be endorsed by at least two members of the Communist Party. Such application is subject to discussion and decision by the Club to which it is presented.

Section 3. A Party member is one who accepts the aims, principles and program of the Party as determined by its Constitution and Conventions, who belongs to a Club and attends its meetings, who is active in behalf of the Party program, who reads and circulates the Party press and literature and who pays dues regularly.

Section 4. Party members three months in arrears in payment of dues cease to be members in good standing and shall be so informed. Members who are six months in arrears shall be dropped from Party membership after a personal effort has been made to bring such members into good standing. They may, however, apply for readmission within six months, and upon approval of the Club Executive Committee, be permitted to pay up back dues and maintain standing as old members.

## Article IV

### *Rights and Duties of Members*

Section 1. Every member of the Party who is in good standing has not only the right but the responsibility to participate in the making of its policies and in the election of its leading committees, officers and delegates in the manner provided for in this Constitution.

Section 2. After thorough discussion in any Club, Committee or Convention, decisions are made by a majority vote of those in attendance, and all members are duty-bound to carry out such decisions.

Section 3. Party members disagreeing with any decision of a Club, Section, County, State or District Committee have the right to appeal such decision to the next higher body until they reach the National Committee and the National Convention. Decisions of the National Convention are final. While the appeal is pending, members shall adhere to the decision already rendered. All appeals should be heard by the respective committee within 30 days.

Section 4. In pre-convention discussions, members have the right and duty, within the Party organization, to discuss

any and all Party policies and tactics, the right to criticize the work and composition of all leading committees, the right to participate fully in the discussion in the Party press or any other designated publications.

Section 5. In accord with the principles of democratic centralism, and in accord with Article VII, Section 7, Communist Party members shall be involved in the formulation of major policies and shall have the right and duty to examine the execution of policies.

Section 6. Communist Party members, in accord with the provisions set forth in this Constitution, have the right to be nominated and elected to all offices or committees.

Section 7. The members of a Club, by majority vote, have the right to recall any of the Club officers or committees.

Section 8. A Party member shall have the right to prefer charges against any other member of the organization in accord with Article VIII, Section 6. Any member who has been subject to disciplinary action has the right to appeal to the next higher body up to the National Convention. Appeals to the National Convention shall be heard by a Committee established for such purposes by the Convention.

Section 9. Members are obligated to fight with all their strength, against any and every effort, whether it comes from abroad or from within our country, to destroy the rights of labor and the people, or to impose upon the United States the arbitrary will of any group or party or clique or conspiracy, thereby violating the unqualified right of the majority of the people to direct the destinies of our country.

Section 10. All members shall strive to acquire an understanding of the fundamentals of Marxism, to explain the policies of the Party and the principles of Socialism, and to apply Communist consciousness, understanding, responsibility and initiative in their work and activity.

Section 11. It shall be the obligation of all Party members to struggle against all forms of national oppression, national chauvinism, discrimination and segregation, against all ideological influences and practices of barbarous "racial" theories, such as white chauvinism and anti-Semit-

ism. It shall be the duty of all Party members to fight for the full social, political and economic equality of the Negro people and promote the unity of the Negro and white people as essential for the advancement of their common interests.

Section 12. All members shall be required to belong to the respective trade unions to which they are eligible, and to promote the best interests of the members of any organization to which they belong.

Section 13. All members eligible shall register and vote in the elections for public offices.

Section 14. The Party shall give full aid in the acquisition of U. S. citizenship to those of its members who, because of unjust and undemocratic laws and practices, are deprived of this right.

## Article V

### *Initiation Fees, Dues and Assessments*

Section 1. Initiation fees and dues shall be paid according to rates fixed by the National Convention.

Section 2. The income from dues and initiation fees shall be distributed to the various subdivisions of the Party as determined by the National Convention.

Section 3. Special assessments may be levied by the National Convention or by a two-thirds vote of the National Committee. All local or district assessments are prohibited except by special permission of the National Committee.

## Article VI

### *Structure*

Section 1. The basic organization of the Party is the Club which shall be organized on a shop, community or industrial basis.

The officers and executive committees of the Clubs shall be elected by the membership by a secret ballot once a year.

The Clubs shall meet regularly and shall establish appropriate committees under the direction of the Club Executive Committee.

Section 2. The State organization shall comprise all clubs in one State and shall have the power to establish all necessary subdivisions such as county, city, or section organizations and committees.

The highest body of the State organization is the State Convention, which shall convene at least once every two years and be composed of delegates elected by the conventions of the subdivisions of the Party or by the Clubs in the state. The delegates shall be elected on the basis of numerical strength. Delegates to the state conventions shall have been members of the Party in continuous good standing for at least one year.

The State Convention shall elect by secret ballot and majority vote, a State Committee. A member to be eligible for election to the State Committee shall have been in continuous good standing for at least two years. The State Committee has the responsibility to carry out the Convention decisions and direct the activities of the State organization between State Conventions.

The State Committee shall elect from among its members a Chairman, and such other officers and committees as it decides upon. These shall all be responsible to the State Committee.

Special State Conventions may be called by either a majority vote of the State Committee, or upon written request of Clubs representing one-third of the membership of the State.

Section 3. District organizations may be established by the National Committee. Where these cover two or more states, the State Committees shall be under the jurisdiction of the District Committee, elected by and representing the Party membership of the States composing these districts. The rules for convening the District Conventions and the election of leading committees shall be the same as those provided for the State organization.

Section 4. In matters of a local, state or district nature, the clubs, section, county, State and District Committees have the right to make decisions within the limits of the

general policies and Constitution of the Party and its Convention.

Section 5. All officers and leading committees of the Party, from the Club Executive Committee to the highest committees, shall be elected either directly by the membership or through their elected delegates. Committees and officers must report regularly on their activities to the body which elected them.

Section 6. Any Party officers may be removed at any time from their position by a majority vote of the body which elected them, or by the committee to which they are responsible.

## Article VII

### *National Organization*

Section 1. The highest authority of the Party is the National Convention. Regular National Conventions shall be held every two years. The National Conventions are authorized to make political and organizational decisions binding upon the entire Party and its membership, except as provided in Article VII, Section 7.

Section 2. The National Convention shall be composed of delegates elected by the State and District Conventions. The delegates shall be elected on the basis of the numerical strength of the state or district organizations. The basis for representation shall be determined by the National Committee. Delegates to the National Convention shall have been members of the Party in continuous good standing for at least two years.

Section 3. Special National Conventions may be called either by a two-thirds vote of the National Committee or by vote of two-thirds of all State and District Committees. The time and place of such special Conventions shall be fixed by the National Committee, which shall also fix the basis for representation at such special Conventions and the manner of selection of delegates.

Section 4. Prior to regular National Conventions, at least 60 days shall be provided for discussion in all Party Clubs and leading committees on the main resolutions and problems coming before the Convention. During this discussion all Party organizations have the right to adopt resolutions and propose amendments to the draft resolutions and the Constitution for consideration by the Convention.

Section 5. The National Convention shall elect a National Committee by a majority vote. A member of the Party to be eligible for election to the National Committee shall have been in continuous good standing for at least five years.

Section 6. The number of members of the National Committee shall be determined by a majority vote of each National Convention.

Section 7. The National Committee is responsible for the enforcement of the Constitution and the execution of the general policies adopted by the National Convention.

Between National Conventions, the National Committee is the highest authority of the Party, representing the Party as a whole, and as such the sole and complete authority to make all decisions and take all actions necessary and incidental to the good and welfare of the entire Party, and to act upon all problems and developments occurring between Conventions. In connection with its duties, and in the exercise of its responsibilities therefor, the National Committee shall guide and direct all the political and organizational work of the Party; organize and supervise its various departments and committees; elect or remove editors of its publications who shall work under its leadership and guidance; organize and direct all undertakings of importance to the entire Party; and administer the national treasury. The National Committee shall submit a certified audited financial report to each National Convention.

The National Committee shall have the duty and the authority to make such decisions or take such actions as it deems necessary in any emergency or situation affecting the life and welfare of the Party.

The National Committee is authorized in its discretion from time to time to delegate to the National Officers or any of them, any of the duties, responsibilities or authorities of the National Committee.

Section 8. The National Committee shall elect a chairman, a general secretary, and such other officers or committees as it decides upon.

The officers and committees elected by the National Committee are responsible for their decisions and actions to the National Committee. Members of such committees and all officers may be removed or replaced by a majority vote of the National Committee.

Section 9. The National Committee shall meet as often as necessary at the call of the officers or by a majority vote of the National Committee.

## Article VIII

### *Appeals and Disciplinary Procedure*

Section 1. The National Committee (and respective State and District Committees) shall establish a Review Committee to guard against and review violations of the Party Constitution and principles, to review and hear appeals and disciplinary cases, to guarantee regular audits of the financial books and records of the Party.

The National Review Committee shall consist of tested members wth exemplary records who shall have been members of the Party for not less than five years.

Section 2. Conduct or action detrimental to the working class and the nation, as well as to the interests of the Party, violation of decisions of its leading committees or of this Constitution, financial irregularities, or other conduct unbecoming a member of the Party, may be punished by censure, removal from posts of leadership, or by expulsion from membership. Such conduct or action by any committee may be punished by removal of the committee by the State or National Committee, which shall then order new elections for said committee.

Section 3. Any member shall be expelled from the Party who is found to be a strikebreaker, provocateur, engaged in espionage, or who advocates force and violence or terrorism, or who adheres to or participates in the activities of any group or party which conspires or acts to subvert, undermine, weaken or overthrow any or all institutions of American democracy through which the majority of the American people can maintain their right to determine their destinies.

Section 4. The practice or advocacy of any form of racial, national or religious discrimination shall be grounds for expulsion from membership.

Section 5. Personal or political relations with enemies of the working class and nation are incompatible with membership of the Communist Party.

Section 6. Charges against individual members or committees may be made by any member of the Club of which the one charged is a member or to the appropriate higher committee having jurisdiction. Clubs shall act upon charges directed against anyone holding membership in that Club. All such charges shall be handled expeditiously.

Section 7. All persons concerned in disciplinary cases shall have the right to appear, to bring witness and testify.

Section 8. The Club or leading committee having jurisdiction shall have the right to decide by majority vote upon any disciplinary measure, including expulsion. Disciplinary measures taken by leading committees are subject to approval by the body to which they are responsible.

Section 9. Any member who has been subject to disciplinary action has the right to appeal to the next higher body up to the National Convention, whose decision shall be final.

## Article IX

### *Amending the Constitution*

Section 1. This Constitution may be amended by a majority vote at any regular or special National Convention.

ARTICLE X

Section 1. The Communist Party is not responsible for any political document, policy, book, article, or any other expression of political opinion except such as are issued by authority of this and subsequent national conventions and its regularly constituted leadership.

*Adopted by the Communist Party, U.S.A., July 28, 1945. Amended by the Communist Party, U.S.A., August 6, 1948.*

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**Petitioner's Exhibit No. 375**

*Daily Worker, December 21, 1949*

COMMUNIST PARTY HERE GREETS STALIN

*A telegram greeting Soviet Premier Joseph Stalin on the occasion of his 70th birthday was sent yesterday by the national committee of the Communist Party of the United States. The telegram, signed by William Z Foster, chairman, and Eugene Dennis, general secretary, is as follows:*

Joseph Stalin
Moscow, U.S.S.R.
Dear Comrade Stalin,

On your 70th birthday the National Committee of the Communist Party, USA, voicing the sentiments of the advanced workers and progressive-minded Americans, sends you heartiest congratulations and warmest greetings. Like the Communists and other true partisans of peace, democracy and progress in all lands, we hail your more than 50 years of sterling leadership in the interest of the international working class and humanity.

. . . . . .

Under a Hitler-like anti-Soviet and anti-Communist smokescreen, the American imperialists launched their

predatory and aggressive Truman Doctrine, Marshall Plan, and North Atlantic Pact.

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Undaunted by the threats of the war instigators, the USSR steadfastly pursues its Stalinist peace policy and promotes cooperation with all who strive for peace. And the mighty world camp of peace, democracy and socialism headed by the Soviet Union, daily becomes more powerful and is destined to triumph.

In our country, too, the organized peace forces, among the workers, the Negro people, men and women of science and culture, are growing and will continue to grow in unison with the peace forces of the world. By waging a most active, determined and united struggle for peace, the people can frustrate the designs of the imperialist warmakers and the criminal intrigues of their Titoite agents and reactionary social democratic lackeys.

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With full confidence in the American working class and people, the Communist Party of the USA exerts every effort to assure that by their united action they will check and help defeat the fascist-minded monopolists and warmongers.

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**Petitioner's Exhibit No. 376**

POLITICAL AFFAIRS

FEBRUARY, 1951

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FIFTEENTH NATIONAL CONVENTION OF THE COMMUNIST PARTY, U.S.A.

This special, enlarged issue is devoted to reports, speeches, and greetings of the 15th National Convention of the Communist Party, U.S.A., held in New York City on December 28-31, 1950. The Resolution was published in

the January 1951 issue. The main report, *Peace Can Be Won!*, by Comrade Gus Hall, and the report, *The Negro People in the Struggle for Peace and Freedom*, by Comrade Benjamin J. Davis, have been published separately in pamphlet form.

## Gear the Party for Its Great Tasks
By Henry Winston

Our Party now prepares to give more effective leadership to the struggle of the masses in the immediate period ahead.

### A Sound Concentration Policy

What is the real basis for our concentration policy?

The Resolution before us states:

"The Party National Convention calls upon the whole Party to establish guarantees that a real policy of industrial concentration will be carried forward, and that major attention is given to the workers in the stronghold of trustified capital, which happens also to be the stronghold of the reactionary labor officialdom. For by winning the workers in the industries, we will be influencing the thinking and actions of the entire labor movement.

### Essence of Our Concentration Policy

More, we recognized that the fight for Socialism, which proceeds through the struggle for democracy, could advance only if we had a strong Communist Party anchored in the shops, and playing a leading role in the struggles of the working class.

## The Main Direction of the Party's Trade-Union Work
By John Williamson

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### The Decisive Character of Our Work

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Therefore, the main direction of our trade-union work, must be among the members of the reformist-led unions.

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### Co-ordination of Progressive Unions

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At the same time, we must recognize that the cause of the working class as a whole cannot advance unless a firm alliance is established with the Negro people, and unless the working class assumes its full responsibility in support of the struggle of the oppressed Negro nation for freedom.

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### III. The Role of the Party

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Time does not permit an overall estimate of the role of our Party through its 31 years of existence. Such a study would give us much valuable material from which to draw lessons. At certain periods of our Party's history we made especially great contributions in influencing the course of development of the workers movement, in our initiation and support for many mass movements, struggles and organizational activities, which have transformed the size and the influence of the organized working class. All of this was necessary for our Party to do—but by itself such activity did not develop Socialist consciousness among the masses.

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### IV. The Work of the Trade-Union Department

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The present situation demands from all Party trade unionists, especially in positions of leadership, closer ties with the Party, better understanding of policies, and a more vigorous fight for Party policies among the masses.

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We know that despite all the tempests and storms that may still beset us, the working class will move forward, and that our Party, headed by its helmsmen Foster and Dennis, will lead the working class safely to the port of Socialism.

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### Sharpen the Fight Against Browderism, Titoism, Trotskyism

By John Gates

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History proves that the continued struggle of the renegades from Marxism against the Communist Party inevitably and logically leads to struggle against the Soviet Union and to becoming outright agents of the imperialist bourgeoisie. This is the story of Browder.

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### Strengthen Party Vigilance

Comrades, our Party is ideologically sound and united. We have long ago defeated Browderism, Titoism and Trotskyism. But we cannot afford to be complacent. This Convention has called attention to the new dangerous tendencies of liquidationism. We need to be alert to the danger of factionalism.

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### The Effect of the War Economy on the South

By Jim Jackson

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Thanks to changes in the correlation of social forces on a world scale, in favor of democracy and Socialism and to the detriment of world imperialism, a number of the na-

tional liberation struggles have swept forward to brilliant successes. These changes are revealed in the triumph of the Chinese revolution, resulting in liberation of a half billion human beings; in the heroic people of Korea administering an anguishing military rebuff to the would-be Hitlerite adventurers of American imperialism and in the setting aflame of the hopes, aspirations and determined struggles of all the unfree peoples of the earth.

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The South is the seat of the oppressed Negro nation in the United States (with all the revolutionary portent that it holds for the forces of peace and advancement in our country), as well as the area of the most unrelieved political reaction, chauvinism and social backwardness. It is essential that we analyze and estimate the probable consequences upon the South of the new stage—the M-Day stage—in our government's drive toward new wars for world conquest, and the effect this can have on the fight for peace.

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THE YOUTH IN THE FIGHT FOR PEACE, AGAINST MILITARIZATON

By Carl Ross

This Convention reflects real progress in our youth work and better understanding of our Party policy in this field. The period since the last Convention has been marked by many noteworthy events in developing our fight to win the youth, fully confirming the correctness of the general line of our Party in youth work.

The 1948 Convention of our Party gave important emphasis to the need of establishing a non-Party working-class youth organization dedicated to the training of the youth in the spirit of Socialism. The Labor Youth League, and its truly historic first National Convention held a few weeks ago, marks the realization in life of this policy, and closes the gap of almost a decade during which time a youth organization of this type has been absent.

The recent founding Convention of the Labor Youth League, culminating its work of a year and a half, has made a deep impression on our whole Party. In this short time the League has proven itself to be a worthy heir of all the best traditions of the Young Communist League, its 25-year record of struggle and its training of many of the outstanding leaders of our Party today. But we are still slow to grasp the full meaning of the establishment of this independent working-class youth organization.

### The Struggle Against Militarization

There can be no fully effective fight for peace without waging a struggle against the militarization of the youth.

### Youth Issues Demand Attention

It follows that these are some of the most immediate issues around which our Party must develop an energetic struggle.

1. No extension of the draft to 18-year olds, veterans and married men. No lengthening of the draft service term. No universal military service and training.

### The Labor Youth League

Experience has borne out fully the correctness of establishing L.Y.L. as an independent non-Party mass youth organization. The best answer to those comrades who two years ago thought Party youth clubs filled the need for youth work are the thousands of non-Party members of L.Y.L. who are today participating in its activities and learning in a Marxist spirit.

## Some Ideological Tasks in the Struggle for Peace

By Betty Gannett

The Party's ideological and theoretical work is determined by the central political task of the day—the struggle for peace—the mobilization of the working class, the Negro people, and other democratic and peace-loving forces into a powerful front to defeat imperialist reaction and its drive to war.

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### Wars, Just and Unjust

Let me here dwell briefly on three important ideological questions related to the struggle for peace.

Of prime importance is the need to render more effective our correct explanations as to the unjust, expansionist character of the war against the Korean people, and the world war U.S. imperialism is plotting.

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### The Need to Popularize Socialist Achievements

Thirdly, since one of the main pillars of U.S. imperialism is its anti-Sovietism, our inadequate popularization of the truth about the Soviet Union and the countries of People's Democracy have seriously impeded the realization of a peace front in the country.

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Two tendencies are to be noted in the progressive movement—affecting also certain comrades in our Party—in regard to popularizing the achievements of Socialism and defending the Soviet Union. On the one hand, some retreat before the heavy pressures of bourgeois propaganda among the workers. This is said without minimizing the constant barrage of anti-Sovietism our comrades face in the shops today. On the other hand, some meet this propaganda with mere assertions that the Soviet Union is for peace and not an aggressor, etc., without being able to bolster such statements with facts, with intimate explanations of why a

worker's state cannot and does not pursue an imperialist course, with information on how democracy works in the Socialist Soviet Union, with data on the role and function of the trade unions, and with facts on the constantly improving living conditions of the Soviet people.

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## Greetings from Brother Communist Parties

### Union of Soviet Socialist Republics

The Central Committee of the Communist Party of the Soviet Union extends fraternal greetings to the 15th Convention of the Communist Party of the U.S.A. We wish the Communist Party of the U.S.A. successes in its struggle against reaction, for the vital interests and rights of the working class and all toilers of the United States of America, for the ideological strengthening of the Party ranks, for lasting peace between the peoples.

May the international solidarity of the toilers in the struggle for peace, democracy and Socialism gather strength.

Long live the friendship between the peoples of the United States and of the Soviet Union!

Long live the Communist Party of the United States!

Central Committee, Communist Party of the Soviet Union

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American Communists, and all persons, who oppose the aggressive policy of American imperialism and the rule of fascist terror, are now uniting in joint resistance against savage oppression and are striving to unite and educate the broad masses.

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### Central Committee, Communist Party of China

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We are certain that the decisions of your Convention, taken in the light of the teaching of Marx, Engels, Lenin and Stalin, will enable you to advance forward on the road of

unity of action of the working class, unity of all progressive Americans, of all supporters of peace, without distinction of race, color or beliefs, so that the cause of liberty will triumph.

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Central Committee, Communist Party of France
Jacques Duclos

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Your successes are our successes.

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Central Committee, Communist Party of Italy
Luigi Longo

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We know your struggle is difficult, but together with you, 800 million people led by the invincible Soviet Union, defend peace and liberty.

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Central Committee, Hungarian Working People's Party

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In spite of frantic reaction your Party will raise still higher the immortal banner of Marxism-Leninism and will honorably fulfill its patriotic and internationalist duty, standing in the foremost ranks of the workers of the peace movement which is growing stronger every day in your country and which can and should wrench the torch of war from the world incendiaries.

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Central Committee, Polish United Workers Party

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Our people are convinced that in spite of the hysterical threats of Truman and Attlee, in spite of the extraordinary situation which the imperialists create in their countries and in their satellites by the preparation of war, the fight of the millions of common people for peace and democracy, in-

spired by the peace-loving Soviet Union and the great Stalin, will win.

Long live the American Communist Party!

Long live the powerful front of the partisans of peace headed by the Soviet Union and the great Stalin!

Central Committee, Bulgarian Communist Party
V. Chervenkov, Secretary General

* * * * * * * * * * *

Your fight, dear comrades, is our fight, just as the struggle of the German friends of democracy and peace is your struggle.

* * * * * * * * * * *

Central Committee, Socialist Unity Party of Germany
Wilhelm Pieck, Otto Grotewohl

* * * * * * * * * * *

The invincible peace camp under the leadership of the Soviet Union and the great Stalin, defends the happiness of all peoples. You have a decisive place in the camp of peace.

* * * * * * * * * * *

Executive Committee
Communist Party of Western Germany

* * * * * * * * * * *

We feel closely bound up with your struggles not only because we pursue the same aims but also because we face the same enemy, American imperialism.

* * * * * * * * * * *

Central Committee, Communist Party of Austria
J. Koplenig

* * * * * * * * * * *

We express our solidarity with you in our common struggle against Anglo-American imperialism, and we are convinced that our two peoples will fulfill their great and his-

toric task of putting an end to the crimes now being committed in their name, and thus ensure lasting peace.

* * * * * * * * * *

Central Committee, Communist Party of Great Britain
Harry Pollitt, General Secretary

* * * * * * * * * *

Headed by the mighty Socialist Soviet Union and our friend and teacher Joseph Stalin, the world camp of peace is going forward to win, to prevent a third world war, to turn the world towards peace. We are certain that our comrades of the heroic Communist Party of the United States will not be found wanting.

* * * * * * * * * *

Labor-Progressive Party of Canada
Tim Buck, General Secretary

* * * * * * * * * *

The Mexican Communist Party sends fraternal greetings to the National Convention of your Party and wishes you success in your deliberations, in the certainty that your decisions will victoriously guide the American people in their determined struggle for the defense of the cause of peace and Socialism so brilliantly led by Comrade Stalin.

Central Committee, Communist Party of Mexico
Dionisio Engina, Secretary General

* * * * * * * * * *

United by proletarian internationalism under the banner of the great Stalin, we will march victoriously on the road to peace and Socialism.

Communist Party of Brazil
Luis Carlos Prestes

* * * * * * * * * *

We know of the monstrous persecutions and slanders by which the hysterical atomic warmakers have victimized you, but we are firmly convinced that you, the Communist Party of the U.S.A., will know how to overcome all difficulties and

defeat all attacks and that you will fulfill the great task of world significance.

* * * * * * * * * * *

Popular Socialist Party of Cuba
Juan Marinello, President
Blas Roca, General Secretary

* * * * * * * * * * *

Your invitation confirms that proletarian internationalism, in spite of hate, persecution and terror, is a living reality.

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Our fight for peace, independence and freedom is directed against the same enemy as you fight.

* * * * * * * * * * *

Long live proletarian internationalism!

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Central Committee, Communist Party of Denmark

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With revolutionary greetings,
P. B. Central Committee, Communist Party of India

* * * * * * * * * * *

We pledge our maximum contribution to the peace movement headed by the Soviet Union.

* * * * * * * * * * *

Vittorio Vidali, Secretary
Communist Party of the Free Territory of Trieste

* * * * * * * * * * *

Long live the solidarity of the working people in the whole world for peace, democracy and Socialism, for the triumph of the ideas of Marx, Engels, Lenin and Stalin!

* * * * * * * * * * *

Dushko Novacov, Chief Editor of the newspaper,
Pod Zastavom Internacionalizma

* * * * * * * * * * *

NATIONAL COMMITTEE, COMMUNIST PARTY, U.S.A.

*Elected at the 15th National Convention*
*December 28-31, 1950*

William Z. Foster, National Chairman; Eugene Dennis, General Secretary; Gus Hall, National Secretary; Henry Winston, Organization Secretary; John Williamson, Labor Secretary; Benjamin J. Davis; John Gates; Irving Potash; Robert Thompson; Elizabeth Gurley Flynn; Gilbert Green; Jack Stachel; Carl Winter; Alternate Members of the National Committee: Archie Brown, Fred Fine, Claudia Jones, James Jackson, Claude Lightfoot, Pettis Perry, William Schneiderman, Sid Stein, Martha Stone.

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**Petitioner's Exhibit No. 377**

PEACE CAN BE WON!

REPORT TO THE 15TH CONVENTION, COMMUNIST PARTY, U.S.A.

By Gus Hall

NEW CENTURY PUBLISHERS, NEW YORK

## II. THE REALITY OF THE WORLD TODAY

### THE GREAT SOCIALIST STATE

The strength and invincibility of the world peace camp are best exemplified by the Soviet Union. The Soviet Union has just celebrated its 33rd birthday. It stands proudly among the nations of the earth. Each day it gives glowing and irrefutable proof that a working class in power, a Socialist state, advances civilization to a new and higher stage.

This most democratic of all powers has completed its first postwar Five-Year Plan. The main objectives of this plan were to rebuild the war-ravaged areas of the country, to re-

store the prewar levels of industry and agriculture and to surpass those levels. The Soviet people proudly announce that they have achieved these objectives—and more.

. . . . . .

In accord with its basic Stalinist policy of peace, the Soviet Union has put forward practical peace proposals at each turn of events. Thus it was the Soviet Union that advanced the proposal for outlawing the atom bomb through international agreement and inspection, and the proposal for universal reduction in armaments. At every stage of the war in Korea, the U.S.S.R. has put forward new and practical peace proposals. Only recently, Andrei Vishinsky, speaking for the Soviet Union in the United Nations, again proposed a real cease-fire and the withdrawal of all foreign troops from Korea.

The working classes of Poland, Czechoslovakia, Romania, Hungary, Bulgaria and Albania, defeated all attempts by the imperialist camp to disrupt their progress. These countries are now firmly on the road to Socialism. And today, they are stout pillars in the world camp of peace, democracy and Socialism.

The rise and development of these People's Democracies, their achievements in building the foundations of a Socialist society, fully confirm Lenin's thesis that, while the transition from capitalism to Socialism will give rise to varied forms, the content will everywhere and inevitably be the dictatorship of the proletariat. Among the big obstacles to Wall Street's plans for building its main World War III base in Europe and Western Germany are the now stable German Democratic Republic, and the powerful Communist Parties of France and Italy.

. . . . . .

## VIII. Political Perspective

. . . . . .

### The Goal of Socialism

We know that this positive outlook is only the beginning. In our absorption in the work of the present, we must never for a moment forget our historic and ultimate goal—to put an end to this barbaric capitalist system, and build Socialism in its place.

* * * * * * * * * * *

Our confidence is firmly grounded in the world-liberating science of Marxism-Leninism. We know where we are going. We know why the American working class and people are destined to go our way. We know how to take the next steps toward a happy, democratic, and peace-loving America—toward the boundless horizons of lasting peace in a Socialist, a Communist world.

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**Petitioner's Exhibit No. 378**

## POLITICAL AFFAIRS

### Working-Class and People's Unity for Peace!

*(Main Resolution of the 15th National Convention. C.P.U.S.A.)*

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### II. The Menace of Fascism and the Struggle for Democracy

1. The struggle for peace is inseparable from the struggle for democracy, from the struggle against the growing danger of fascism.

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U. S. imperialism is the most reactionary force in the world today, seeking to fascize, not only America, but every capitalist country.

* * * * * * * * * * *

*The Negro people, in its fight for first-class citizenship throughout the land, forms a tremendous reservoir of strength for the whole democratic movement.*

* * * * * * * * * *

### III. For A Fighting, United Working Class

1. The key to changing the relationship of forces within the country in favor of peace, democracy and economic security, is to change the situation within the working class and its organized labor movement. Only to the extent that the working class begins to find the path toward class-struggle policies and labor unity can progress be made.

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4. We must face the fact that the overwhelming bulk of the organized workers in the country are in the A. F. of L., C.I.O. and independent Right-led unions. It is this which must determine the main direction of all of the Party's work, and especially its trade-union and industrial concentration policy.

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### IV. The New Features of the Negro Liberation Movement

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Because U. S. imperialism is compelled to cloak with demagogic phrases about democracy and equality its drive for world conquest, particularly its military assault against the colonial liberation movement in Asia, the Negro question tears the mask off of Wall Street's real face and assumes the greatest international significance.

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3. The beginning of the merger of the Negro liberation struggle with the world colonial upsurge is expressed in the growing moral and political unity of the colored peoples of the world against the racist, Jim-Crow policies of U. S. imperialism, the fountain head of white chauvinism; in the

joint action of the Chinese people with the Negro people against the execution of Willie McGee; and in the sharpened assault of U. S. imperialism against the colored nations of China and Korea and the oppressed Negro people in the U.S.A.

## VII. The Party

10. Another weakness in the work of the Party is the over-dependence on top levels of leadership, the lack of independent initiative at the lower levels of the organization. This weakness, the tendency of lower organizations to drift between central campaigns and their slowness in orienting independently on concrete problems and issues in a given local situation, must be recognized in the first place as a weakness of leadership, which has the responsibility for correcting this state of affairs.

One of the major causes for this situation is the continued existence of bureaucratic methods of work in the leadership, and the failure to educate the whole Party in the practice of criticism and self-criticism as the inner law of Party development. Thus the whole Party does not often enough participate in evaluating major developments and struggles; does not sufficiently learn from mistakes committed.

This in turn leads to many "independent" estimates which are not resolved into one single Party estimate. This tends to weaken Party discipline and the carrying out of Party decisions.

The 15th National Convention of the Communist Party, U.S.A., demonstrates the firm political unity of our Party. It calls upon the whole membership to guard the monolithic character and unity of our Party, based on democratic centralism. We must strive for the highest discipline arising out of conscious understanding of the Party's theory and political line. Tendencies toward factionalism are totally

impermissible and must be sharply dealt with because they weaken the Party and make it possible for the enemy more easily to penetrate its ranks.

11. The establishment of the Labor Youth League has done much to restore to the youth scene a fighting youth leadership organizing and uniting the youth against war and fascism and educating them in the spirit of Socialism. We must give every aid and support to this organization and must overcome the still-present neglect in practically all sections of our Party of this increasingly important section of the population. *Any continuation of this neglect in these circumstances of acute war and fascist danger can only have disastrous consequences and cannot be tolerated.* The Party must help build the broadest front of youth unity against the imperialist threat of a lifetime of militarism and insecurity.

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**Petitioner's Exhibit No. 379**

## THE NEGRO PEOPLE IN THE STRUGGLE FOR PEACE AND FREEDOM

BENJAMIN J. DAVIS

*Report to the 15th Convention, Communist Party*

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NOTE TO THE READER

This pamphlet contains the full text of the report of Benjamin J. Davis, former Councilman of the City of New York and member of the Communist Party's National Committee, to the Party's 15th National Convention, held on December 28-31, 1950, in New York City.

Mr. Davis, an outstanding leader of the Negro liberation struggle in the United States and a militant fighter for peace, is one of the eleven Communist leaders convicted in the notorious Foley Square "thought control" trial, and is now free on bail while his conviction is under appeal before the U.S. Supreme Court.

## I. The Struggle for Peace and Its Relation to the Negro Liberation Movement

The indivisibility of the struggle for peace and the struggle for freedom—which takes its most basic form in our country in the battle for Negro liberation—was always of major importance.

## II. The New Features of the Negro Liberation Movement

. . . . . .

The most important new features of the Negro liberation movement are: First, the international significance of this question, originally noted by Comrade Foster at the March plenum this year, and reflected in the present crisis in U.S. foreign policy. Second, the intensification of the pro-fascist oppression of the Negro people nationally, and in the Black Belt in particular, in consequence of U.S. monopoly's drive toward world domination, war and fascism.

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## V. Remarks on the Party

. . . . . .

Comrades, it is shocking that, in spite of the gains made in the fight against white chauvinism, primitive acts of white chauvinism can still reveal themselves even at the level of County and State Communist Party conventions. We must quickly get up off that level, for time does not wait.

Drastic discipline has to be imposed in such cases. For some of these crude cases, comrades, are astounding.

. . . . . .

This requires in the first place the fight for the line of our Party on the Negro question as a national question, including the right of self-determination for the Negro majority in the Black Belt.

. . . . . .

Our Party's line on the Negro question is a Leninist-Stalinist principle and method of work.

. . . . . .

Tendencies to treat the Negro people as mere victims of oppression, without seeing their unique positive and revolutionary role in the struggle against capitalist reaction are a patronizing form of white chauvinism.

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**Petitioner's Exhibit No. 380-A**

## WHAT IS COMMUNISM?

. . . . . .

By EARL BROWDER

*General Secretary, Communist Party of the U. S. A.*

. . . . . .

### CHAPTER IX

### THE UNITED FRONT

. . . . . .

We must unite in defense of the Soviet Union, that bulwark of peace and socialism.

The time has come for the militant Socialists to take a clear stand on the question of the Soviet Union. A situation can develop tomorrow where the Nazis and the Japanese imperialists will simultaneously attack the Union of Soviet Socialist Republics. If the Socialists adopt a position of neutrality, they will be helping the warmakers as well as giving indirect aid to the reactionaries in America, who will support this imperialist war against the Soviet Union with munitions and money, behind the smoke-screen of the slogan: Keep America Out of the War. A defeat for the Soviet Union would not merely be the defeat of the Russian workers and peasants. It would be the defeat of the workers in all countries, including the United States. It would mean the reign of capitalist reaction and barbarism for genera-

tions. That is why every anti-fascist, every Socialist, must defend the Soviet Union. Its fight is their fight. Its defense is their defense. Its victory speeds up the victory of socialism in all countries.

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**Petitioner's Exhibit No. 380-B**

## THE COMMUNIST

MAY, 1936

### FOR A UNITED FRONT MAY DAY!

*(Statement of the Central Committee, Communist Party, U.S.A.)*

*Down Tools—Demonstrate in the Streets; For the Unity of Action by All Toilers in Defense of Their Living Standards, Their Civil Liberties, and in Defense of Peace*

To all workers, toiling farmers, negroes, men, women, and youth:

On May First the workers of the entire world will celebrate the fiftieth anniversary of that day which was born out of the struggle of the American working class for the eight-hour day. May Day is the day when the workers of the world demonstrate their international solidarity. On this day they close ranks and press forward to new struggles.

### DEFENSE OF THE SOVIET UNION

*Let us unite with the toilers of the whole world to keep America out of war by keeping war out of the world, to save humanity from the horrors of a new world slaughter. Let us on May First, the traditional day of socialism, pledge ourselves to defend the only country of socialism—the Soviet Union.*

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**Petitioner's Exhibit No. 380-C**

*Daily Worker, January 14, 1936*

UNITY OF ACTION NEEDED TO DISPEL GATHERING WAR CLOUDS AGGRESSIVE ACTS OF JAPAN, ITALY AND GERMANY AFFECT THE ENTIRE WORLD—FORCES FOR PEACE MUST FIGHT UNITEDLY

* * * * * * * * * * * *

The American people must take other steps to meet the war danger:

(1) They must put their faith in their own *independent* struggle and answer through collective, mass refusal to ship, load or lend arms, munitions, supplies or money to any aggressor.

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(2) We must support the peace policy of the Soviet Union.

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At the same time, if the imperialists unite in their *murder march* against the Soviet Union, we must be prepared to wage relentless struggle, using every weapon at our command *for the Defense of the Soviet Union.*

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**Petitioner's Exhibit No. 382**

*Daily Worker, November 15, 1937*

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FOSTER AND FORD ARE CHEERED BY HUGE CROWD—GREETINGS SENT JOSEPH STALIN—KRUMBEIN PRESIDES—CACCHIONE, CROSBIE, BEGUN SPEAK

All the world loves a winner.

More than 20,000 people, gathered at Madison Square Garden Saturday night prayed that. They cheered, sang and yelled themselves hoarse as all Americans do when they see any underdog fight up a rocky road to the top.

The winner was the Soviet Union—the occasion the tribute paid by its American friends on the 20th anniversary of the victory of Socialism.

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### 3,000 New Members

Great red and white signs, with letters three feet high stretched across the crowded galleries. Perfectly fitting the occasion was the one reading: "For Unity and Collaboration Between the People of the U. S. A. and the Soviet Union."

Thousands, turned away at 8 o'clock from the packed hall, braved the rain outside and cheered the speakers and unseen spectacle of which they were a part. The initiation and pledge, read by Charles Krumbein to 3,000 new members of the Communist Party, rolled out over the loud speakers in one of the most impressive ceremonies of the entire evening.

The recruits, standing proudly at attention as Krumbein read the pledge of loyalty to the Soviet Union, for a constant struggle to defeat fascism, a merciless struggle against Trotzkyism and for victory of the People's Front and Socialism.

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**Petitioner's Exhibit No. 389**

*Information on 1949 Dues Material*

*To All Party Clubs*

December 21, 1948

Dear Comrades:

The new dues schedule effective January, 1949 is as follows:

1. Unemployed shall pay 10 cents a month.
2. Housewives and those earning under $35. a week shall pay 35 cents a month.
3. Those earning between $35. and $60 a week shall pay $1. a month.

4. Those earning between $60 and $100 a week shall pay $2 a month.

5. Those earning over $100 a week shall pay $5 a month.

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Enclosed is a score card which is to be used for making a record of the dues paid by each member. Your Club Financial Secretary shall be responsible to keep this record as well as handle the collection of dues, and turn the dues payments over to your Section representative.

Also, enclosed are a few dues report blanks which may be helpful in making up your report for your Section Representative.

Comradely yours,
HELEN ALLISON
Helen Allison
Organization Sec'y
Michigan Communist Party

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PRELIMINARY INFORMATION REQUIRED FOR REVIEW AND DISCUSSION ON STATUS OF THE PARTY ORGANIZATION

Please fill out all questions as completely as possible:

1. Section_____ Number of Clubs in Section_____

2. List Clubs:

| | # of members | Shop | Check below which kind of Club it is Industrial | Community | Nat'l Group |
|---|---|---|---|---|---|
| 1) | | | | | |
| 2) | | | | | |
| 3) | | | | | |

**Petitioner's Exhibit No. 400**

# EMPHASIS!

BULLETIN OF THE EDUCATIONAL DEPARTMENT MICHIGAN STATE COMMITTEE COMMUNIST PARTY, U.S.A.
900 LAWYERS BLDG., DETROIT 26, MICH.
DISCUSSION OUTLINE

APRIL 27, 1949

## THE MARXIST POSITION TOWARD WAR

### I. *Imperialism and War*

. . . . . .

### II. *Marxists Hold that there are Two Kinds of War—Just and Unjust Wars*

A. In our attitude toward war, we differ in principle from pacifists and petty bourgeois humanitarians. We support just wars and oppose unjust wars.

. . . . . .

1—We support just wars—wars waged in defense against imperialist aggressions; wars to liberate people from enslavement; wars of colonial and dependent countries for independence. Such just wars are fundamentally in the interests of the working class and nation.

2—We oppose unjust wars; all wars for conquest and exploitation. We rally the working class and the people to fight unjust wars as destructive of the interests of the working class and the nation.

. . . . . .

### IV. *World War II was Just War*

. . . . . .

1—The post-war world was split by the U.S. and Britain into two camps—the camp of imperialism and fascism under the leadership of American imperialism and the camp of

democracy, national freedom and peace, headed by the USSR.

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Reading Material:
War and the Workers—VI Lenin
April Political Affairs—"Struggle for Peace" by Marvin Reiss
The North Atlantic Pact—For Peace or War?—by Abraham Chapman
History of the CPSU—Pages 160-173
The Proletarian Revolution and the Renegade Kautsky—VI Lenin
The Soviet Union and World Peace—Stalin and Molotov
Notes on the National Question—Peter Wieden in Clarity (available at the state office)

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**Petitioner's Exhibit No. 412**

*For a Lasting Peace, for a People's Democracy!*

MARCH 10, 1950

## ECONOMIC SUCCESSES IN THE PEOPLE'S DEMOCRACIES

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A comparison of the economic successes achieved by the People's Democracies in a very short period of their history with the extremely difficult position of the working people in the capitalist countries constitutes a terrible indictment of American imperialism and of the whole decaying capitalist system. It is a call rallying the working people the world over for the struggle for peace, against the imperialist criminals, for the fight for Socialism.

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**Petitioner's Exhibit No. 416**

*Holiday Season Marxist Literature Sale*

TO KEEP MARXISM-LENINISM FROM BEING LIQUIDATED BY FRANCO'S PAL, MCCARRAN—THERE IS ONLY ONE WAY—

*FIGHT THE McCARRAN ACT*

by You, Your Friends and Family

—BUYING

—READING

—CIRCULATING

*MARXIST-LENINIST LITERATURE*

| TITLE | NO. ON HAND | REGULAR PRICE | REDUCED PRICE | MY ORDER | NET AMT. ORDER |
|---|---|---|---|---|---|
| 7th World Congress by Dimitroff | 4 | .10 | .05 | ____ | ____ |
| History CPSU | 13 | .40 | .20 | ____ | ____ |
| What is To Be Done—by Lenin | 8 | .60 | .30 | ____ | ____ |
| State & Revolution—by Lenin | 10 | .10 | .05 | ____ | ____ |
| Imperialism - Lenin | 2 | .30 | .15 | ____ | ____ |
| Task of Youth—Stalin | 5 | .15 | .05 | ____ | ____ |
| Young Generation—Lenin | 5 | .15 | .05 | ____ | ____ |
| Proletarian Revolution—Lenin | 1 | .30 | .10 | ____ | ____ |
| Left-Wing Communism—Lenin | 20 | .25 | .10 | ____ | ____ |

| | | | | | |
|---|---|---|---|---|---|
| Problems of Leninism—Stalin | 2 | .25 | .10 | ---- | ---- |
| Foundations of Leninism | 6 | .25 | .10 | ---- | ---- |
| Communist Manifesto | 5 | .10 | .05 | ---- | ---- |
| Mastering Bolshevism—Stalin | 6 | .10 | .05 | ---- | ---- |

**Petitioner's Exhibit No. 417**

## WHAT IS TO BE DONE?

### Burning Questions of Our Movement

By V. I. Lenin

*Copyright, 1929, by*

International Publishers Co., Inc.

### Editor's Foreword

*What Is To Be Done?* is one of Lenin's outstanding revolutionary writings. It has long been a classic in its field. The first generation of Russian Bolsheviks, which includes many of the present Soviet leaders, have been brought up on this brilliant exposition of the policies and tactics of the revolutionary Socialist movement. Its uniqueness in Russian Marxist literature is due to the way it treats the role of the Party in the revolutionary struggle—a subject to which slight attention was paid up to that time. The subtitle, "Burning Questions of Our Movement," which Lenin gave to this brochure, indicates how deeply he felt the need of calling attention to the problem of organisation.

What were these "burning questions" which Lenin, soon after his return from Siberian exile, posed and to which he gave answers, first in articles in the *Iskra* ("The Urgent

Tasks of Our Movement," December, 1900; "Where To Begin," May, 1901)* and finally developed in *What Is To Be Done?*, published in March, 1902†.

Ideologically, Marxism had won a decisive victory over Populism which exercised hegemony among advanced Russian society and revolutionary intelligentsia during the seventies and eighties. In his early writings Lenin himself carried on sharp polemics against Populist and other utopian perversions of Socialism, thereby greatly contributing to the Marxist literary campaign designed to check their influence on the nascent revolutionary workers' movement.

The Marxist movement at that time suffered, however, from two basic weaknesses. The first was the tendency prevalent in a section of the movement and characterised as Economism, which maintained that the economic struggles of the workers for the improvement of their immediate working and living conditions should be the chief preoccupation of the labor movement. The struggle against tsarism, the Economists proposed to leave to the liberal bourgeoisie to whom they ascribed a monopoly in that field. Lenin and other revolutionary Socialists could not but consider such a policy as a travesty on Marxism, as a complete break with the nature and aims of the revolutionary labor movement, the very essence of which, they held, was the struggle for power. Lenin goes hammer and tongs after all those who attempt to separate the struggle against the tsarist government from that against the capitalists, and brands the pure and simple trade unionism of the Economists as thoroughly reactionary and inimical to the interests of the workers.

The second weakness which Lenin vigorously attacks in this study is the question of organisation. He raises this problem to the political importance it deserves and makes an impassioned appeal to scrap the existing form of organisation and build a theoretically sound party, revolutionary in purpose and national in scope. Although formally organised into a party a few years before (1898), the Marxist

* V. I. Lenin, *The Iskra Period*, Book I, pp. 53-58; 109-116.

movement consisted of little more than small circles, each carrying on a more or less independent existence and engaging in sporadic and planless activities. This loose aggregation of revolutionists, carrying on their work in primitive, handicraft fashion, and depending on the spontaneity of the masses, could not, according to Lénin, become the organiser and leader of the revolutionary struggles which were rapidly developing and which were involving larger and larger masses of workers. Only a centralised party, working according to a carefully prepared plan, with each member assigned a specific task for which he is to be held accountable, could successfully lead the Russian workingclass in the struggle against capitalist exploitation and tsarist rule.

"If we have a strongly organised party, a single strike may grow into a political demonstration, into a political victory over the government," Lenin wrote sometime before he began to work on *What Is To Be Done?* Obviously, the party as he conceived it, had to consist of members "who shall devote to the revolution not only their spare evenings, but the whole of their lives."

Written thirty years ago, *What Is To Be Done?* still retains its freshness because of the revolutionary enthusiasm which permeates its pages and the great lessons it has today for the workers in capitalist countries who would build their revolutionary parties after the pattern fashioned by Lenin during the formative period of the Bolshevik Party.

ALEXANDER TRACHTENBERG.

December, 1931.

## IV

### THE PRIMITIVENESS OF THE ECONOMISTS AND THE ORGANISATION OF REVOLUTIONISTS

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### C. ORGANISATION OF WORKERS, AND ORGANISATION OF REVOLUTIONISTS

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The workers' organisations must in the first place be trade organisations; secondly, they must be as wide as possible; and thirdly, they must be as public as conditions will allow (here, of course, I have only autocratic Russia in mind). On the other hand, the organisations of revolutionists must be comprised first and foremost of people whose profession is that of revolutionists (that is why I speak of organisations of *revolutionists*, meaning revolutionary Social-Democrats). As this is the common feature of the members of such an organisation, *all distinctions as between workers and intellectuals*, and certainly distinctions of trade and profession, must be dropped. Such an organisation must of necessity be not too extensive and as secret as possible. Let us examine this three-fold distinction.

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The workers' organisations for carrying on the economic struggle should be trade-union organisations; every Social-Democratic worker should, as far as possible, support and actively work inside these organisations. That is true. But it would be far from being to our interest to demand that only Social-Democrats be eligible for membership in the trade unions. The only effect of this, if it were attempted, would be to restrict our influence over the masses. Let every worker who understands the necessity for organisation, in order to carry on the struggle against the employers and the government, join the trade unions. The very objects of the trade unions would be unattainable unless they united all who have attained at least this elementary level of understanding, and unless they were extremely wide organisations. The wider these organisations are, the wider our influence over them will be. They will then be influenced not only by the "spontaneous" development of the economic struggle, but also by the direct and conscious action of the Socialists on their comrades in the unions. But a wide organisation cannot be a strictly secret organisation (since the latter demands far greater training than is required for the economic struggle). How is the contradiction between

the necessity for a large membership and the necessity for strictly secret methods to be reconciled? How are we to make the trade unions as public as possible? Generally speaking, there are perhaps only two ways to this end: Either the trade unions become legalised (which in some countries precedes the legalisation of the Socialist and political unions), or the organisation is kept a secret one, but so "free" and "loose" that the need for secret methods become almost negligible as far as the mass of the members are concerned.

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Trade-union organisations may not only be of tremendous value in developing and consolidating the economic struggle, but may also become a very useful auxiliary to the political, agitational and revolutionary organisations.

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I could go on analysing the rules, but I think that what has been said will suffice. A small, compact core, consisting of reliable, experienced and hardened workers, with responsible agents in the principal districts and connected by all the rules of strict secrecy with the organisations of revolutionists, can, with the wide support of the masses and without an elaborate set of rules, perform *all* the functions of a trade-union organisation, and perform them, moreover, in the manner Social-Democrats desire. Only in this way can we secure the *consolidation* and development of a *Social-Democratic* trade-union movement, in spite of the gendarmes.

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"A dozen wise men can be more easily caught than a hundred fools!" This wonderful truth (which the hundred fools will applaud) appears obvious only because in the very midst of the argument you have skipped from one question to another. You began by talking, and continued to talk, of catching a "committee," of catching an "organisation," and now you skip to the question of getting hold of the "roots" of the movement in the "depths." The fact is,

of course, that our movement cannot be caught precisely because it has hundreds and hundreds of thousands of roots deep down among the masses, but that is not the point we are discussing. As far as "roots in the depths" are concerned, we cannot be "caught" even now, in spite of all our primitiveness; but, we all complain, and cannot but complain, of the ease with which the *organisations* can be caught, with the result that it is impossible to maintain continuity in the movement. If you agree to discuss the question of catching the *organisations*, and to stick to that question, then I assert that it is far more difficult to catch ten wise men than it is to catch a hundred fools.

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The centralisation of the more secret functions in an organisation of revolutionists will not diminish, but rather increase the extent and the quality of the activity of a large number of other organisations intended for wide membership and which, therefore, can be as loose and as public as possible, for example, trade unions, workers' circles for self-education, and the reading of illegal literature, and Socialist, and also democratic, circles for *all other sections of the population*, etc., etc. We must have *as large a number as possible* of such organisations having the widest possible variety of functions, but it is absurd and dangerous to *confuse these with organisations of revolutionists*, to erase the line of demarcation between them, to dim still more the already incredibly hazy appreciation by the masses that to "serve" the mass movement we must have people who will devote themselves exclusively to Social-Democratic activities, and that such people must *train* themselves patiently and steadfastly to be professional revolutionists.

Aye, this consciousness has become incredibly dim. The most grievous sin we have committed in regard to organisation is that *by our primitiveness we have lowered the prestige of revolutionists in Russia*. A man who is weak and vacillating on theoretical questions, who has a narrow outlook, who makes excuses for his own slackness on the ground

that the masses are awakening spontaneously, who resembles a trade-union secretary more than a people's tribune, who is unable to conceive a broad and bold plan, who is incapable of inspiring even his enemies with respect for himself, and who is inexperienced and clumsy in his own professional art—the art of combating the political police—such a man is not a revolutionist but a hopeless amateur!

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**Petitioner's Exhibit No. 418**

*Political Affairs.*

## 14th NATIONAL CONVENTION OF THE COMMUNIST PARTY U. S. A.

AUGUST 2-6, 1948

SPECIAL CONVENTION ISSUE

SEPTEMBER, 1948

FOR A FIGHTING PARTY ROOTED AMONG THE INDUSTRIAL WORKERS!*

By HENRY WINSTON

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### THE NEED OF A POLICY OF INDUSTRIAL CONCENTRATION

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The central task before the Party is the fight for shifting the main base of our Party to the working class. *This cannot be done unless we turn the face of the entire Party to the workers in the factories.* There is already a new awareness in our entire Party of this urgent task. Every single state convention, and scores of comrades in the pre-Convention discussion, have given major attention to this question. We must transform this new awareness into deeds.

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* The report to the Convention on the organizational and ideological tasks of the C.P.U.S.A.

## How To Apply the Concentration Policy

What is the essence of a concentration policy?

First of all, it requires a fundamental understanding of the role of the workers in the basic industries in relation to the working class and the life of the country as a whole. It is precisely these workers employed in the huge plants by the tens of thousands who, as Lenin pointed out, become educated to understand the need for unity, collective action and solidarity by the very process of large-scale production itself. One cannot conceive of successfully building the Progressive Party, of organizing an effective fight against the Draft, or in defense of civil liberties, a successful fight against war and fascism, unless this section of the working class is fully mobilized. And, of course, one cannot speak of winning the American workers for Socialism without winning the majority of this section of the working class. It is necessary to permeate the entire Party with this consciousness.

Secondly, such a policy requires the selection of the points of concentration where a base must be secured, if we are to set in motion the entire labor movement. This means knowing which districts must be given major national attention, which industries are key and what plants are decisive.

. . . . . .

While we must strengthen the Party in all basic industries, we must particularly select for major concentration such industries as steel, auto, mining, maritime, electrical and railroad.

. . . . . .

We must frankly say that the failure to secure adequate results in our concentration work in the last three years is due, in the main, to an underestimation in practice of the vanguard role of the Party. In practice we concerned ourselves much more with specific policy and tactical questions of the unions, of relationship to top bodies, rather than to questions of building a base below to insure correct policies and tactics. What was incorrect? The separation of the

building of the Party from the solution of questions of policy! What must not be forgotten is that it is not enough to have a correct policy in the industries, but in addition the organized strength of the Party must be thrown into the key points of concentration. From now on a drastic change must be made. Questions of policy and tactical line must always be related to the forces required to carry out the policy. This will demand a systematic and constant political check-up of our strength in the concentration areas; first, by the political bodies of the Party; and, secondly, through greater coordination of all departments and, most important, a fusion of the work of trade-union and organizational personnel.

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### What Kind of Party Are We Building?

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There is a great stirring among the youth, who are the first to be hit by Wall Street's drive toward war and fascism. Reaction is leaving no stone unturned to win the youth for its reactionary program. There are numerous instances indicating that reactionary forces have been able to misdirect the youth (as, for instance, in some unions, in inspiring hoodlum acts, etc.), because of the absence of decisive leadership in the fight for the youth. Hence, our Party must not only considerably intensify its activity among the youth, particularly among the young workers in industry and among the youth in the Negro communities, but we must place as a central task the recruiting of substantial numbers of young Americans into our ranks in the coming months.

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### For a Consistent Cadre Policy

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We do not shrink from the hammer blows of reaction. Under them we will steel our Party in Communist discipline, loyalty, and unity, develop its Marxist-Leninist understand-

ing, and temper our cadres and leadership. Sharing the hardships and struggles of America's working people, we will root our Party ever deeper in the American working-class soil from which it sprang.

As the vanguard Party of the American working class we take our place in the front line of battle, conscious of our responsibility to all Americans who struggle for peace, democracy, economic security, and social progress. We hold aloft the banner of our conviction that the American working people have the capacity, means, and allies to curb and defeat the fascists and warmongers, and, eventually, to advance toward the Socialist reorganization of society, which will forever end the dangers of fascism, crises, and war—the misery of exploitation and oppression. We face the oncoming struggles with confidence in our people, our class, and our Party.

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**Petitioner's Exhibit No. 419.**

JEFFERSON SCHOOL OF SOCIAL SCIENCE
575 Ave. of Americas
WAtkins 9-1600

MARXISM V. *The Struggle For Socialism.*

SESSION I. *Contradictions of Imperialism.*

READINGS: *Theory of the Proletarian Revolution,* pp. 21-33; Lenin, *Imperialism,* Ch. IX; Foster, "*Specific Features of American Imperialist Expansion,*" *Political Affairs,* August, 1948.

OUTLINE: Imperialism as moribund capitalism. Intensification of all capitalist contradictions. The three dominant contradictions in the epoch of imperialism; the contradiction between labor and capital; the contradiction among the imperialist powers; the contradiction between the imperialists and the colonial peoples. The "eve of the proletarian revolution." Struggle against reformist theories: "ultra-imperialism," "progressive capitalism," etc.

SESSION II. *Uneven Development of capitalism and the "Weakest link in the imperialist chain."*

READINGS: *Theory of the Proletarian Revolution*, pp. 66-76; Stalin, *Foundations of Leninism*, pp. 34 (bottom), 38 (top); Zhdanov, *The International Situation*, pp. 7-16.

OUTLINE: Meaning of the law of the uneven development of capitalism; spasmodic development of some countries; rapid squeezing out of others; periodic repartition of already divided world by imperialist wars; weakening of world front of imperialism; possibility of establishment of socialism in separate countries. Why the "imperialist chain" broke first in Russia. Why it broke in eastern Europe after World War II. Significance of the struggle in China. Law of uneven development in the world today.

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**Petitioner's Exhibit No. 420**

JEFFERSON SCHOOL OF SOCIAL SCIENCE
575 Ave. of America
WAtkins 9-1600

81. MARXISM AND LABOR

SESSION 4—*Trade Unions and the Fight for Socialism.*

READINGS: Marx, *Value, Price and Profit*, pp. 56-62; Stalin, *Foundations of Leninism*, pp. 106-114.

SUPPLEMENTARY: Lenin, "What Is To Be Done?" (in *Selected Works*, pp. 45-50; in Little Lenin Library ed., pp. 26-30).

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**Petitioner's Exhibit No. 421**

POLITICAL AFFAIRS

JULY, 1950

## For a United-Front Policy Among the Jewish People—Sharpen the Struggle Against Bourgeois Nationalism*

By John Williamson

. . . . . .

All the leading comrades in Jewish work, including those that have participated in our meetings, have expressed full support of the Party line of exposure and struggle against American imperialism and its policies of world domination, war and fascist reaction; of our line for organizing a broad united-front of the American people for peace, against fascism, for curbing the trusts, and for achieving American-Soviet friendship.

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### The Struggle Against Bourgeois Nationalism

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While developing this educational campaign, we must make it clear that agreement on the Soviet Union's Socialist solution of the Jewish question is not a prerequisite for any group of Jewish workers or other taking joint action with us on the burning issues confronting the Jewish people here in the United States. In fact, because we live in capitalist America, we must emphasize the fight for peace and against fascist reaction, as it relates to the Jewish masses in the U.S.A. and to Israel as a state. Regardless of differences on other questions, we should develop a broad protest campaign against the restoration of the Nazis to posts of government in Germany and demand real denazification in Germany; we must especially develop in our country the broadest struggle against anti-Semitism in all its manifestations.

### Sectarianism: Main Barrier to Jewish Working Masses

Traditionally, Social-Democracy has been and is a main instrument of the imperialist bourgeoisie utilized among

* A Report, slightly abridged, delivered on May 3, 1950, in behalf of the National Committee, at a conference of leading comrades engaged in activity among the Jewish people.

the Jewish workers and trade unionists to confuse, divide and mislead. Today, the Dubinsky-*Forward* Social-Democratic group are the most vicious anti-Soviet and pro-imperialist forces among the Jewish workers. There is a growing collaboration between these Social-Democratic labor leaders and the various bourgeois-nationalist organizations, such as the Zionists.

The defeat and isolation of the reactionary Jewish Social-Democrats among the workers and in the trade unions is an indispensable task in making it possible for the Jewish workers to lead the Jewish people in struggle. While effective propaganda and agitation are a necessary part of this task, the decisive thing is to develop joint struggles of Jewish workers, irrespective of what trade unions they belong to, on the burning issues of the day.

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**Petitioner's Exhibit No. 422**

## THE THEORY OF THE PROLETARIAN REVOLUTION

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6. The Victory of the Revolution in One County as an Aid and Instrument for Accelerating the Victory of the Proletariat in All Countries

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Most probably, the world revolution will develop along the line of a series of new countries dropping out of the system of the imperialist countries as a result of revolution, while the proletarians of these countries will be supported by the proletariat of the imperialist states. We see that the first country to break away, the first country to win, is already supported by the workers and toiling masses of

other countries. Without this support it could not maintain itself. Beyond a doubt, this support will grow and become stronger and stronger. But it is likewise beyond a doubt that the very development of the world revolution, the very process of the breaking away of a number of new countries from imperialism, will be more rapid and more thorough, the more thoroughly socialism fortifies itself in the first victorious country, the faster this country is transformed into the basis for the further unfolding of the world revolution, into the lever for the further disintegration of imperialism.

If the postulate that the *final* victory of socialism in the first country to emancipate itself is impossible without the combined efforts of the proletarians of several countries is true, then it is just as true that the world revolution will develop the more rapidly and thoroughly, the more effective the assistance rendered by the first socialist country to the workers and toiling masses of all other countries will be.

By what should this assistance be expressed?

It should be expressed, first, by the victorious country achieving "the utmost possible in one country for the development, support and stirring up of the revolution *in all countries.*" (*Proletarian Revolution and Renegade Kautsky,* Chap. VII, "What Is Internationalism?")

Second, it should be expressed by the "victorious proletariat" of one country, "after it has expropriated the capitalists and organized its socialist production at home, rising . . . against the rest of the capitalist world, attracting to itself the oppressed classes of other countries, raising insurrection in them against the capitalists, acting in case of need even with military force against the exploiting classes and their states." ("The United States of Europe Slogan," *Collected Works,* Vol. XVIII.)

The characteristic feature of the assistance given by the victorious country is that it not only hastens the victory of the proletarians of other countries, but likewise guarantees, by facilitating this victory, the *final* victory of socialism in the first victorious country.

The most probable thing is that, side by side with the centers of imperialism in separate capitalist countries and in the systems of these countries throughout the world, centers of socialism will be created, in the course of the world revolution, in separate soviet countries and systems of these centers throughout the world, and the struggle between these two systems will constitute the history of the development of the revolution:

*For—says Lenin—the free amalgamation of nations in socialism is impossible without a more or less prolonged and stubborn struggle by the socialist republics against the backward states.* (*Ibid.*)

The world significance of the October Revolution lies not only in its constituting a start made by one country in the work of breaking through the system of imperialism and the creation of the first land of socialism in the ocean of imperialist countries, but likewise in its constituting the first stage in the world revolution and a mighty basis for its further development.

Therefore, those who, forgetting the international character of the October Revolution, declare the victory of socialism in one country to be purely national and only a national phenomenon, are wrong. And those too who, although bearing in mind the international character of the October Revolution, are inclined to regard this revolution as something passive, merely destined to accept help from without, are equally wrong. As a matter of fact not only does the October Revolution need support from the revolutionary movement of other countries, but revolution in those countries needs the support of the October Revolution in order to accelerate and advance the cause of overthrowing world imperialism.

Joseph Stalin, "The Tactics of the Russian Communists," *The October Revolution*, pp. 122-129.

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**Petjtioner's Exhibit No. 423**

# THE DICTATORSHIP OF THE PROLETARIAT

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## 2. Three Main Aspects of the Dictatorship of the Proletariat

### A. Stalin on the Main Tasks of the Proletarian Revolution and the Three Aspects of the Dictatorship of the Proletariat

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There still remained (says Lenin) two tasks of enormous difficulty, the solution of which could, under no circumstances, be the same triumphal procession that our revolution was. . . .(*Ibid.*)

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The second enormous difficulty was . . . the international question. If we were able to cope so easily with Kerensky's bands, if we so easily established our power, if the decree on the socialization of the land, and on workers' control, was secured without the slightest difficulty—if we obtained all this so easily it was only because for a brief space of time a fortunate combination of circumstances protected us from international imperialism. International imperialism, with all the might of its capital and its highly organized military technique, which represents a real force, a real fortress of international capital, could under no circumstances, under no possible conditions, live side by side with the Soviet republic, both because of its objective situation and because of the economic interests of the capitalist class which was incorporated in it, could not do this because of commercial ties and of international financial relationships.

A conflict is inevitable. This is the greatest difficulty of the Russian revolution, its greatest historical problem: the necessity to solve international problems, the necessity to call forth the world revolution. (*Ibid.*, p. 317.)

Such is the inner character and the basic idea of the proletarian revolution.

Can such a radical transformation of the old bourgeois system of society be achieved without a violent revolution, without the dictatorship of the proletariat?

Obviously not. To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution. . .

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Pointing to one of the most important aims of the dictatorship, namely, the suppression of the exploiters, Lenin states:

The scientific concept, dictatorship, means nothing more nor less than power that directly rests on violence, that is not limited by any laws or restricted by any absolute rules. . . . Dictatorship means—note this once and for all, Messrs. Cadets *—unlimited power, resting on violence and not on law. During civil war, victorious power can only be dictatorship. (*Collected Works*, Russian edition, Vol. XXV, pp. 436 and 444.)

But, of course, the dictatorship of the proletariat does not merely mean violence, although there is no dictatorship without violence.

Dictatorship (says Lenin) does not mean violence alone, although it is impossible without violence. It likewise signifies a higher organization of labor than that which previously existed. (*Collected Works*, Russian edition, Vol. XXIV, p. 305.)

The dictatorship of the proletariat . . . is not merely the use of violence against the exploiters, and is not even main-

* The Constitutional Democrats.—Ed.

ly the use of violence. The economic basis of this revolutionary violence, the guarantee of its vitality and success, is that the proletariat represents and introduces a higher type of social organization of labor compared with capitalism. That is the essential point. This is the source of the strength of Communism and the guarantee of its inevitable complete victory. (*Ibid.*, p. 335.)

Its quintessence (*i.e.*, of the dictatorship—*J. S.*) lies in the organization and discipline of the advanced detachment of the toilers, of its vanguard, its sole leader, the proletariat. Its aim is to establish socialism, to put an end to the division of society into classes, to make all members of society toilers, to remove the soil for the exploitation of man by man.

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**Petitioner's Exhibit No. 424**

STUDY OUTLINES—MARXIST INSTITUTE, 1949

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SESSION 5—CLASS STRUGGLE

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II. The role of Trade Unions in class struggle

a. Basically primitive form of organization concerned with improvement of sale of labor power.

b. Primitive organs of collective action and class solidarity for mutual protection against oppression.

c. Limitations of trade union struggle—improvement of conditions under capitalism—check and hold back unlimited exploitation.

d. Limitations of "trade union politics"—economism.

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*Required Reading:*

V. I. Lenin—*What is to be Done*—Chapter III—39 pages (Note: In reading substitute word Communist for Social-Democrat. When book was written, Social-Democratic movement was only working class party at time.)

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## Session Seven—The Theory of the State

I. The State following the Socialist Revolution

1. Historical necessity for dictatorship of proletariat.

a) Dictatorship of proletariat is the state during the transition period between capitalism and socialism.

b) Necessity of transition period from capitalism to communism.

c) Task of dictatorship of proletariat is destruction of capitalism and organization of socialism.

2. Dictatorship of the proletariat is a new type of state, a new type of democracy.

a) Dictatorship of the proletariat a special type of class alliance—the rule of the working class in alliance with the peasantry.

—An instrument of the working class and all toilers—the overwhelming majority of the population—to protect and defend the interests of the people.

b) Democracy under the dictatorship of the proletariat —democracy of the exploited majority with restriction of rights of the exploiting minority.

c) Role of proletarian dictatorship is abolition of classes and building classless society.

3. "Withering away" of socialist state with abolition of classes.

a) Historical pre-conditions for the withering away of the state.

b) Modification of this concept with respect to victory of socialism in one country surrounded by hostile capitalist world.

4. The Soviets as the state form of the dictatorship of the proletariat in the Soviet Union.

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*Required Reading:*

Stalin—*Foundations of Leninism*—pp. 44-53

Stalin—*From Socialism to Communism*—pp. 49-60

Bierut—*Ideological Basis of the United Workers Party*

*of Poland*—March, 1949 Political Affairs, pp. 58-70
Foster—*American Trade Unionism*—pp. 50-54

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SESSION 9—THE NATURE OF SOCIALISM

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III. International significance of victory of socialism in Soviet Union

1. First break in world imperialist chain; split world economy into two systems.

2. Cornerstone of democratic, peace loving forces throughout the world.

3. Possibility of peaceful co-existence of two systems.

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**Petitioner's Exhibit No. 425**

## IMPERIALISM

SESSION I: DEVELOPMENT OF MONOPOLY CAPITALISM, FINANCE CAPITAL AND FINANCIAL OLIGARCHY.

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*Required Reading:*

V. I. Lenin, *Imperialism*, Chapters 1, 2 and 3. "*The Economic Crisis and the Cold War*," Communication from Wm. Z. Foster, Chapter IV.

. . . . . .

## IMPERIALISM

SESSION IV: IMPERIALISM, THE EVE OF THE SOCIALIST REVOLUTION THE UNEVEN DEVELOPMENT OF CAPITALISM AND THE "WEAKEST LINK IN THE IMPERIALIST CHAIN".

I. "Imperialism is the Eve of the Socialist Revolution" —(Lenin)

. . . . . .

III. Establishment of Socialism at Point Where Chain of Imperialism is Weakest

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C. Effect of break-through in Russia:

1. World split into two systems—imperialist and socialist systems.

2. The weakening of the imperialist sector, the start of the general crisis of capitalism:

a) Elimination of ⅙ of globe from sphere of capitalist exploitation sharpens contradictions in rest of capitalist world.

b) Existence of Soviet Union demonstrates to the working people the path toward emancipation.

c) Influences struggles of colonial and dependent peoples for national liberation.

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*Required Reading:*

Stalin, *Foundations of Leninism,* Chapter 3.

Foster, *In Defense Twelve Communist Leaders,* Section 3.

Eaton, *Political Economy,* pp. 151-154; 203-204.

*Supplementary Readings*

Stalin, *Theory of Proletarian Revolution*

Mao-Tse Tung, "The Chinese Revolution," (mimeographed pamphlet)

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**Petitioner's Exhibit No. 427**

STUDY OUTLINES—MARXIST INSTITUTE, 1949

PART II

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## IMPERIALISM

### SESSION I—THE MONOPOLY STAGE OF CAPITALISM

I. Imperialism as defined by Lenin is characterized by (a) concentration of industry and banking (b) dominance of finance capital (c) vast export of capital (d) participa-

tion in economic division of the world and (e) territorial division of world. (See *Lenin's Imperialism*, Chapter 7)

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IV. Factors Behind American Imperialist Expansion Today:

A. Tremendous expansion of American industry during World War II—piling up of huge surplus capital, forces U. S. toward drive to control world markets and dispose of surplus production and idle capital.

B. Fear of economic crises leads to huge military expenditures to bolster economy, with resulting foreign policy.

C. Weakness of anti-imperialist united front in U. S. and corruption of top circles of labor leaders (AFL and CIO) who support imperialist drive.

D. In addition to economic drive, U.S. imperialist expansion aims at arresting rising Socialist strength and suppressing Soviet Union and democratic, working-class movements throughout world. Inability to achieve this by "atom-bomb diplomacy" and other means, adds to imperialist desperation and increased pressure for World War III.

E. Weakened capitalist competitors (Great Britain, France) gives U. S. opportunity to "take over" markets and economically and politically dominate all other capitalist countries.

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*Required Reading:*

*Foundations of Leninism* by Stalin—Introduction and Chapter 4.

*Wm. Z. Foster article in August, 1948, Political Affairs*, "Specific Features of American Imperialism."

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## Session 2—Fascism

I. Class Character of Fascism:

A. Definition

1. "Fascism is the open terroristic dictatorship of the most reactionary, most chauvinistic, most imperialistic

elements of finance capital."—Dimitrov, *"United Front Against Fascism,"* page 7.

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*Required Reading:*

Dimitrov, *Report to 7th World Congress,* CI, Pages 5-23, 23-43.

*Foster article, Political Affairs,* August 1948, on Specific Features of American Imperialism. (Fascism section).

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SESSION 3—ERA OF SOCIALIST REVOLUTION

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III. The struggle for socialism in the present period:

(Quotes from Wm. Z. Foster, in Party brief for New York trial)

A. New factors to be evaluated in present period:

1. Changed relationship of forces on world scale and role of Soviet Union.

2. United front struggle against fascism.

3. Development of the united and people's front governments.

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SESSION 9—STRATEGY AND TACTICS

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III. Tactics of Seventh World Congress, Communist International (1935)

A. Deepening of general crisis of capitalism and growth of fascism on one hand, and beginnings of broad anti-fascist movements on the other hand in certain countries such as France, resulted in development of new tactical orientation:

1. To direct main blows and concentrate all forces for struggle against the main enemy of humanity, fascism.

2. Tasks of working-class assume new character—forms of united front and people's front develop.

a. To develop united front—unity of working-class—labor unity.

b. To develop people's front—unity of broad coalition of *all* opponents of fascism and reaction.

3. To develop on an international scale, world-wide peace movement against menace of fascist aggression and war, with U.S.S.R. in leadership.

B. Examples of tactical line in operation:

—Election of people's front governments in France and Spain in 1936.

—Collective security policy advocated by Soviet Union during 1930's.

—World War II actually fought out on basis of fundamental anti-fascist unity line of 7th World Congress.

—After WW II election of national unity coalition governments in Europe.

—Development of coalition people's governments in Eastern Europe into New Democracies traveling "new route to Socialism."

—Formation of United Nations, World Federation of Trade Unions, other international peace moves in the period following end of World War II.

IV. Strategy and Tactics in Present Period:

A. Strategic objective remains the same—abolition of capitalism and achievement of socialism.

B. Tactical line of united front and people's coalition developed still further in this period.

New factors in situation:

—world split into two camps—imperialist and democratic.

—capitalists, with backing of Wall Street undertaking reactionary offensive against all working-class movements.

—danger of war from American imperialist expansion drive.

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**Petitioner's Exhibit No. 428**

## YOUR LEGAL RIGHTS

Violations of civil rights by police, prosecutors and legislative committees are on the increase. Racial and political

minorities, non-citizens and trade unionists are the main victims. The CIVIL RIGHTS CONGRESS exists to protect you against such attacks. Call us when you have civil rights troubles, for bail, for legal assistance.

ARREST

1. If a policeman arrests you, go along, but insist on knowing what the arrest is for. Make a note of his name or number.

2. GIVE NO STATEMENT, WRITTEN OR ORAL, TO ANYONE—POLICEMAN, DISTRICT ATTORNEY, OR INVESTIGATOR.

3. When you get to the police station, find out the charge against you. Call your family, your lawyer, or CIVIL RIGHTS CONGRESS for bail. The police are required to let you telephone, or to send an officer for an attorney at your request.

IN COURT

1. You have the right to be brought before a judge at the earliest possible time. If arrested at night, this means the next morning.

2. If you have not yet seen an attorney, you have a right to a delay of the court hearing in order to get an attorney.

3. If the judge refuses to grant a delay, or you cannot reach an attorney, plead "Not Guilty" and demand a jury trial.

SUBPOENAS

When you receive a subpoena, no matter what time it orders you to appear, you have a right to consult a lawyer or CIVIL RIGHTS CONGRESS before appearing. It is best to do so.

AT HOME

Don't let any officer or investigator into your home unless he has a search warrant. They have been known to "plant" things to be used against you.

DEPORTATION

If a DEPORTATION WARRANT IS SERVED ON YOU, say nothing, no matter what arguments or promises are used. GET A LAWYER AND BAIL.

IF THE F.B.I. COMES

Don't let F.B.I. men in your door, nor talk with them. They usually travel in pairs, are polite, and "just want to talk with you." Their real purpose is to make a stool-pigeon of you against your family, friends, neighbors, or union brothers. DON'T TALK WITH THEM.

*Keep this card in your purse. Get in touch with Civil Rights Congress.*

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**Petitioner's Exhibit No. 430**

English Edition

INTERNATIONAL PRESS CORRESPONDENCE
8TH AUGUST, 1935

THE SEVENTH WORLD CONGRESS OF THE COMMUNIST INTERNATIONAL

(Full Report)

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TO COMRADE STALIN, LEADER, TEACHER, AND FRIEND OF THE PROLETARIAT AND OPPRESSED OF THE WHOLE WORLD

In the name of millions of fighters of the world proletarian revolution, in the name of the toilers of all lands, we address ourselves to you. Comrade Stalin, *our leader*, faithful continuer of the work of *Marx*, *Engels* and *Lenin*, to you who, together with Lenin, forged out a party of a new type, the Party of the Bolsheviks, the Party which led to the triumph of the great October proletarian Revolution, *to the*

*victory of socialism in the U.S.S.R.* We address ourselves to you, beloved leader of the whole international proletariat and of all the oppressed, with warmest greetings.

More than ten years have passed since the day when we lost *Lenin*, this giant of revolutionary thought and action, the unforgettable leader of the world revolution. A gigantic task fell to you, Comrade Stalin—to take your place at the helm of the struggle for the liberation of the whole of toiling humanity.

Under your leadership Socialism has triumphed in the U.S.S.R., creating an impregnable basis for the cause of the world proletarian revolution. At the tomb of Lenin, you took an oath to consolidate and extend the alliance of the toilers of the whole world—the *Communist International*—and the Communists of all countries, in an heroic struggle under your leadership, are fulfilling this oath.

Now, when the capitalist world is entering a new cycle of revolutions and wars, the proletariat, in contradistinction to its situation in the first cycle of revolutions and wars, possesses the surest guarantee of definite victory—the powerful Union of Socialist Soviet Republics, the country of victorious Socialism and the Communist International, the monolithic world party of Communism.

Under your leadership, the U.S.S.R. has become an impregnable stronghold of the Socialist Revolution, a stronghold of the fight against fascism and reaction, against war. Let the bourgeois gentlemen attempt to-day to ask the people of the world if they want peace or war, fascism or socialism. The peoples of the world do not want war, do not want fascism. They are turning more and more towards the U.S.S.R., fixing on you, Comrade Stalin, the leader of the toilers in all countries, a gaze full of hope and love.

The victory of socialism in the U.S.S.R. has strengthened the authority of the dictatorship of the proletariat in the eyes of millions of toilers, has given a tremendous force to the programme, the strategy and the tactics of the Commu-

nist International. The victory of Socialism in the U.S.S.R. opens up a new phase in the world proletarian revolution.

Our heroic fighters in Germany, in China, in Japan, in Spain, in Poland, in Italy and in other countries, are leading the masses to the struggle, with your name, Comrade Stalin, in their hearts.

The victory of Socialism in the U.S.S.R. is the great victory of Communism over reformism, or the Communist International over the collapsing Second International.

You have taught us and are teaching us that a policy based on principles is the only correct policy. Thanks to its unswerving application of Bolshevist policy the Communist International has achieved wonderful unity and firmness in its ranks. Comrade Stalin, in your struggle against the counter-revolutionary Trotskyites-Zinovievites, in the struggle against the Right and "Left" opportunists, you have defended the Marxist-Leninist doctrine, and have developed this doctrine under the conditions of the new phase of the world revolution which will live in history as the epoch of Stalin.

You have taught and are teaching us Communists the Bolshevik art of uniting unshakable fidelity to principles with closest contact with the masses, irreconcilable revolutionary spirit, and the necessary flexibility and ability to manœuvre.

Following your teachings, the Communist Parties will consolidate their connections on all sides with the masses, they will rouse and lead the millions of toilers, will organise a wide united proletarian front, will weld together the people's front against fascism and war, the front of imperialist struggle in the colonial and semi-colonial countries.

The 7th World Congress of the Communist International, in the name of 65 Communist Parties, assures you, Comrade Stalin, that the Communists will always and everywhere be faithful to the end to *the great and invincible ban-*

*ner of Marx, Engels, Lenin and Stalin. Under this banner Communism will triumph throughout the world.*

*—VII. World Congress of the Communist International.*

(Tremendous Applause. The delegates raise cheers for Comrade Stalin. Thereupon the Session was closed.)

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**Petitioner's Exhibit No. 432**

*"English Editor"*

INTERNATIONAL PRESS CORRESPONDENCE

*No. 42*

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THE CONCLUSION OF THE SEVENTH WORLD CONGRESS OF THE COMMUNIST INTERNATIONAL

(Leading Article in "Pravda," August 21, 1935.)

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The Congress took place under the sign of proletarian unity in the struggle against fascism and against the menace of imperialist war. It laid the basis for such a far reaching mobilisation of the forces of all toilers for the struggle against capitalism as has never existed in the history of the working-class struggle. The Congress decided upon a turn in the tactics of the Communist International, and was a Congress of genuine Bolshevik self-criticism and of strengthening of the leadership of the Communist International and its sections. Finally, the Congress demonstrated the triumph of unity between the proletariat of the land of victorious socialism, the *Soviet Union*, and the proletariat of the capitalist world which is fighting for its liberation.

The enthusiastic welcome with which the Congress greeted the report of Comrade *Manuilsky* upon the triumphs of socialist construction in the Soviet Union, which have been accomplished under the leadership of Comrade *Stalin*, leader of our peoples, expressed love and sympathy which

animates the workers of the world towards the Soviet land, the fatherland of the International proletariat.

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The sections of the Comintern have grown and become stronger. Since the Sixth World Congress of the Comintern, the membership of the Communist World Party has increased from 1,676,000 to 3,148,000, of which, despite repression and bloody terror, the numbers in the capitalist countries have grown from 445,300 to 758,500. The number of parties affiliated to the Comintern has grown, since the last Congress, from 65 to 76. The total membership of the Communist Parties and the Young Communist Leagues (including the C.P.S.U. and the Y.C.L.S.U.) was 3,835,000 at the Sixth Congress, and is 6,800,000 at the Seventh.

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The Seventh Congress of the Comintern has performed a mighty task. Its decisions will serve as guiding star in the forthcoming struggles of the working class who, under the leadership of the Communist International, will sweep fascism and capitalism off the face of the earth.

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**Petitioner's Exhibit No. 433**

THE COMMUNIST

FEBRUARY, 1944

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DECISIONS OF THE NATIONAL COMMITTEE OF THE COMMUNIST PARTY

UNANIMOUSLY ADOPTED ON JANUARY 9, 1944, AT THE FINAL SESSION OF ITS PLENARY MEETING

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3. The National Committee elects a Communist National Election and Political Action Committee. This committee shall be: Earl Browder, Chairman; Eugene Dennis, Secre-

tary; William Z. Foster, Robert Minor, James W. Ford, Roy Hudson, Elizabeth Gurley Flynn, Gilbert Green, John Williamson, Morris Childs, William Schneiderman, Benjamin J. Davis, Jr., Peter Cacchione, Arnold Johnson and Alice Burke.

(a) The Executive Committee of the National Election and Political Action Committee shall be: Earl Browder, Eugene Dennis, Gilbert Green, Morris Childs, William Schneiderman. The National Election and Political Action Committee is empowered to enlarge the committee with additional members.

4. The National Committee appoints the following committee to help develop special activities and a publishing program, and generally to guide the preparations for the Twenty-fifth Anniversary of the founding of the American Communist Party: William Z. Foster, Chairman; Robert Minor, Secretary; James W. Ford, Elizabeth Gurley Flynn, Israel Amter, Rose Wortis, Ray Hansbrough, Steve Nelson, Max Weiss, Louis Todd, Sam Don, A. Trachtenberg, A. Landy, John Williamson, Mother Bloor, Anita Whitney, Charles Krumbein, Rob Hall, Pettis Perry, A. Wagenknecht, V. J. Jerome.

5. The National Committee sends warm fraternal greetings to the *Daily Worker* on the occasion of its Twentieth Anniversary. It directs the Political Committee and the State Committees to work out ways and means immediately to help extend the circulation and influence of the *Daily Worker* and *Sunday Worker*—these invaluable instruments of Marxist working class education and organization which consistently champion the vital interests of labor, the people and the nation.

**Petitioner's Exhibit No. 436**

THE COMMUNIST

MAY 1940

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THE BOLSHEVIZATION OF THE COMMUNIST PARTY OF THE UNITED STATES IN THE STRUGGLE AGAINST THE IMPERIALIST WAR

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By GENE DENNIS

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The Communist Party alone of all American political parties and labor organizations was the first to analyze the imperialist character of the war. We were the first to proclaim that the war is a predatory and unjust war between rival imperialist powers for a new redivision of the earth, for world domination—*that it is a war which the working class and toiling people should not and cannot support.*

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In line with this we have exposed and are organizing the working people to resist firmly the policies of the economic royalists and the government which are promoting America's entry into the war on the side of the Anglo-French imperialists, under conditions and at a time most favorable to the American bourgeoisie, and which include as a central objective the organization of a new anti-Soviet war front and the transformation of the imperialist war into a united imperialist military crusade against the U.S.S.R.

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In accordance with this fundamentally changed situation, our Party effected a tactical reorientation in order that the working class, including its Communist vanguard, could solve the new tasks placed before it. Here the central question was and is that of uniting the working class and its allies, the toiling farmers and exploited city middle class,

under proletarian leadership, against the imperialist war, reaction and capitalist exploitation. That is why our Party brought forward the need of, and is waging today a consistent struggle for, forging working class unity and a broad people's front movement *in a new way*. For today, the united proletarian front can only be achieved successfully if working class unity is built *primarily from below*, on a class struggle basis, and is consistently directed against the imperialist war and capitalist reaction, against the bourgeoisie *and* against the agents of and capitulators to imperialism *within* the labor movement. This requires in the first place, as emphasized by our Party, a sharper and more resolute struggle against the leaders, ideology and influence of Social-Democratism within the ranks of labor.

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Moreover, our Party, on the whole, is meeting the sharpening attacks on its rights and legality, firmly and courageously, with the entire Party from top to bottom united around its national leadership and the Communist International more solidly and staunchly than ever before.

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What is needed to ensure the further and most rapid Bolshevization of our Party? This is to master completely the principles of Marxism-Leninism which have exercised and played the guiding role in the development and growing political maturity of our Party. These are the principles which characterize the history and work of the glorious Bolshevik Party of Lenin and Stalin and are set forth by Comrade Stalin in the *History of the Communist Party of the Soviet Union*. These are the principles outlined by Stalin in *Pravda** in 1925 in an article dealing with Bolshevization. In this article, Stalin emphasized the following "basic condi-

* Quoted by Georgi Dimitroff in *The Communist International*, No. 1, 1940, p. 18.

tions without which the Bolshevization of the Communist Parties is impossible in general":

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"7. The Party must be able in its work to combine an irreconcilable revolutionary spirit (not to be confused with revolutionary adventurism!) with the maximum flexibility and maneuvering ability (not to be confused with opportunism!), without which it is impossible for the Party to master all forms of struggle and organization, to link up the day-to-day interests of the proletariat with the fundamental interests of the proletarian revolution, and to combine the legal struggle with the illegal struggle."

This signifies that every Party organization should strive to link up more effectively its everyday mass work in defense of the immediate economic and political demands of the workers and toilers with the broadest propaganda and mass education for our socialist aims and principles. This requires that the entire Party, in carrying out its policies and tactics, should subbornly combat all Right and "Left" opportunist tendencies and mistakes, and should learn how to apply in all spheres of its mass activity the adherence to principles and the tactical skill in maneuvering, such as our comrades have displayed in connection with the recent developments in the broad youth movement. This further necessitates a more flexible approach and sustained attention to the problems of readjusting the organizational forms and methods of work of the Party to the changing situation, to utilizing and exploring every medium and opportunity in the localities, states, and nationally for helping advance the movement for a mass anti-war, farmer-labor party; to developing new forms and avenues for helping organize the progressive movement within the A. F. of L.

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"11. The Party must establish iron proletarian discipline, based on ideological unanimity, clarity as to the aims of the movement, coordination of practical actions and an attitude

of clear understanding on the part of the general membership towards the aims of the Party."

We already have a high degree of political unity and firm discipline in our Party. In fact, our Party is more solidly knit and united than ever before. But as recent experience has shown, such as in the days immediately following the signing of the Soviet-German Non-Aggression Pact, this unity, to a considerable degree, while based upon Party loyalty is not always combined with sufficient *political understanding* of the fundamental principles of Marxism-Leninism and of the tactical line of the Party. Therefore an essential prerequisite for the further development of the monolithic unity of our Party is to strengthen the working class discipline and unity of action of our Party on the basis of strengthening our Party's ideological and political work and Marxist-Leninist educational activities.

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**Petitioner's Exhibit No. 440**

*Daily Worker, September 18, 1950*

WORKING CLASS AND THE WAR

By William Z. Foster

The reactionary leaders of the AFL, CIO and independent unions have committed the labor movement and the working class not only to support the Korean war, but also to the perspective of an inevitable third world war. They have identified themselves completely with the war program of American imperialism, and are trying to do the same thing for the workers in general. The labor bureaucrats have become the labor war-war of the government and the monopolists, and they are dutifully carrying out all the tasks allotted to them by the warlike imperialists.

THE PRESENT COURSE of the leadership, if uncorrected by the workers, would sentence the trade union movement of this country to the fate of the dying world capitalist system. It would drag the trade unions down to eventual ruin, in the welter of war and fascism that American imperialism is heading toward.

But if the Left forces do their duty, the labor movement will never suffer such a tragic collapse, as that of Germany, for example. Before this could happen, the masses of the workers, under the leadership of the Communists and other progressive forces, will break the power of the reactionary officialdom and reorient the movement onto a healthy basis of cooperation with the world forces of peace, democracy and socialism.

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THE MASSES OF THE WORKERS, organized and unorganized, have a very different outlook upon the war situation than do their treacherous trade union leaders. Of course, great numbers of them, caught in the web of imperialist propaganda, believe the double big-lie that the Soviet government is in a warlike offensive and that the Truman government is fighting to preserve world peace. If they did not suffer from these illusions, it would be impossible for the labor warmongers, the Greens, Murrays, Wolls, Careys, Reuthers, Dubinskys and the like, to mislead them as dangerously as they are now doing.

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Therefore, it is the historic duty of the Communist Party, the Left trade union forces and the progressive elements generally, to give badly needed leadership to the betrayed working class. And this effort, if carried out intelligently, energetically and with full faith in the fighting spirit of the working class, will be bound to result successfully.

**Petitioner's Exhibit No. 451**

*Daily Worker, February 19, 1951*

WE CAN SAVE OURSELVES
AN EDITORIAL

THE COMMENTS MADE by Stalin on the war danger are of special importance to the American people. He makes the point that the unwillingness of the people to be plunged into another world war has placed many obstacles in the path of those seeking war. The peace movement has frightened the men who plan war.

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LET US CHECK OVER the points Stalin makes to see if he is right or wrong.

He says that the Soviet Union could not be building up the huge war machine which London and Washington claim is the cause of the war danger, and AT THE SAME TIME BE BUILDING HUGE PEACE-TIME CONSTRUCTION, and STEADILY LOWERING ITS PRICES ON CONSUMER GOODS. Isn't that a fact which we can test for ourselves?

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It is up to all patriotic Americans, no matter what their creed, to rouse their neighbors, communities, trade unions, churches, etc., to urge the government to call off the war in Korea; to negotiate a settlement in the Far East and in Europe; to grant China her legal seat in the UN, and to ditch the outrageous UN resolution for spreading the war against Peoples China.

The people cannot wait for peace now. They must enforce it through their unity and aroused alertness.

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**Petitioner's Exhibit No. 455**

*The Worker, April 1, 1951*

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THE PEOPLE DECIDE THEIR DESTINY

If the Truman Administration thought they could cow Eugene Dennis, General Secretary of the Communist Party, by confining him to 10 months in prison, they made a big mistake. His first speech after his release proved that. Below are excerpts from his speech and that of Gus Hall who welcomed him back at a New York meeting.

By Eugene Dennis

Comrades:

. . . . . .

For Peace, Democracy, Socialism

I also have the impression that millions of Americans have come to recognize and respect the strength brought to the world camp of peace by the new Asia, especially by liberated China.

Moreover, in spite of the lies and the slanders that poison our avenues of monopoly-controlled mass communication—the Second World Peace Congress did not escape the notice of wide sections of our people. In fact, the greater strength, unity and militance of the peace partisans now organized in the World Peace Council have been not only an inspiration to the peace forces in our country, but also have enhanced manifold the possibilities of winning the fight for world peace.

. . . .

Now the welfare of our people and the national interests of the United States make it imperative that we do all in our power to help our fellow Americans catch up with their allies and friends in other sections of the world peace camp. . . .

. . . . . .

During the past ten months Wall Street aggressions and Hitlerite policies have sharply increased the dangers of war and fascism. But I come back to you supremely confident—as you are—in the ultimate victory of the people, of our class and our cause—the cause of peace, democracy and socialism.

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**Petitioner's Exhibit No. 467**

*Daily Worker, October 19, 1951*

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COMMUNISTS OFFER 6-POINT PROGRAM TO END KOREA WAR, BRING WORLD PEACE

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The National Committee of the Communist Party declares that regardless of the hounding and persecutions to which the government is now subjecting its leaders, we will do everything possible in our power to join with our people to impose their ardent striving for peace upon you and our government.

. . . . . .

The people want peace—not war, Mr. Acheson. It is the responsibility of government to heed the will of the people. Stop the war in Korea now! Negotiate all differences in the Far East—with the great Peoples Democratic Republic of China! Remove all obstructions to the seating of the genuine representatives of China in the United Nations! Conclude a Pact of Peace between the United States, England, France, China and the Soviet Union!

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**Petitioner's Exhibit No. 468**

*Daily Worker, November 7, 1951*

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IT IS INDESTRUCTIBLE

THE SOVIET UNION is 34 years old today.

On Nov. 7, 1917, the Russian workers and peasants, led by the immortal Lenin and the Bolshevik Party, dumped the bankers and landlords and Czarist generals. They de-

cided to run the country's industries for the people instead of for private profit.

The first word on the banner of the Russian Revolution was peace—peace, bread and land.

. . . . . .

Today the Soviet Union is indestructible.

The work of Lenin and Stalin is immortal. The Socialist state has become the leader of a new force in modern history—the great camp of peace. This new alliance of hundreds of millions of people in China and the People's Democracies, together with the vast millions in the colonial and capitalist countries, can prevent war. This is the new achievement of the Soviet Union, the glorious vision that the people can make a reality.

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**Petitioner's Exhibit No. 477**

## POLITICAL AFFAIRS

NOVEMBER, 1950

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### COMBAT THE WAR INCITEMENTS AGAINST THE SOVIET UNION*

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By Alexander Bittelman

Never since the Great October Socialist Revolution thirty-three years ago, the revolution which opened up a new epoch in the history of mankind, have the imperialist slanders and war-incitements against the Soviet Union

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* Since this article was written, Comrade Bittelman, member of the Editorial Board of *Political Affairs*, and one of the national leaders of the Communist Party, was arrested, along with other leaders of the Party and other fighters for the cause of labor and peace—including Claudia Jones, Betty Gannett, and George Siskind—by the order of Attorney General McGrath, in the drive against the peace forces, the labor movement, the Negro people and the Communist Party, under the McCarran Act. At the time this issue went to press they were still held at Ellis Island.—*Editor.*

. . . . . .

been carried on with such recklessness and violence. This is especially so in the United States.

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The Soviet Union created by the October Revolution later saved humanity from fascist slavery in World War II and has thus made possible the victory of national liberation and of Socialism in large parts of Europe and Asia. It now stands guard over the peace of the world and is leading the fight to prevent World War III which is being organized by the imperialist and fascist camp headed by American imperialism. It stands for the peaceful co-existence and competition of the Socialist and capitalist systems. It represents the greatest hope of mankind in the struggle to save the world from the madness of atomic war.

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From the foregoing it is clear that the fight for peace—against a new world war and the growing fascist danger—demands a consistent and militant struggle against Wall Street's slanders and war-incitements against the Soviet Union.

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To support and defend the peace policy of the Soviet Union is to make the masses of the American people realize that the very existence of this powerful Socialist land is a source of strength to the American working class and its allies in the fight against monopoly capitalist exploitation. It is to make the American workers and all working people understand that the triumph of Socialism in the Soviet Union has created an inexhaustible treasure of experience for the revolutionary struggle to abolish exploitation, to abolish capitalism, to build a just social system, to establish true democracy. It is to remind the American masses that the Soviet Union, our great ally in World War II, was decisive in winning the victory and that this was so because the Soviet Union is a Socialist state and is led by the party of Lenin and Stalin. It is necessary, finally, to demonstrate daily the major truth of our time that the path of peace, democracy, economic security and general well-being for the American people is the path of friendship and collaboration with the Soviet Union. The other path, the one followed by Wall Street and its agents, is the path of war,

crises and national disaster. To prove these truths to the American people, to the workers, first of all, means to defend the best national interests of the American people. This only proves once more that the *popularizing and defense of the leading role of the Soviet Union in the fight for peace is an organic part of the defense of the national interests of the American people.*

## A Generation of Soviet Youth

By Edward Frisch

Knowing and appreciating the experiences and accomplishments of the Soviet youth give our Party the key to understanding the leading role which Soviet youth in general, and the Communist Youth League (Komsomol) in particular, is playing among the young people of the world in the struggle for peace and democracy.

### Revolutionary Role of the Youth

Young people have ever been a vital factor in the revolutionary movement in all countries. In answer to the question as to why there were so many young people in the Party, Lenin once declared:

Is it not natural for young people to predominate in our party, the party of revolution? We are the party of the future and the future belongs to the youth. We are a party of innovators and innovators are always followed most eagerly by the youth. We are a party of self-sacrificing struggle against the rotten old system, and the youth are always the first in self-sacrificing struggles.

### Lenin Stressed the Role of the Youth for the Party

In a 1905 letter, Lenin wrote:

The youth will decide the issue of the whole struggle, the student youth, and still more the working-class youth. ... Do not fear their lack of training, do not tremble at their inexperience and lack of development. If you are unable to

organize and stimulate them to action, they will turn to the Mensheviks and the Gapons, and this inexperience of theirs will cause five times more damage. . . . Only you must unfailingly organize, organize and organize *hundreds* of circles. . . . *Either you create new, young, fresh, energetic, militant organizations everywhere for revolutionary Social-Democratic work of all sorts and kinds, and among all strata, or you will perish, enveloped in the glory of "committee" bureaucrats.* (My emphasis.—E.F.)

Lenin's admonition to the Party organization that it develop youth work under all conditions, and with a bold and variegated mass approach, gave the line for the Party's attitude toward youth work throughout its whole existence.

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### Soviet Youth Face A Secure Future

The difference in the prospect of young workers under Socialism and that of young workers under capitalism, as in the United States, makes clear the real meaning of Socialism for young people. The great fear and threat of unemployment to young workers in this country does not exist for Soviet youth. At the present time, young workers in the United States face a perspective of depression and unemployment, or imperialist war; these are the two threats that hang over the young workers of the United States. When unemployment hits, it is the young workers, and particularly the Negro youth and young women, who are hit hardest.

Soviet youth, on the other hand, are guaranteed the right to work by the Stalin Constitution.

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The Soviet youth, as the whole Soviet people, know that war can only interfere with, and set back, their steady progress along the historic road of gradual transition from Socialism to Communism. They are the builders of Communism, the youth of Lenin and Stalin. They are the youth of the land which heads the world's peace camp. It is this which brings them the love and admiration of the democratic

youth the world over and recognition of their leading role in the world youth's struggle for peace and democracy.

Solidarity with the land of Socialism, and appreciation of its leading role in the struggle for peace, democracy and Socialism, thus becomes the touchstone of true internationalism among the young people of all countries; for it is this international bond between the youth who have already established Socialism, those youth who are building it now, and those youth, as in our own country, who still have the task of bringing Socialism about, that is the guarantee of a Socialist world in the future. Without this international bond there is a weak link in the chain of resistance against imperialist aggression. It is particularly important here, in the center of world imperialism to bring this understanding to the young people who are studying Marxism-Leninism, to our Party which helps to guide these youth, and to the masses of American youth.

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**Petitioner's Exhibit No. 479**

POLITICAL AFFAIRS

MARCH, 1951

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WM. Z. FOSTER—FOREMOST LEADER OF OUR PARTY

A Tribute by the National Committee, C.P.U.S.A.

William Z. Foster is 70 years of age. The seventieth birthday of the foremost leader and teacher of our Party is an event of major significance for the entire working class, for all America's exploited and oppressed, for the Negro people, for all who strive for peace and democracy, for social progress, for a better world. This seventieth birthday is for our Party an occasion of joyous celebration. For on this day we render homage to our beloved Comrade and leader, William Z. Foster, that great Communist stalwart whose half century of battle-years have been devoted militantly and clear-sightedly to the noble cause of the working class, to the cause of its emancipation.

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## Truman's "State of National Emergency"

By William Z. Foster

[A communication to Comrade Gus Hall, National Secretary of the Communist Party, U.S.A.; under date of January 20, 1951.—Ed.]

Dear Gus:

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The proclamation of the state of national emergency flows basically out of the increasing difficulties and desperation in which American imperialism finds itself, out of the growing bankruptcy of United States foreign policy. It is, therefore, fundamentally a manifestation of American imperialism's political weakness, not of its strength.

The proclamation of the state of national emergency is, above all, a device for speeding up the drive toward war. It is a highly provocative semi-mobilization of the armed forces of the United States, a further stage in the warlike program of American imperialism, the next planned stage of which would be full mobilization and outright war against the Soviet Union and the People's Democracies.

. . . . . .

We must understand clearly, in fighting for peace and the people's general welfare, that the proclaimed state of national emergency is designed to hamper and make more difficult every phase of this peace struggle.

. . . . . .

The question of the national emergency constitutes another serious test of our Marxist-Leninist ability, both to work out our theoretical analysis of it, and to develop effective policies for peace, in the situation set up by the President's arbitrary proclamation.

Comradely yours,

William Z. Foster

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**Petitioner's Exhibit No. 480**

POLITICAL AFFAIRS

April, 1951

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## The Stalin Interview—A Blow at the Warmongers

By Gus Hall

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### No Long-Term Cure for Capitalism

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At the conclusion of his interview, Stalin states the central, all-dominating question that the peace-loving peoples of the world must deeply ponder over:

Peace will be preserved and consolidate if the peoples will take the cause of preserving peace into their own hands and defend it to the end. War may become inevitable if the warmongers succeed in enmeshing the masses of the people in lies, in deceiving them and drawing them into a new world war.

That is why a widespread campaign for the maintenance of peace, as a means of exposing the criminal machinations of the warmongers, is now of primary importance.

We can have full confidence that peace can be preserved; but that confidence is based on the full realization that this is possible today only if the forces for peace continue to grow, if they consolidate their strength and broaden their ranks.

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**Petitioner's Exhibit No. 488**

## POLITICAL AFFAIRS

December, 1951

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## Stalin on the War Danger and the Possibility of Averting It

By I. A. Seleznev

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Note: This article has been translated for *Political Affairs* from the Soviet philosophical magazine, *Voprosi Filosofii* (No. 4, 1951). Pressure of space required a considerable condensation of the text.

. . . . . .

Analyzing the postwar international situation, Comrade Stalin declared:

The defeat and liquidation of the principal centers of fascism and world aggression have led to profound changes in the political life of the world's peoples, to a wide upsurge of the democratic movement among the peoples. Taught by the experience of the war, the masses of the people have understood that the fate of the nations must not be entrusted to reactionary governments, which pursue narrow-caste and selfish, anti-people, aims. Because of this, the peoples, unwilling to live any longer in the old way, are taking the fate of their states into their own hands, are establishing democratic regimes and are carrying on an active struggle against the forces of reaction, against the incendiaries of a new war. The peoples of the world do not want a repetition of the afflictions of war. They are fighting in earnest for the enforcement of peace and security.*

* * * * * * * * * *

THE WORLD-WIDE PEACE MOVEMENT

* * * * * * * * * *

In the first stage of the movement of the partisans of peace it was necessary to work out a platform, the struggle for the realization of which could unite all peoples, all sections of the laboring masses, regardless of ethnic origin and nationality, of political views and religious convictions. Such a common platform for the struggle for peace was formulated in the Appeal adopted at the Stockholm meeting of the Permanent Committee, which called for the outlawing of atomic weapons and condemning as a war criminal the government which would first resort to such weapons. To carry this measure into effect, it was decided to organize a world-wide petition campaign. This roused all sections

* Order of the Minister of the Armed Forces of the U.S.S.R., of May 1, 1946, published in *Pravda*, May 1, 1946.

* * * * * * * * * *

of the population throughout the world. Within a short time the Stockholm appeal was signed by more than 500 million people. The campaign for the collection of signatures to the Stockholm resolution resulted, among other things, in an expanded base for the movement of the partisans of peace.

. . . . . .

## Conclusion

. . . . . .

One of the most important conditions for the prevention of a new world war and securing the preservation of peace is enhancement of the power of the Soviet Union which heads the mighty front of the fighters for peace, the multiplication of its economic successes and the strengthening of its defensive capacity. In World War II the Soviet people, displaying miracles of heroism, courage and steadfastness in the struggle against fascist Germany and imperialist Japan, smashed with its armed forces the shock forces of international imperialism and aggression, thereby saving mankind from fascist enslavement. In the present conditions, when over mankind is again suspended the danger of a new world war and aggression by the imperialists of the United States, the eyes of all peace-loving people are turned towards the Soviet Union, the bulwark of peace and security for all peoples.

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**Petitioner's Exhibit No. 489**

POLITICAL AFFAIRS

January, 1952

. . . . . .

Lenin's Teachings and the Liberation of Humanity

By Alexander Bittelman

. . . . . .

Lenin's teachings are triumphing because they are true. The teachings of Lenin, further developed by Stalin, demonstrate their creativeness and cogency in all the great progressive struggles of our day and epoch. Lenin's teachings inspire the actions of the vanguard fighters for peace and democracy. Peoples fighting for equal rights and national independence find their advanced fighters and leaders guided by the teachings of Lenin, so brilliantly continued and further developed by Stalin. And the magnificent historic fight of our epoch—the fight for Socialism, for Communism—whose grandeur overshadows all of the great previous achievements of mankind, crowning them with the realization of the noblest aspirations and dreams of the human race,—this historic fight, we are proud to say, is guided by the teachings of Lenin and of his great continuer Stalin. It is led by parties of Marxism-Leninism, by Communist and Workers Parties.

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**Petitioner's Exhibit No. 493**
**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *Eugene Dennis, also known as Francis X. Waldron, Jr.*

No. C128/87

* * * * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be.

advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

* * * * * * * * * * *

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**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *John B. Williamson*

No. C128/87

* * * * * * * * * * *

---

[3] Insert "in count(s) number " if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge*

* * * * * * * * * * *

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[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number " if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively, and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

* * * * * * * * * * *

**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *Jacob Stachel*

No. C128/87

* * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * *

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[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number " if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

• • • • • • • • • • •

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**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *Robert G. Thompson*
No. C128/87

• • • • • • • • • • •

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

---

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number " if required.

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] THREE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

. . . . . .

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

. . . . . .

**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *Benjamin J. Davis, Jr.*

No. C128/8[illegible]

. . . . . .

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach

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[4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be.

& advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

* * * * * * * * * * *

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[3] Insert "in count(s) number _____" if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *Henry Winston*

No. C128/87

. . . . . .

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

. . . . . .

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States

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[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number " if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

* * * * * * * * * * *

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**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America* v. *John Gates, also known as Israel Regenstreif.*

No. C128/87

* * * * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

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[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number ____" if required.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

* * * * * * * * * * *

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**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America* v. *Irving Potash*
No. C128/87

* * * * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach

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[4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be.

& advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

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---

[3] Insert "in count(s) number ," if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

**Judgment and Commitment**

# DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK DIVISION

*United States of America* v. *Gilbert Green*

No. C128/87.

* * * * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

---

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number " if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

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**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America* v. *Carl Winter*

No. C128/87

* * * * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach & advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

---

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be. [3] Insert "in count(s) number _____" if required.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

* * * * * * * * * * *

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**Judgment and Commitment**

DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

*United States of America* v. *Gus Hall, also known as Arno Gust Halberg.*

No. C138/87

* * * * * * * * * * *

IT IS ADJUDGED that the defendant has been convicted upon his plea of [2] not guilty and a verdict of guilty by a jury of the offense of unlawfully, wilfully & knowingly conspiring to organize as the Communist Party of the U.S. of America a society, group and assembly of persons who teach

---

[4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendre," as the case may be.

& advocate the overthrow & destruction of the Government of the U.S. by force and violence, & knowingly & wilfully to advocate and teach the duty and necessity of so overthrowing and destroying the Government of the United States. T. 18 Sec 11 & 13 USC

as charged [3]

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of [4] FIVE YEARS and fined $10,000. Defendant to stand committed until fine is paid or he is otherwise discharged by due course of law.

* * * * * * * * * * *

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature illegible]
*United States District Judge.*

* * * * * * * * * * *

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[3] Insert "in count(s) number ____" if required. [4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

**Petitioner's Exhibit No. 495**

*Daily Worker, June 9, 1952.*

COMMUNISTS HERE PROTEST PERSECUTION OF FRENCH CP

The National Committee of the Communist Party Friday sent a letter to the Central Committee of the Communist Party of France, expressing international solidarity in struggle against the present wave of arrests and persecution. Complete text of the letter signed by William Z. Foster, national chairman; Elizabeth Gurley Flynn, member, and Pettis Perry, alternate member of the National Committee, follows:

"The pro-fascist assault upon the Communist Party of France, and the imprisonment of the beloved working-class leader, Jacques Duclos, has aroused the burning indignation of every true lover of peace and democracy throughout the world. Unable to check the growing movement for peace, democracy and national independence, which has rallied the millions, the French servants of U. S. imperialism now resort to methods of violence and terror, mass arrests and trumped-up charges, so reminiscent of Hitler's Reichstag-fire provocation.

* * * * * * * * * * *

"The National Committee of the Communist Party, U. S. A. on behalf of our entire membership, extends to your Central Committee, and through you to the people of France, our fraternal working class solidarity in your courageous fight to advance the cause of democracy, peace and national independence. We ask you to transmit to Comrade Duclos our profound admiration for his indomitable spirit and indefatigable struggle for the security, peace, and freedom of the French people, and for peace and friendship among all peoples and nations.

* * * * * * * * * * *

"We know your struggle is our struggle—a common fight against a common enemy—to defeat the North Atlantic war

alliance, to prevent the re-nazification and remilitarization of Western Germany, to fight for a Five-Power Pact of Peace and Friendship as the only path to peace and freedom."

---

**Petitioner's Exhibit No. 496**

*Daily Worker*

CENTRAL ORGAN OF THE COMMUNIST PARTY OF THE U. S. A.

LOVESTONE, STATE'S WITNESS

* * * * * * * * *

It is the duty of Communists to throw every possible obstacle in the way of conviction of their fellow Party members in the courts, to defend these members by all possible means, and absolutely to refuse to give testimony for the state in any form. Testimony of Communists can only be given for the defense of Communists, not for the state, and then it must be based upon uncompromising defense of the Party and its program. And any one who trades his testimony to the State for personal immunity from prosecution, should be unhesitatingly kicked out of the movement.

# Vol. V

# TRANSCRIPT OF RECORD

(Pages 1799 to 2169)

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# Supreme Court of the United States

## OCTOBER TERM, 1955

## No. 48

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COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER,

*vs.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

---

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**PETITION FOR CERTIORARI FILED APRIL 13, 1955**

**CERTIORARI GRANTED MAY 31, 1955**

1799

# APPENDIX TO BRIEF FOR RESPONDENT
# REPORT OF THE BOARD, ANNOTATED

IN THE

## United States Court of Appeals
## For the District of Columbia Circuit

No. 11,850

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, *Respondent*

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1802

1803

# SUBVERSIVE ACTIVITIES CONTROL BOARD

HERBERT BROWNELL, JR., Attorney General of the United States, *Petitioner*

v.

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Respondent*

## REPORT OF THE BOARD

# SUBVERSIVE ACTIVITIES CONTROL BOARD

No. 51-101

HERBERT BROWNELL, JR., Attorney General of the United States, *Petitioner*

v.

THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, *Respondent*

*William A. Paisley, Frank DeNunzio, Robert B. Gaston, Noel E. Story, Benjamin F. Taylor, Jr., Rourke J. Sheehan, Clifford J. Nelson, Nathan B. Lenvin,* for Petitioner.

*Vito Marcantonio, John J. Abt, Joseph Forer,* for Respondent.

## REPORT OF THE BOARD

On November 22, 1950, the Attorney General of the United States, Petitioner herein, acting under Section 13(a) of The Subversive Activities Control Act of 1950, hereinafter called the Act, filed a petition with the Board for an order requiring the Communist Party of the United States of America (CPUSA), Respondent herein, to register with the Attorney General as required by Sections 7(a), (c), and (d) of the Act. The petition alleges that Respondent is a Communist-action organization as defined in the Act and as measured by the standards specified therein, and it sets forth numerous allegations of fact in support of its contention.

A copy of the petition was served by Petitioner upon Respondent on November 24, 1950. Answer under protest was filed by Respondent on February 14, 1951, and on April 3, 1951, an amended answer was filed.[1]

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[1] In the interim period Respondent attacked the validity of the proceeding by various motions addressed to the Board, which were denied, and also instituted suit in the United States District Court for the District of Columbia for a preliminary injunction to stay the proceeding and for a permanent injunction and declaratory judgment (Civil Action 419-51). A three-judge statutory court on February 28, 1951, denied Respondent's motion for a

In the amended answer Respondent admits that it was organized in 1919 and has been in existence continuously since that date. Otherwise, the substance and effect of its answer is to deny that Respondent fits the definition and standards of a Communist-action organization as alleged in the petition.

Hearings for the purpose of taking evidence on the petition commenced on April 23, 1951, before three members of the Board sitting as a Hearing Panel.

On October 20, 1951, one member of the Hearing Panel became unavailable to the Board by virtue of the adjournment of Congress without taking action upon his nomination to the Board. The hearing proceeded before the remaining two members of the Hearing Panel, who were present and participated during the entire hearing. Respondent, on October 23, 1951, moved the Board for an order striking all evidence theretofore received and all proceedings theretofore held because of the failure of the Senate to confirm the one member, and because of alleged bias and prejudice of the Panel against Respondent, which motion was denied following oral argument thereon. Respondent thereupon instituted suit in the United States District Court to enjoin the hearings but was not successful.[1]

Hearings for the purpose of taking evidence on the petition, having commenced on April 23, 1951, terminated on July 1, 1952.

Briefs and proposed findings of fact were filed by each party on July 28, 1952. On August 6, 1952, reply briefs were filed by each of the parties, and on August 14, 1952, oral argument thereon was held before the Hearing Panel.

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preliminary injunction (*Communist Party of the United States* v. *McGrath*, 96 F. Supp. 47) but on March 13, 1951, issued an order staying answer and hearings before the Board to and including March 27, 1951, pending appeal. An extension of this stay was refused by the United States Supreme Court on March 26, 1951, and Respondent voluntarily discontinued the proceeding.

[1] The United States District Court for the District of Columbia, on February 15, 1952, entered an order granting the Board's motion to dismiss, and dismissing the proceeding before the court. *Communist Party of the United States of America* v. *Peter Campbell Brown, et al* (Civil Action 4648-51).

On October 20, 1952, the Hearing Panel issued its Recommended Decision finding Respondent to be a Communist-action organization as defined in the Act and recommending that the Board issue an order requiring Respondent to register as such with the Attorney General of the United States.

On November 21, 1952, Petitioner filed exceptions to the Recommended Decision requesting that the Board adopt the Panel's findings with certain minor changes of text. On November 24, 1952, Respondent filed its exceptions to the Recommended Decision, accompanied by a memorandum in support thereof, and four motions. Following oral argument, the motions were denied in our Memoranda Opinions and Orders of December 23, 1952, and February 24, 1953. Oral argument on the exceptions to the Recommended Decision was had before us on January 7, 1953.

Respondent notes 310 exceptions, most of which contain numerous grounds for attacking a specified portion or finding of the Recommended Decision. Illustrative of the nature of its exceptions is Exception No. 51, which reads as follows:

> "Respondent excepts to the statement as to the end towards which certain policies and activities of the Respondent are directed (p. 26, 11. 29-32), as being unsupported by the evidence, contrary to the evidence, based on irrelevant matters, based on constitutionally protected conduct and expression, and made with an improper reliance on pre-Act matters."

In addition to taking exception to virtually every statement in the Recommended Decision on what amounts to a line by line basis, Respondent in many instances made a general exception to entire captioned sections of the Recommended Decision, illustrative of which is Exception No. 102:

> "On the same grounds [same as exception No. 101, i.e., irrational, unsupported by the evidence, contrary to the evidence, beyond the scope of the petition, and based on an improper reliance on pre-Act matters]

Respondent excepts to the entire section of the Recommended Decision which appears under the sub-heading 'Trade Union Activities' (pp. 50-58)."

In addition to the foregoing, Respondent, by its Exception No. 310, attacks the Recommended Decision as a whole on the grounds that it is arbitrary; capricious; not in accordance with law; contrary to the Constitution, including the First and Fifth Amendments; made without the observance of procedure required by law; unsupported by the evidence or by a preponderance thereof; contrary to the evidence and a preponderance thereof; largely based on incompetent and irrelevant evidence and on testimony not entitled to credence; based on evidence and findings outside the scope of the petition; and largely resulting from improper use of, and reliance on, matters and events which antedate the enactment of the Act;[1] further, that the Panel has not performed its function of weighing, analyzing and describing the evidence and contentions of the parties; that the Panel has obscured, concealed, and misstated what the record actually shows; that it has so intermingled pre-Act and post-Act evidence as to confuse and misstate the record and vitiate its findings and conclusions; and, that the Panel's decision is clearly a product of bias and prejudice.

Respondent also preserves all exceptions which have accrued to it as a result of rulings adverse to it heretofore made by the Hearing Panel or the Board.

Notwithstanding the general, sweeping nature of these exceptions and their lack of substantive specificity, we have carefully examined and considered each of them, as well as the matters set forth in Respondent's memorandum in support thereof.

In making our findings herein, we have reviewed the entire record and we have appraised the Recommended Decision, and the exceptions taken thereto by both parties, in the light thereof. Except to the extent the exceptions of either party are expressly or impliedly incorporated

[1] The matters raised in the exceptions pertaining to pre-Act evidence and Constitutional issues are dealt with later herein under "Legal Discussion".

herein, they are hereby expressly overruled as being unsupported by the evidence or otherwise lacking in merit.

In this report, we discuss the evidence under topical headings which in the main conform to the sequence of the criteria of Section 13(e) of the Act which we are required to consider. This arrangement also substantially follows the allegations of the petition.

In making our findings herein, we have considered and weighed all the evidence of record. In weighing Petitioner's evidence, we have considered that certain of its witnesses fall into the category of "informers" and we have scrutinized their testimony accordingly; we have considered and resolved the inconsistencies in the testimony of certain of Petitioner's witnesses; we have considered the testimony of Petitioner's witnesses against the background of their various organizational positions and activities in the CPUSA which afforded the sources of their knowledge; and we have had the benefit of the Panel's observation of their demeanor while testifying. Viewing these considerations in the light of the whole record, we find no basis for disregarding the substance of their testimony.

We have likewise weighed and evaluated Respondent's evidence, taking into account that each of its three witnesses has a vital personal interest in the outcome of this proceeding; that in nature and substance the direct testimony of two of its witnesses amounted, in a large degree, to conclusory denials of the allegations of the petition and the criteria of Section 13(e) of the Act; that important members of Respondent, whom Petitioner's witnesses had identified as being parties to, or present at, conversations which were detrimental to Respondent herein, were not called to rebut such testimony; and, that the Hearing Panel, having observed the demeanor of its witnesses as they testified, had some misgivings about certain of them.

It is noteworthy that the stenographic record herein comprises 14,413 pages and that in addition 507 exhibits,

many of which are entire volumes, are part of the record. To set forth and resolve herein all the conflicts between the evidence of the parties would unduly protract this report. Where warranted, however, we treat specifically with conflicts in the evidence and the credibility of the witnesses with regard thereto in the body of this report.

Applying the foregoing considerations, we have made our findings below. Such evidence of record that is inconsistent therewith is not credited.

A short biographical sketch of each witness, containing information pertinent to this proceeding, is contained in Appendix "A", and a list of publications which are in evidence and have major importance in this proceeding is contained in Appendix "B".

For clarity, it is desirable that we make certain findings based on the evidence herein concerning Respondent's publications and its general nature and organizational composition preliminary to setting out the body of the evidence.

Therefore, we find: That Respondent is a disciplined organization numbering many thousands of members, which is controlled internally between conventions by a National Committee; that it has orgaizational units at city, county, state, and district (includes multi-state) levels which include clubs, cells, fractions, branches, and sections, and committees thereof; that, in addition to the foregoing, it maintains other operating committees for specific purposes; that Respondent has been in existence in the United States since 1919; and, that it is not a diplomatic representative or mission of a foreign government accredited as such by the Department of State. (Amended Answer, J.A. 161-186; Ex. 374; J.A. 162, 888-889; 898-899, 1695-1706).

We also find that the following publications, issues of which are in evidence, are or were during their existence official and controlled organs of Respondent:

(a) *The Daily Worker;*

(b) *The Worker;* this is currently the Sunday edition of the *Daily Worker;* however, in the 1920's a

paper with this name fulfilled much the same function as the present *Daily Worker;*

(c) *Political Affairs;* a monthly magazine;

(d) *The Communist;* the predecessor to *Political Affairs,* which served Respondent in the same capacity prior to early 1945. The same title was used for a Party newspaper early in Respondent's existence.

## I. FINDINGS OF FACT

### A. World Communist Movement

The definition of a Communist-action organization in Section 3(3), and the terms of the several criteria in Section 13(e) of the Act make desirable a finding based upon the evidence in this proceeding concerning the world Communist movement, its characteristics and the identification of the leadership of such movement.

Much of the evidence which establishes the allegations of the petition pertaining to the various criteria in Section 13(e) necessarily shows the existence of the world Communist movement, its characteristics and its leader. The evidence sustaining these allegations is fully set forth hereafter in this report. Consequently, we now set forth in summary form only the evidence adduced in this proceeding which substantiates the existence of the world Communist movement, describes its nature and identifies its leadership.

The Respondent in its amended answer (J.A. 161-186) and through the testimony of its witnesses (e.g., J.A. 1242-1243) admits that a world Communist movement exists in the sense that the CPUSA and other Communist parties in countries throughout the world are guided in their activity by a concept of "social science" called Marxism-Leninism,[1] and have as their common goal the establishment of "socialism". Respondent contends, however, that the international relationship among the Communist parties

[1] See pp. 38-81, *infra* for findings re Marxism-Leninism.

of the world is merely a fraternal one. It denies that there exists a world Communist movement which is substantially dominated or controlled by the Soviet Union and which has as its purpose the establishment of dictatorships of the proletariat in all countries throughout the world. Respondent's witness Gates testified that, in referring to "the world Communist movement" in his writings, he had in mind separate autonomous movements (J.A. 1242-1243). Respondent's expert witness, Dr. Herbert Aptheker, teacher and trustee of the Jefferson School of Social Science, Editor of *Masses and Main Stream*, and Managing Editor of *Political Affairs*, offers the explanation that in Marxist-Leninist literature such terms as international solidarity, proletarian internationalism, working class internationalism, etc., are used simply to indicate the fraternal relationship among the working classes of the countries of the world (R. 15630-15634). Respondent's witness Elizabeth Gurley Flynn draws an analogy with the international trade union movement, asserting that this movement exists but that there is no world-wide trade union; and that, similarly, a world Communist movement does exist, but that an international integrated Communist party does not (R. 15940-15950). The witness Flynn admits that Stalin is universally regarded by Communists as the ideological leader of world Communism[1] and as the leader of the senior Communist Party of the world, the Communist Party of the Soviet Union; however, she denies that either Stalin or the Communist Party of the Soviet Union exercises domination or control over Respondent or any other Communist party in the world.

We are unable to accept these contentions of Respondent concerning the existence, nature, purpose, and leadership of the world Communist movement, as they are contrary to the clear preponderance of evidence.

The present world Communist movement was first manifested organizationally by the formation of the Third Com-

[1] Subsequent to the hearing Stalin died; he has been succeeded by Georgi M. Malenkov.

munist International in Moscow in 1919. This event is recorded in the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, J.A. 1613-1632) as hereinafter developed.[1]

One year later, July 17-August 7, 1920, the Second Congress of the Communist International adopted and promulgated its *Theses* and *Statutes* setting forth its aims and purposes as later detailed herein,[2] which includes the following (J.A. 1318-1319):

> "The Communist International is aware that for the purpose of a speedy achievement of victory the International Association of Workers, which is struggling for the abolition of capitalism and the establishment of Communism, should possess a firm and centralized organization. *To all intents and purposes the Communist International should represent a single universal Communist Party, of which the parties operating in every country form individual sections. The organized apparatus of the Communist International is to secure to the toilers of every country the possibility at any given moment of obtaining the maximum of aid from the organized workers of the other countries.*
>
> "For this purpose the Communist International confirms the following items of its statutes:
>
> "Sec. 1. The new International Association of Workers is established *for the purpose of organizing common activity of the workers of various countries who are striving towards a single aim:* the overthrow of capitalism; the establishment of the dictatorship of the proletariat and of *the International Soviet Republic;* the complete abolition of classes, and the realization of socialism—the first step of Communist Society." (Underscoring supplied) (Ex. 8, p. 5)

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[1] See pp. 19-20, *infra*; see also pp. 78-80, *infra*, for Respondent's adherence to this work.

[2] See pp. 19-20, *infra*.

The Communist International was in fact that which these publications proclaim, i.e., a universal Communist Party organized and controlled as to policies and activities by the Soviet Union and consisting of the various Communist parties of the countries throughout the world, which constituted sections of the Communist International. The Communist International embodied an elaborate organizational structure, including an Executive Committee; departments on Organization, Agitation and Propaganda, and Youth; Secretariats or Commissions covering sections of the world, such as the Far Eastern Secretariat, Anglo-American Secretariat, etc., which supervised the Communist parties in these respective areas; and Field Bureaus (Ex. 8; J. A. 1318-1332).

Respondent joined this international Communist organization shortly after it was constituted and admittedly until 1940 participated therein. Characteristic of the Communist International's world-wide activities were the Profintern or Red International of Labor Unions; M.O.P.R., or the International Red Aid to defend Communists (Ex. 50; J.A. 1357); the maintenance of representatives in various countries, first to enforce and insure adherence to its policies, and further to afford guidance and assistance; the instruction and training of individual members of its section Communist parties and the payment of expenses incident thereto; the rendering of financial aid to the various Communist parties throughout the world, either directly in money disbursed to or for them or indirectly through furnishing of free propaganda materials, publications, printing, etc.; the exercise of strict disciplinary control over individual members and entire Communist party sections, resulting in expulsion of a member for failure to follow Soviet Union policies and directives; the settlement of intra-party disputes and the resolution of issues relating to tactics, strategy, procedure, and policy of Communist party sections; the command of paramount allegiance to the Soviet Union as the leader of international Communism and fatherland of the world proletariat; the strict

adherence to that body of principles and policies called Marxism-Leninism;[1] all in furtherance of making secure the foundation of the world proletarian revolution, i.e., the Soviet Union, and installing Communist dictatorships under the direction and domination of the Soviet Union in all coutries throughout the world, including the United States, by activity both open and secret and by any means whether legal or illegal.

As a result of the passage of the Voorhis Act in 1940 (54 Stat. 1204) Respondent announced a disaffiliation from the Communist International, but did not alter fundamentally its relationship with the Communist International.[2] The Communist International was formally dissolved as such in 1943, at which time the United States and the Soviet Union were military allies (J.A. 1572-1574). This formal dissolution was accomplished, assertedly, in order to remove the foundation for "fascist" charges that the Soviet Union was meddling in the internal affairs of other nations. In truth and in practice the world Communist movement, under the hegemony of the Soviet Union, has remained as theretofore, despite the "dissolution" of the Communist International.

In 1947, the Communist Information Bureau, herein sometimes called the Cominform, was organized[3] to facilitate the coordination of activities of Communist parties of various countries in the struggle against "imperialism"; its membership consists of a number of Communist parties (J.A. 606-607; Ex. 214-A, Ex. 367, J.A. 1575-1578, 1676-1677).

Zhdanov, then a member of the Politburo of the Communist Party of the Soviet Union, in calling for greater and closer international coordination of action by Communist parties at the Communist Party Informative Con-

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[1] See pp. 38-81; 219, *infra*.

[2] See pp. 26-28, *infra*.

[3] See *infra* pp. 31 to 86, re detailed findings concerning the Communist Information Bureau.

ference in Poland in September 1947 stated, in part, as follows (J.A. 1578):

> " • • • There can be no doubt that if the situation [the tendency toward the isolation of individual Communist parties] were to continue it would be fraught with most serious consequences to the development of the work of the fraternal parties. The need for mutual consultation and voluntary coordination of action between individual parties has become particularly urgent at the present juncture when continued isolation may lead to a slackening of mutual understanding, and at times, even to serious blunders." (Ex. 214-A, p. 4)

Georgi M. Malenkov, successor to Stalin and presently leader of the Soviet Union, also addressed this conference laying additional emphasis on the necessity for coordination of international Communist activities. Pertinent excerpts from Malenkov's report are set forth herein at pp. 34-35, *infra*.

In the United States, Respondent refrained from formally joining the Cominform, because " . . . reactionary and pro-Fascist forces now whipping up anti-Communist hysteria and war incitement in our country would undoubtedly seize upon such action . . . as a pretext for new provocations and repressions against the Communists . . . " (Pet. Ex. 368). However, the CPUSA announced firm agreement with and approval of its formation. Notwithstanding this lack of formal affiliation, manifestations of the world Communist movement and Respondent's participation therein continued. Known representatives of the world Communist movement remained in the United States and continued their participation in the affairs of Respondent; leaders of Respondent went abroad at Party expense to international gatherings where they met and consulted with world Communist leaders; the official organ of the Cominform, *For a Lasting Peace, for a People's Democracy*, is used by Respondent's leaders as a source

of authoritative direction on matters pertaining to the world Communist movement and Respondent's participation therein; detailed "greetings" containing messages are sent and received by the various Communist parties of the world, including the Communist Party of the Soviet Union and Respondent; Respondent unswervingly adheres to the positions taken by the Soviet Union on international issues; and Respondent continues to advocate, teach and apply Marxism-Leninism.

Adherence to Marxism-Leninism, as its principles and precepts are stated in the Classics, is completely incompatible with Respondent's contention that it and numerous other Communist parties throughout the world apply Marxism-Leninism individually, separately and autonomously. It is clear that international organization, which affords the coordination of activity and discipline as directed by the Soviet Union and which commands the subordination of all national duties and also requires allegiance to the Soviet Union, is the very essence of Marxism-Leninism as understood and practiced by Respondent.[1]

The international integration of the world Communist movement is further illustrated by the perspective in which Respondent regards the incidents affecting, or activities of, Communist parties in other nations. For example, a letter sent by Respondent to the Communist Party of France as reprinted in the *Daily Worker* of June 9, 1952, regards the arrest of French Communist leader, Jacques Duclos, as an act of men of "Wall Street". The letter states in part:

> "* * * We American Communists are concious of our responsibility to show the people at home that it is the Wall Street men of the trusts who are the real fomentors of the present hysteria arrests and persecutions in your country. We will do everything to convince the American people that it is U.S. imperialism which strives to impose upon the French people the same kind of war-time dictatorship they seek to im-

[1] See "Marxism-Leninism", pp. 43-46, 57-59, *infra*, for detailed findings to this effect.

pose in our own land. We know your struggle is our struggle—a common fight against a common enemy—to defeat the North Atlantic war alliance, to prevent the relnazification (sic) and remilitarization of Western Germany, to fight for a Five-Power Pact of Peace and Friendship as the only path to peace and freedom. * * *'" (Ex. 495; see also, J.A. 1797-1798).

Similarly a "greeting" from Respondent to the Seventh Congress of the Italian Communist Party, published in the *Daily Worker* of April 4, 1951, stated:

"* * * 'your work in defense of peace and socialism under the magnificent leadership of Palmiro Togliatti, has a particular repercussion in our country.

" 'The great battle of the Italian workers for their independence, peace and social progress calls forth greatest admiration among us. We are confident that in fraternal battle against Wall Street, the cause of Italy's millions, which is our cause too, will triumph.' " (Pet. Ex. 456)

Respondent, at its 15th National Convention held from December 28 to 31, 1950, in New York City, received "greetings" from Communist parties in the Soviet Union People's Democratic Republic of China, France, Italy, Hungary, Poland. Bulgaria, Czechoslovakia, Romania, German Democratic Republic, Western Germany, Austria, Great Britain, Canada, Mexico, Brazil, Cuba, Spain, Norway, Denmark, The Netherlands, Northern Ireland, Eire, India, Israel, Algeria, Ceylon, Free Territory of Trieste, Belgium, Australia, New Zealand, Indonesia, and the Yugoslav Political Revolutionary Emigrants (Ex. 376; J.A. 1714-1718).

Many such "greetings" expressed regret that it was impossible to send delegates as Respondent had invited but noted in varied detail the problems (from a Communist viewpoint) in the particular country involved as well as those facing Respondent. Those "greetings" likewise are replete with phrases that reveal the characteristics and

leadership of the world Communist movement, of which the following are illustrative (J.A. 1714-1718):

"... all persons who oppose the aggressive policy of American imperialism and the rule of fascist terror are uniting in joint resistance ...";

"... the decisions of your Convention, taken in the light of the teachings of Marx, Engels, Lenin, and Stalin, will enable you to advance forward on the road of unity of action ...";

"Your successes are our successes";

"We know your struggle is difficult but together with you, 800 million people, led by the invincible Soviet Union, defend peace and liberty.";

"... your Party will raise still higher the immortal banner of Marxism-Leninism and will honorably fulfil its patriotic and internationalist duty ...";

"... the fight of the millions of common people for peace and democracy, inspired by peace-loving Soviet Union and the great Stalin, will win.";

"Your fight, dear comrades, is our fight, just as the struggle of the German Friends of democracy and peace is your struggle.";

"The invincible peace camp under the leadership of the Soviet Union and the great Stalin, defends the happiness of all peoples. You have a decisive place in the camp of peace.";

"We feel closely bound up with your struggles not only because we pursue the same aims but also because we face the same enemy, American imperialism.";

"... our common struggle against Anglo-American imperialism.";

"Headed by the Mighty Socialist Soviet Union and our friend and teacher, Joseph Stalin, the world camp of peace is going forward to win ...";

"... your decisions will victoriously guide the American people in their determined struggle for the defense of the cause of peace and Socialism so brilliantly led by Comrade Stalin.";

"United by proletarian internationalism under the banner of the great Stalin, we will march victoriously on the road to peace and Socialism.";

"... we are firmly convinced ... that you will fulfil the great task of world significance ...";

"Your invitation confirms that proletarian internationalism, in spite of hate, persecution and terror, is a living reality.";

"Our fight for peace, independence and freedom is directed against the same enemy as you fight.";

"Long live proletarian internationalism!";

"We pledge our maximum contribution to the peace movement headed by the Soviet Union.";

"Long live the solidarity of the working people in the whole world ... for the triumph of the ideas of Marx, Engels, Lenin and Stalin!".

The foregoing statements in this section are fully supported by a preponderence of the evidence, which is set out in detail in our findings in the captioned portions of this report which follow. Based on the evidence adduced in this proceeding we find (1) that there exists a world Communist movement, substantially as described in Section 2 of the Act, which was organized by the Soviet Union, and which has as its primary objective the establishment of Communist dictatorships of the proletariat in all countries throughout the world, including the United States, and (2) that the direction, domination and control of this movement is vested in, and is exercised by, the Soviet Union.

## B. Policies and Directives

### 1. Respondent's Organization and Leadership

The nature of this proceeding is such that we cannot and should not single out one factual situation as determining the issues, but must consider the record as a whole. In so doing, we have taken into consideration the evidence hereinafter summarized concerning the events which have resulted in Respondent's present organizational form, and which establishes certain facts regarding the background and activities of Respondent's present leadership. We find this evidence tends to establish that Respondent is a Communist-action organization.

Respondent was organized in 1919 and has been in existence continuously since that date (J.A. 162). The evidence leaves no doubt that the Respondent is molded organizationally and operationally along the lines found by the Communist Party of the Soviet Union to be most effective in establishing the dictatorship of the proletariat in the Soviet Union. Such an organization and operation is in accordance with the strategy and tactics of Marxism-Leninism. It is also in accordance with the requirements of the Communist International.

Before treating with Respondent's organizational and internal administration, it is of major importance for a clear understanding of our findings and of the background and bases for a number of Respondent's policies and activities, to review the evidence and set forth certain pertinent facts regarding an association or organization known as the Communist International (Comintern). According to Respondent's witness Flynn, this organization was "a federation, as it were, of Communist Parties, who met together, consulted together, and exchanged knowledge and experience in relation to the struggles that they were carrying on in their particular countries"[1] (R. 15777-15778).

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[1] This is in substance the same characterization Respondent places on the present organization of Communist Parties known as the Information Bureau of Communist Workers' Parties or the Communist Information Bureau. See pp. 31 to 36 of this report.

The record, however, establishes a different nature and different characteristics of the Communist International.

Upon consideration of the sizeable quantity of both oral and documentary evidence relative to the matter, we find that the Communist International was organized in 1919 by the Soviet Union as the international organization of Communist Parties in all countries—a World Communist Party—with the aim to overthrow "capitalist" states and to create the dictatorship of the proletariat in the Soviet form (Ex. 330, J.A. 1623-1624; Ex. 8, J.A. 1318-1332; Ex. 145, J.A. 1539; J.A. 225, 383-384). Significant evidence establishing the foregoing includes the documents, *History of the Communist Party of the Soviet Union (Bolsheviks)*; *Theses and Statutes of the Third (Communist) International*, adopted July 17—August 7th, 1920; the *Programme of the Communist International*, issued at the sixth Congress in Moscow in 1928; and, Respondent's *Manual On Organization*, issued in the 1930's. These documents are further identified and discussed later in this report.

In the *History of the Communist Party of the Soviet Union*, it is stated (J.A. 1624):

> "In March 1919, on the initiative of the Bolsheviks, headed by Lenin, the First Congress of the Communist Parties of various countries, held in Moscow, founded the Communist International. Although many of the delegates were prevented by the blockade and imperialist persecution from arriving in Moscow, the most important countries of Europe and America were represented at this First Congress. The work of the congress was guided by Lenin.
>
> * * * * * *
>
> "The congress adopted a manifesto to the proletariat of all countries, calling upon them to wage a determined struggle for the dictatorship of the proletariat and for the triumph of Soviets all over the world.
>
> * * * * * *
>
> "Thus was founded an international revolutionary proletariat organization of a new type—the Commu-

nist International—the Marxist-Leninist International" (Ex. 330, pp. 231-232).

The *Theses and Statutes* stated that (J.A. 1332):

> ". . . all the events of world politics are inevitably concentrating around one point, namely, the struggle of the bourgeoise world against *the Russian Soviet Republic, which is grouping around itself* the Soviet movements of the vanguards of the workers of all countries, and all national liberation movements of the colonial and subject countries, which have been taught by bitter experience that there can be no salvation for them outside of a Union with the revolutionary proletariat, and the triumph of the Soviet power over Imperialism." (Emphasis added) (Ex. 8, p. 67)

Also (J.A. 1318):

> "The Communist International makes its aim to put up an armed struggle for the overthrow of the International bourgeoisie and to create an International Soviet Republic as a transition stage to the complete abolition of the State. The Communist International considers the dictatorship of the proletariat as the only means for the liberation of humanity from the horrors of capitalism." (*Ibid*, p. 4)

The Constitution and Rules of the Communist International as set forth in the *Programme* includes (J.A. 1465):

> "The Communist International—the International Workers' Association—is a union of Communist Parties in various countries; it is a world Communist Party. As the leader and organizer of the world revolutionary movement . . . and the upholder of the principles and aims of Communism, the Communist International . . . fights for the establishment of the world dictatorship of the proletariat, for the establishment of a World Union of Socialist Soviet Republics,

> for the complete abolition of classes and for the achievement of socialism—the first stage of Communist Society" (Ex. 125, p. 85).

Respondent's *Manual On Organization* defines the Communist International as follows, which is pertinent for comparison with the foregoing quotations (J.A. 1539):

> "The Communist International is the international organization of Communist Parties in all countries. It is the World Communist Party. The Communist Parties in the various countries affiliated to the Comintern are called Sections of the Communist International" (Ex. 145, p. 42).

The record shows, in addition to the fact that the Communist International was organized and formed by the Soviet Union and had the aforestated aims, that the Soviet Union exercised complete control over the policies and activities of the Communist International. All of the heads of the Comintern that are identified in the record have been leading members of the Communist Party of the Soviet Union. The meetings of the governing committees and the congresses shown in the record have been held in Moscow. Witnesses who had been representatives of Respondent to the Comintern established that the Communist Party of the Soviet Union was the leading party (section) in the Comintern, and its decisions were binding on the executive committee of the Comintern and such decisions of the Comintern bound all other member parties; furthermore it had five votes on the executive committee to one each for the other larger parties. The government of the Soviet Union financed the Comintern.

The record also establishes through both oral and documentary evidence that as a section or member of the Communist International, Respondent was under the complete domination and control of the Communist International regarding its policies, activities, programs, and other operations. Illustrations and examples of Respondent's accept-

ance of and adherence to directions and instructions from the Communist International are covered in the parts of this report which follow and include the teaching and advocacy of the overthrow of "imperialist" governments; trade union activities; work among the youth; and the recognition and acceptance of discipline; as well as details concerning Respondents organizational structure and internal administration.

Also significant, and indicative of Respondent's acceptance of, or submission to, control over it by the Communist International, are various other official statements and teachings by Respondent subsequent to the time that it became a part of the Communist International, and Respondent's acceptance and following of instructions of Comintern representatives sent to the United States. The activities in the United States of Comintern and other foreign Communist representatives is covered elsewhere in this report. With respect to the specific actions of Respondent and its teachings as evidencing the acceptance of domination and control by the Comintern, the record shows that early in 1921, Respondent revised its program and constitution "in conformity with the Theses and Statutes of the C. I.", and adopted the "twenty-one points for affiliation to the C. I."[1] (Ex. 123, p. 1, J.A. 1444-1446), and became an "integral part of the Communist International" (J.A. 1445). In 1929, Respondent's Central Committee issued a "Discussion Outline for Lenin Campaign" which in effect explains the role of the Party as that defined by the "Program of the Comintern" and states (J.A. 1422):

> "One who fights the Soviet Union and the Comintern is an agent of capitalism directed against our Party in its campaign to mobilize the workers against imperialist war and for defense of the Soviet Union." (Ex. 108, p. 6)

[1] These "conditions" spelled out rigid requirements of allegiance to the Comintern with provisions for strict discipline as well as details as to the form of the Communist Parties and their activities.

The "Thesis and Resolutions" for the Seventh National Convention of Respondent[1] which were adopted by the Convention in 1930, refer to "communications" from the Comintern in connection with various tasks of the Party (Pet. Ex. 132, p. 32, p. 54; see also J.A. 1485-1486). The resolutions adopted at the 8th convention of Respondent in 1934 include the following (J.A. 1490-1491):

> "The E.C.C.I. is the Executive Committee of the Communist International. It is the general staff of the world revolutionary movement giving unity and leadership to the Communist Parties of the world. The E.C.C.I. meets in plenary session at intervals of between six months and one year. The body acting in highest authority between one plenary session (Plenum) of the E.C.C.I. and the other, is the Presidium of the Communist International. The Communist Party of the U.S.A. is the American Section of the Communist International (Comintern)" (Ex. 136, p. 18).

Petitioner's witnesses Budenz, Crouch, Gitlow, Honig, Johnson, Kornfeder, Lautner, Meyer, and Nowell each testified concerning various aspects and manifestations of the control exercised over Respondent by the Communist International while these witnesses were members of Respondent and held various official positions. Gitlow was a top official of Respondent and in 1928-1929 was a member of the Executive Committee of the Communist International. He states unequivocally that the Comintern controlled all major policies of Respondent (J.A. 217, 227, 229-230) and cites instances such as convention arrangements and the policy of the party press which were based upon Comintern directives or instructions (J.A. 244-245). Kornfeder knows of no instance during his membership,

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[1] The "Thesis and Resolutions" represented the prime authority of Respondent in its programs, policy and practical orientation for the period 1930-1934 which were applied in practice and in Respondent's schools (J.A. 360).

1919-1934, when Respondent deviated from Comintern instructions (J.A. 336) and shows that the qualifications for attending Communist training schools in Moscow were set up by the Comintern, and that members of Respondent recommended to become students at the schools had to be approved by the Comintern (J.A. 301-304). Nowell and Honig both were in Moscow during the 1930's as students and representatives of Respondent and participated in the work of the Communist International, particularly the preparation of directives to Respondent—which directives were carried out (J.A. 369, 379-385, 471-473, 477-480). Meyer, an American citizen, returned to the United States in 1934, having been a member of the British Communist Party, and was not required to fill out an application to join Respondent since he was merely transferring from one section of the Communist International, of Communist movement, to another (J.A. 681). Johnson, a member of Respondent from 1930 to 1940 and at one time on the Central Committee, was taught at Respondent's National Training School, and saw in operation, that under the rules of the Comintern no person could hold or resign from a position of leadership without the approval of the Comintern (J.A. 656). He also states unequivocally that he knows of no single instance during his membership where Respondent ever opposed a decision of the Comintern (J.A. 668).

The foregoing is only a part of the considerable testimony on the activities of the Communist International concerning the Respondent in the United States but serves to illustrate Respondent's role as a member or part of the Communist International.

In view of our finding that the Communist International was founded and controlled by the Soviet Union, and of our further finding that the Communist International dominated and controlled Respondent, and upon the entire record, we find and conclude that the Communist International for over twenty years constituted the organizational instrumentality through which the Soviet Union

dominated and controlled the Communist Parties throughout the world, including Respondent.[1]

As later herein covered, Respondent announced its "disaffiliation" from the Communist International in 1940, and the "dissolution" of that organization was announced in Moscow in 1943. It is pertinent before concluding this aspect of our findings concerning the Communist International to note that the Communist International stood "wholly and unreservedly upon the ground of *revolutionary Marxism* and its further development, Leninism" (Ex. 125, p. 8). Because of the importance of "Marxism-Leninism" in this proceeding, its meaning is determined in detail later in this report.

Concerning Respondent's organizational form and changes therein, we find that early in Respondent's existence, in 1924, the Communist International "decided" that various factions in the United States should amalgamate into a single party, which was done. The evidence hereinafter summarized and the entire record establishes that Respondent is that Party (J.A. 240, 1333, 1474; Ex. 12(a), p. 2; Ex. 126, p. 237).

We further find that in 1929 another factional dispute existed in Respondent which was a reflection of a struggle in the Communist Party of the Soviet Union and in the Communist International between the forces led by Stalin and those led by Bukharin. Although a minority of only about 10 percent in Respondent, led by Foster, supported Stalin, whereas the majority of about 90 percent led by Lovestone and Gitlow sided with Bukharin, the solution of the dispute dictated by Stalin was adopted by the Comintern and accepted by Respondent, representatives of the Comintern being sent to the United States to supervise its effectuation. The result of the "liquidation of the factional situation in the Communist Party" (Ex. 126, p. 245, J.A.

[1] Respondent's witness Gates stated on cross-examination that "The Communist International was an actual organization of the world Communist movement and we were affiliated at one time. We are not affiliated now, and the organization no longer exists" (J.A. 1246-1247).

1481) was the expulsion from Respondent of Lovestone, Gitlow and others and the placing of the leadership of Respondent in the Foster group. Earl Browder was recalled from China by way of Moscow to become General Secretary of the Party. Foster was given a high position. He became a "builder of the Party" (Ex. 126, p. 247, J.A. 1477). This is the William Z. Foster who is presently National Chairman of Respondent (J.A. 266-271; Ex. 114, Ex. 126).

In 1940, Respondent announced its disaffiliation from the Communist International. We find that the primary reason for the disaffiliation was to avoid registration of the Respondent as a foreign agent under the Voorhis Act of October 17, 1940; and that the disaffiliation did not alter in any substantive way the relationship between Respondent and the Communist International or the world Communist movement. Respondent's amended answer admits it was "affiliated" with the Communist International prior to November 1940, and states that it "disaffiliated" from the Communist International in November 1940. The amended answer and the evidence offered by Respondent seek to establish, however, that, "Since 1940, the Communist Party has had no international affiliation of any kind—although it follows with interest the experiences of other Communist Parties, reads their journals, and on appropriate occasions sends or receives fraternal greetings" (amended answer, J.A. 178).

Witness Meyer was present as a member at the State Committee meeting when the delegation to the convention of Respondent which considered the disaffiliation reported back to the Illinois-Indiana District. The substance of the delegation's report was that the disaffiliation was a matter of expediency, that it changed nothing fundamentally or significantly, and that it had to be done to preserve the legality of the Party (J.A. 693). Witness Lautner was a delegate to the convention and also describes the understanding of the convention to be that the disaffiliation was one of expediency which in no way affected the Party's

attitude on the question of proletarian internationalism (J.A. 879-880). Witness Crouch attended a convention-time meeting of the Politboro and district organizers where Earl Browder, then general secretary of the Party, said that the actual relations of the Respondent to the Communist International would remain exactly the same in the future as they had in the past, that Respondent would continue to be guided by the Communist International and that because of the political development of Respondent the matter of formality in the relationship was no longer as necessary as it had once been (J.A. 421-423). The district organizers were assigned the duty to go back to the respective districts and explain the reasons for disaffiliation which Crouch, being a district organizer at the time, did (J.A. 423).

Respondent's witness Flynn testified on cross-examination that she was on the National Committee of Respondent when the resolution of disaffiliation was discussed. She says:

> "* * * we were not disaffiliating in anger, or disaffiliating to fight the Communist Internationale. It was, you might say, a friendly divorce" (J.A. 1300).

We find the evidence preponderates to establish that the disaffiliation was for the expediency of avoiding registration as a foreign agent and did not alter Respondent's relationship with the Communist International or the world Communist movement.

We have heretofore set forth our finding that the Communist International was the means or vehicle through which the Government and the Communist Party of the Soviet Union directed and led the Communist Parties of the various countries, including Respondent. In 1943, upon approval by the various member Communist Parties of a proposal by the Presidium of the Executive Committee, the Communist International was dissolved[1] (J.A. 839-840).

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[1] Petitioner's witness Dr. Mosely considers that because of the nature of the Communist International, the "proposal" to dissolve it by its Presidium was regarded as a "decision" to dissolve it (J.A. 840).

Respondent, having a few years earlier announced its "disaffiliation" from the Communist International, was not "called upon to participate in the decision" (Pet. Ex. 207, p. 657, J.A. 1573-1574). It did, however, hail and support the dissolution (Exs. 205, 206, 207; J.A. 558-561, 1572-1574). Stalin, who at the time was the chairman of the Council of People's Commissars of the USSR and a leading member of the Politboro of the Central Committee of the CPSU, stated the dissolution was "proper and opportune" in that it facilitated the organization of a general onslaught against the common enemy, "Hitlerism" (Ex. 204). In supporting and hailing the dissolution of the Communist International, Respondent took the same line as that expressed by Stalin, i.e., that the dissolution "is a well aimed blow . . . at Hitler . . ." (Ex. 206, J.A. 1573), and pointed out in the *Daily Worker* that the "particular organizational form for international proletarian unity . . . became a hinderance to the further strengthening of the national workers' parties" but that the dissolution "must not be mistaken as a sign of weakness or of helpless collapse" (Ex. 205, J.A. 1572). In view of the foregoing, and upon consideration of the subsequent manifestations of the operations of the world Communist movement and of Respondent's conduct and activities as elsewhere herein covered, and upon the entire record, we find and conclude that the dissolution of the Communist International was merely the termination of the use of that "particular organizational form", and a change in the means and the particular vehicle for promoting and advancing the world Communist movement.

We find that during the year following the announced dissolution of the Communist International, Respondent's organizational form and some of its tactics underwent a change. It became known as the "Communist Political Association" from May 1944 until June 1945[1] when it was

[1] Foster opposed the change on the ground it was not in line with the revolutionary position of Marxism-Leninism. His opposition was contained in a letter to the National Committee, which letter was suppressed from the membership at the time and not made known until shortly before the change back to the CPUSA (J.A. 1138-1139, 1302-1303, Ex. 208, pp. 660-661).

reconstituted as the Communist Party (J.A. 1144-1152). During this period, there was a de-emphasis on the use of some of the Marxism-Leninism principles and the central teaching was around the current documents of the Party, which put forward the so-called "Teheran line" that advocated, at least for the time being, a peaceful co-existence of the United States and the Soviet Union (J.A. 691-692). We note that in becoming the CPA there was no substantial change. Respondent's membership and leadership were the same (J.A. 1130-1132; Ex. 433), and upon reverting to the CPUSA in 1945, similarly, its membership was the same and, with one substantial exception, so was the leadership (J.A. 1152). Because of his lack of adherence to the proper tactical line, Earl Browder was characterized as a "revisionist" and "deviationist", and was deposed as a leader whereupon the full Marxist-Leninist revolutionary ideology and action was again re-emphasized (J.A. 976-977, 1144-1152).

Respondent's present organizational form commenced with its return in 1945 to the name Communist Party upon simultaneous dissolution of the Communist Political Association (J.A. 1152-1153). A primary purpose of again changing was to re-emphasize the Marxist-Leninist Classics, particularly the writings of Stalin, the *History of the Communist Party of the Soviet Union (Bolsheviks)* and Dimitroff's Report to the Seventh Congress which deals with the true nature of how to conduct the united front while forwarding the Communist revolutionary aims (J.A. 1145-1146).

We find that in addition to this re-emphasis on Marxism-Leninism, which it was established by the evidence in this proceeding are the basic laws for a world Communist revolution, the facts directly surrounding the reconstitution are indicative of foreign domination and control of Respondent.

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[1] In January 1950, Petitioner's witness Lautner, then on Respondent's Central Control Commission, and Jack Kling, then National Treasurer, discussed Browder's recent pamphlet wherein he stated that during the fifteen years of his leadership in Respondent, all major policies put into effect had the previous knowledge, consent and active support of the decisive international Communist leadership. Kling called it stool pigeon work on the part of Browder (R. 11272).

A few weeks after returning from Moscow to France, Jacques Duclos, a leader of the French Communist Party, member of the Executive Committee of the Communist International until the announced dissolution of that organization, and a spokesman for the world Communist movement, issued a statement through the French Communist Party Journal, entitled "On the Dissolution of the Communist Party of the United States" (Ex. 208; J.A. 562-563; see also: J.A. 705-706, 784-787, 1144-1152; Ex. 372, J.A. 1692-1694). Duclos' statement appeared in the April 1945 issue of the French publication. The substance and effect of the Duclos statement is that it was a mistake to dissolve the Communist Party of the United States—"in truth, nothing justifies the dissolution of the American Communist Party, in our opinion" (Ex. 208, p. 671); that a "powerful Communist Party" in the United States is necessary "in the struggle taking place between the progressive forces of the earth and fascist barbarism" (Ex. 208, p. 672; J.A. 1575). Upon the record, we find that the Duclos statement represented authoritative criticism made by a spokesman for the world Communist movement (J.A. 565, see also: J.A. 566-567).

In the month (May 1945) following the publication of the Duclos statement in the French Communist Party organ, Manuilsky, a leading Soviet Union Communist, and a former official of the Communist International, who at the time was in the United States as Ukranian representative to the United Nations Conference on Organization in San Francisco, let it be known to Respondent that it should observe the guidance and counsel of the French comrades (J.A. 1135-1143, 1182-1185, 1294). In June, the National Board of the Communist Political Association met and called a meeting of the National Committee for later in the month, which in turn called a national convention for July. It was at this convention that the CPUSA was reconstituted in its present form as a militant Marxist-Leninist party (J.A. 1143-1154).

As in the case of forming the Communist Political Association the year before, the same persons who had been officials of the CPA and the Party before that, led in re-

forming the Communist Party and, with the exception of Browder and a few others with minor rank, remained the leaders of the reconstituted party. As earlier herein found, Browder was expelled as a "revisionist" for departing from the orthodoxy of Marxism (see J.A. 1150; Ex. 208, p. 660, J.A. 1574-1575; Ex. 372, J.A. 1692-1694). Foster, upon taking over as a national chairman pointed out the necessity for re-emphasizing the revolutionary line of Marxism-Leninism (Ex. 372, J.A. 1692-1694).

The record establishes that subsequent to the reconstitution of Respondent, an additional event of significance has taken place in the world Communist movement—the formation of an organization known as the Information Bureau of Communist and Workers' Parties or the Communist Information Bureau, sometimes referred to in the record as the "Cominform". The significance lies in Respondent's attitude toward this organization, the sameness of views and policies of Respondent and the organization, and Respondent's use and treatment of statements appearing in *For a Lasting Peace, for a People's Democracy*, the official organ of the Cominform.

The exact nature and characteristics of the Communist Information Bureau are not precisely defined on the record. The record shows that the organization is composed of a number of Communist Parties of various countries (Exs. 214-A and 367; J.A. 1575-1578, 1676-1677) and was established as a result of a decision taken at a conference held in Poland toward the end of September 1947 (J.A. 580-581). The record contains copies of two reports given at this founding conference, one by A. Zhdanov, then a member of the Politburo of the Communist Party of the Soviet Union and the principal Soviet representative at the founding conference (Ex. 214-A, J.A. 1575-1578). The other report was given by Georgi M. Malenkov, then a member of the Central Committee of the Communist Party of the Soviet Union and secretary of the CPSU.[1] (J.A. 937-

[1] Subsequent to the closing of the hearings for the purpose of taking evidence in this proceeding, and upon the announced death of Joseph Stalin, Malenkov has become the announced leader of the Soviet Union. See additional reference to Malenkov at p. 92-98 of this report.

938; Ex. 367, J.A. 1676-1677). Based on these reports and the testimony of witnesses, we find that the purpose of the Communist Information Bureau is to mobilize forces in opposition to United States "imperialism".[1]

Shortly after the establishment of the Cominform, Respondent announced publicly that "the present political situation in the United States is such that the Communist Party should not affiliate" with the new Information Bureau, but stated the establishment of the Bureau "is of great significance" and makes more effective the "resistance to the program of imperialist expansion". Respondent's announcement further states that Respondent "will continue to promote the international solidarity of all anti-fascists and anti-imperialists" (Ex. 368).

Respondent's witnesses Gates and Flynn, members of the National Committee, in summarizing Respondent's position stated that all they know about the Information Bureau is what they read in the "capitalist" press and the journal of the Bureau; that the Information Bureau never issued directives to Respondent; and, that Respondent's use of *For a Lasting Peace, for a People's Democracy* is to see what is going on within various Communist Parties throughout the world with whom Respondent shares common interests. The record shows an attitude of arrogance and evasiveness on the part of witness Gates concerning the Communist Information Bureau which causes us to discount much of his testimony on the matter. Even after considerable questioning on cross-examination he was unwilling or unable to explain what was meant by "official documents" of the Cominform for which Respondent waited, before taking a position regarding the organization, and was unwilling or unable to explain why and how, in that connection, Respondent's announcement that it would not join the Cominform was made seven days before publication of the first issue of *For a Lasting Peace, for a People's Democracy*, dated November 10, 1947, which he

[1] The Communist concept of "imperialism" and "the struggle against imperialism" is covered in detail at pp. 81 to 103 of this report.

had said might have been the official documents. Upon being asked whether issues of *For a Lasting Peace, for a People's Democracy* weren't received over here "before they were published? Before November 10, when the first issue came out?", the record shows the following at (J.A. 1249):

> A: [by Gates] "Well, I don't believe in the supernatural, but if you do that may have been possible.
>
> "Mr. Brown: That is unnecessary.
>
> "The witness: I can only answer a stupid question in such a way."

Later, Gates was questioned regarding whether the Communist Party in the United States or the *Daily Worker* or *Political Affairs* ever deviated from the expressed views and policies of the Cominform, and answered to the effect that the Party and *Daily Worker* never deviate from what they consider the best interests of the American people and "if we have not expressed any disagreement with any views that have been put forward in *For a Lasting Peace, for a People's Democracy*, that is because we believe those views have not been in contradiction to the interests of the American people" (J.A. 1249-1250). He was then asked to give any instances of deviation and replied, "I have answered the question." The question was repeated by a Panel member who asked the witness if he could answer yes or no, to which the reply was, "(It) is a loaded question," and upon being advised the panel did not consider it to be, the witness responded with, "You may not think so, but I think so."; and, "After all, I am the one who is on the witness stand and not you" (J.A. 1250).

The evidence shows that the Zdhanov report, contained in the first issue of *For a Lasting Peace, for a People's Democracy*, was studied in Respondent's clubs or cells as "the key to the whole movement" (J.A. 777-778); that it was used in Respondent's schools as a major document stating and explaining the strategic aims of the world Communist movement (J.A. 953-957; 1064-1065). Malen-

kov's report was also studied and discussed (J.A. 937-938). The record further shows that copies of *For a Lasting Peace, for a People's Democracy* have been made available to functionaries and clubs or cells of Respondent. Petitioner's witness Philbrick, based on nine years' membership and activity in the Party, states that a member of Respondent could not disagree with a directive or a position taken by the Cominform and still remain a member of the Party (J.A. 780-781). Additional facts concerning the Communist Information Bureau are set forth elsewhere in this report.

The two aforementioned reports of Zdhanov and Malenkov (Ex. 214-A, Ex. 367; J.A. 1575-1578, 1676-1677) comprise the most direct evidence of record bearing upon the nature and characteristics of the Communist Information Bureau aside from what is contained in Respondent's announcement that it would not join the organization. Zhadanov's report says the Communist International was dissolved because "the direction[1] of these parties [what he calls "mass labor parties"] from one centre became impossible and inexpedient" (J.A. 1577). But, he continues, "experience has shown that such mutual isolation of the Communist Parties is wrong, harmful and, in point of fact, unnatural" and that "continued isolation may lead to a slackening of mutual understanding, and at times, even to serious blunders" (Ex. 214-A; J.A. 1578).

Malenkov puts it as follows (J.A. 1676-1677):

> "The absence of contact between Communist Parties is a hindrance in coordinating the actions of Communists in various countries in their resistance to the plans of the imperialists, particularly now, when American monopoly capital is organizing an offensive against Communism and democracy against the U.S.S.R. and the new democracies, developing its expansionist plans with the intention, under the guise of 'aid', of enslaving a number of European and other

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[1] Compare Zdhanov's use of "direction" with the public announcements that the Comintern was dissolved to help defeat Hitlerism (p. 28 herein) and to stop the "false charges" of direction from Moscow.

countries, and when Communists are called upon to define their attitude to these plans of American imperialism.

"In our opinion it is necessary to put into effect definite measures designed to eliminate the present abnormal situation in this respect.

"That is why we consider it necessary to discuss at the present conference both the international situation and the question of improving contact between Communist Parties, of establishing regular connections between them a view to achieving mutual understanding, exchange of experience and voluntary coordination of activities of the Communist Parties whenever they consider this necessary" (Ex. 367, p. 145).

Respondent's statement characterized the Cominform as "a medium through which these parties can consult, and, if they deem it desirable, coordinate activity" (Ex. 368, p. 2).

In 1943, upon approval by the member Communist Parties of a proposal by the Presidium of the Executive Committee, the Communist International was dissolved to stop what they called false charges that the International dictated directives from Moscow.[1] As later herein developed, a fundamental principle of the world Communist movement is to do the best possible for the cause under given circumstances—to charge when conditions warrant and to retreat when conditions require so as to marshal forces and await the sharpening of the opportunities. In view of these facts, of the foregoing facts concerning the Cominform, and on the entire record, we find and conclude that the Communist Information Bureau represents what the Communists consider the best possible substitute at the present time for the Communist International and that Respondent's support of the Information Bureau, its use of *For a Lasting Peace, for a People's Democracy*, and its non-deviation from the line of the Bureau, are done for the

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[1] See Note 1, *supra*, p. 34.

purpose and with the aim of advancing the objectives of the world Communist movement.

Summarized, the foregoing establishes that shortly after its formation in 1919, Respondent became a part of the "World-Communist Party", dominated and controlled by the Soviet Union; that in 1924, Respondent was "amalgamated" pursuant to instructions of the Soviet Union; that in 1929, a factional dispute in Respondent was settled by the Soviet Union and new leadership of Respondent was installed according to directives from the Soviet Union; that in 1940, Respondent publicly announced "disaffiliation" from the Communist International (organizational form of the World Communist Party) and that the real reason being to avoid registration as a foreign agent and its "disaffiliation" was merely pro-forma and represented no change; that from May 1944 to June 1945, Respondent's name was changed to Communist Political Association and Respondent followed the tactical maneuver of advocating the possibility of peaceful co-existence between the United States and the Soviet Union; that in June 1945, Respondent changed its name back to the Communist Party under circumstances in which the Soviet Union played an active part; and that since June 1945 there have been no major or substantial organizational changes in Respondent.

In addition to the fact that the variations in the organizational structure of Respondent have been based upon specific directives and instructions from the Soviet Union, these variations are a manifestation of Respondent's following the over-all Marxism-Leninism policy of doing what is opportune at any stage of the revolution, as later herein developed.

In determining whether or not Respondent is dominated and controlled by a foreign government, we have taken into consideration certain facts established on the record concerning the careers and activities in their official capacities of a number of Respondent's present leaders, including its national chairman, William Z. Foster. We have previously herein set forth the fact that Foster became a leader of

Respondent as a result of the solution in 1929 of the factional dispute in Respondent upon action by Joseph Stalin, and the Communist International. In this connection, it is pertinent to consider the following statement by Stalin in 1929 as contained in certain speeches he made on the American Communist Party (J.A. 1542):

> "The struggle for the winning of the millions of the working masses to the side of Communism must be intensified. The fight must be intensified for the forging of real revolutionary Party cadres and for the selection of real revolutionary leaders of the Party, of individuals capable of entering the fight and bringing the proletariat with them, individuals who will not run before the . . . storm and will not fall into panic, but will sail into the face of the storm" (Ex. 145, p. 111).

It is reasonable to conclude that the selection of Foster as a leader of Respondent following the speech of Stalin, indentifies Foster as the type of leader to whom Stalin referred.

We further find that for a number of years prior to 1940, Foster was an official of the Communist International; that Foster and Jack Stachel, among others, represented the Respondent at the Seventh World Congress of the Communist International in Moscow in 1935; that Foster is a recognized spokesman for the world Communist movement; that Foster is recognized among Communists as an authority on and follower of Marxism-Leninism; that Foster in 1944 did not push his objections to the formation of the Respondent as the Communist Political Association but rather refrained from deviating, for the stated reason that he would have been expelled if he had. In view of the foregoing, and upon the whole record, we conclude that William Z. Foster has been controlled in his activities as a top leader of Respondent by leaders of the Soviet Union and, during its existence, by the Communist International; and we find that this furnishes some evidence that Respondent as an organization has been and is controlled by the Soviet Union.

We further find that a substantial number of Respondent's present leaders including Foster, Stachel, Bittelman, Green, Winter, and Williamson have been to the Soviet Union on numerous occasions on Party business and have been indoctrinated and trained in the Soviet Union on Russian strategy and policies. These leaders have taught in Party schools, written for the Party press, and spoken at Party meetings, on various phases of Marxism-Leninism, including the leading position of the Soviet Union, the concept of proletarian internationalism, and the necessity of revolutionary overthrow of imperialist nations, particularly the United States. We find that Foster and these other leaders of Respondent have accepted the views and policies of the Soviet Union and have carried such views and policies into Respondent, making them the views and policies of Respondent. We find that this fact furnishes additional evidence that Respondent is dominated and controlled by the Soviet Union.

In making the foregoing findings, we have taken into consideration the facts as to the recognition by Respondent's leaders of a disciplinary power in the Soviet Union, and the allegiance of such leaders to the Soviet Union, as elsewhere in this report set forth.

The variations in the organizational structure of Respondent can very well be said to conform to the over-all policy of Marxism-Leninism of doing what is expedient under the given circumstances at any stage of the revolution, as set forth in *Strategy and Tactics of the Proletarian Revolution* (Ex. 343, pp. 21-22; J.A. 1647-1659), one of Respondent's compilations of basic Marxist-Leninist material. It is pertinent at this point to determine the meaning of "Marxism-Leninism" as understood and followed by Respondent.

### 2. Marxism-Leninism

The Respondent's constitution (1948) (Ex. 374; J.A. 1695-1706) (readopted in 1950, J.A. 171) states in the first sentence of its Preamble: "The Communist Party of the

United States is a political party of the American working class, basing itself upon the principles of scientific socialism, Marxism-Leninism." Respondent's amended answer (pp. 10, 20-21, J.A. 171, 179-180, 182-183) also admits that Marxism-Leninism is basic to the CPUSA. Marxism-Leninism is nowhere in the record specifically defined. It should be noted that we recognize that the theory of Marxism-Leninism, as such, is not an issue in this proceeding. Nor is it our purpose to consider the merits of Capitalism vis-a-vis Communism. However, in view of the fact that Marxism-Leninism is declared to be basic to Respondent and because of the numerous references to it in the course of these proceedings, and in order to cast as much light as possible upon the issues involved, we have deemed it important to determine its actual meaning from the evidence of record. In this section, we present our findings of what it is, and how it is understood, used and followed by Respondent. We have limited ourselves here, in the main, to the meaning of Marxism-Leninism. The extent of Respondent's acceptance of it and adherence to it is more specifically treated in other portions of this report, wherein it is shown that adherence to Respondent's conception of Marxism-Leninism is evidentiary of submission to the domination and control of the Soviet Union.

In our determination we have had to reach certain conclusions concerning some of the terminology employed both in the writings and in the testimony of the witnesses. Where a difference in the meaning of any term appeared, we have given it the meaning warranted by a preponderance of the evidence.

The sources of Marxism-Leninism and also its corpus are to be found in the writings of Marx, Lenin and Stalin and their collaborators, which writings are generally referred to as the "Classics".[1] In order to understand the content of these Classics, we deem it desirable to present something of the background in which they are produced and also to indicate what we consider to be the chief

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[1] See Appendix "B", attached.

contributions of each of the above individuals to the Classics and to Marxism-Leninism.

In the middle of the nineteenth century, Karl Marx, a German scholar, and Frederick Engels, an Englishman, developed what became known as Marxism. This was a form of Socialism. The basic tenet of Socialism is the ownership by the state of all means of production and distribution. According to Marx, all society consisted of antagonistic classes, the principal one being the bourgeois or capitalist class, which, as a result of owning privately the means of production, exploited the propertyless working class. Marx announced particular interest in the propertyless factory workers whose numbers had increased as a result of industrialization. These factory workers he designated as the proletariat. Marx was influenced by the dynamic theories of the German philosopher Hegel, and applied Hegel's theories to the materialistic concepts of the Greek philosophers and developed a system which he called dialectical materialism. This is a theory of reality assuming continuous transformation of matter and dynamic inter-connection of things and concepts and implies social transformation through socialism toward a classless society. Marx came to the conclusion that the only true value was the labor of the industrial working class. It was his thesis that capitalism had to expand in order to continue to exist and, as it spread, the proletariat class would correspondingly increase in numbers. According to his conception of history, capitalism contained the seeds of its own destruction and consequently it was inevitable that the classless state of society which he designated as Communism would ultimately come about. In order to expedite this, he theorized, it was necessary that the proletarian class, which would be greater in numbers than the bourgeoisie, be organized and be given leadership by a political party of all the workers of the world. The objective of this party would be to bring capitalism to an end and substitute for it a dictatorship of the proletariat in a socialist state. Eventually, according to his theory, the dictatorship of the

proletariat would not be necessary because the state would wither away as soon as its citizens had become conditioned to living in a one-class society. Two of his most basic considerations were the class struggle and the world-wide character of the revolution. Much of this appears from the *Communist Manifesto* (Ex. 31, J.A. 1339-1342), published by Marx and Engels in 1848.

Lenin, a Russian revolutionist, adapted Marxism to Russian revolutionary purposes.[1] He proceeded to implement it in a way that gave it a practical turn. He utilized slogans. Consequently, he gave capitalism a new name: "imperialism". The quintessence of imperialism is monopoly-capitalism which "is the eve of the proletariat social revolution". He recognized that for the success of the proletariat revolution two things were most important: rigidity of organization and flexibility of policy. Organizationally, one of his first postulates was the necessity of creating a homogeneous group of disciplined professional revolutionists, among whom no factionalism or dissent would be tolerated, as a nucleus for the party of the proletariat. It should be noted that the Communist Party was formed in 1898 in Russia.[2] Lenin's group therein, the Bolsheviks, obtained control of that party in Russia because it was an intransigent body which permitted no deviation or compromise.

Stalin later advanced the Marxist-Leninist ideas to a practicality which developed somewhat differently from Marxist theoretical schemes. He says (*History of the CPSU(B)*) (Ex. 330, pp. 355, J.A. 1629):

> "The Marxist-Leninist theory is the science of the development of society, the science of the working-class movement, the science of the proletarian revolution, the science of the building of the Communist society. And as a science it does not and cannot stand still,

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[1] See foreword to *What Is To Be Done?* (Ex. 417; J.A. 1734-1736), by Alexander Trachtenberg, one of Respondent's leaders and manager of International Publishers.

[2] Trachtenberg's Foreword to *What Is To Be Done?* (Ex. 417; J.A. 1734-1736).

but develops and perfects itself. Clearly, in its development it is bound to become enriched by new experience and new knowledge, and some of its propositions and conclusions are bound to change in the course of time, are bound to be replaced by new conclusions and propositions corresponding to the new historical conditions."

What this means becomes clearer from what he previously stated (J.A. 1628-1629):

"The power of the Marxist-Leninist theory lies in the fact that it enables the Party to find the right orientation in any situation, to understand the inner connection of current events, to foresee their course and to perceive not only how and in what direction they are developing in the present, but how and in what direction they are bound to develop in the future."

There is also clarification in what he says subsequently (J.A. 1630) when he tells how Lenin altered Marxism because of his experience in the Russian revolutions of 1905 and 1917. The tactical aspects of the theory thus attains a flexibility which would appear to make it mean what the current leaders of the CPSU want it to mean. So regarded, the theory supplies an easy explanation for all phenomena and furnishes a justification for any line of conduct which these leaders have adopted.

Marx, Lenin and Stalin represent the supreme authorities of what became known as Marxism-Leninism as these writings constitute its body. All postulated the revolution on a world-wide basis. Lenin, and after him Stalin, proclaimed that it was not necessary to wait until the proletariat throughout the entire world was ready for a revolution, but that the attack against the capitalist world rightfully began by breaking its chain at the weakest link, which proved to be Russia. The Communists in Russia having succeeded, they then sought help from the proletariat throughout the world to support their victory. They also proceeded to try to foment revolution in any part of the

world where it had a chance of being successful. The best example of applied Marxism-Leninism is the Communist International. That this organization is based on Marxism-Leninism appears from the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, pp. 231-232; J.A. 1628-1632). (See also pp. 19-20 and 25, under Organization and Leadership, *supra*). Using the Communist International as an instrument, the Soviet Union, as the leader of an integrated organization with subsidiary groups throughout the world, issued directives to the Communist parties in the several countries. What these directives were and how they applied to Respondent will appear in a discussion of the Classics and of the testimony of witnesses which follows, as well as in various other sections of this report.

Against this background, it is pertinent to inquire why the Classics were written. An examination of their content discloses that they were intended to create, promulgate and advance the world revolution of the proletariat. At an intermediate stage, they concentrated in large measure on Russia. At no time, however, was the main objective forgotten and when the revolution was successful in Russia, the emphasis was again brought back to the revolution on an international scale.

It should be noted that in the summaries, paraphrases, and quotations from the Classics which follow, we have conscientiously striven, and, we believe, successfully so, for complete accuracy and have endeavored to hold closely to the essence of the material being analyzed. Where excerpts have been quoted, we have selected those which we consider representative of the whole tenor of the writing from which they are taken.

How basic the international and revolutionary factors of Marxism-Leninism are appears at its inception in *The Communist Manifesto* (Ex. 31); "The history of society is the history of class struggles." (p. 9) "The bourgeoisie has played a most revolutionary role in history." (p. 11) ". . . and are now to be superseded by the proletariat

through similar means." (p. 15) The proletarians have become organized into a class and consequently into a political party (p. 18). Of all the classes opposing the bourgeoisie, the proletariat alone is a really revolutionary class (p. 19). The Communists are a proletarian party whose aim is the conquest of political power by the proletariat (p. 22). The proletariat will become the ruling class and will use its political supremacy to wrest all capital from the bourgeoisie. The measures used to do this will be different in different countries (p. 30). The Communists everywhere must support every revolutionary movement against the existing order of things. Their ends can only be attained by the forcible overthrow of all existing social conditions. Workingmen of all countries are exhorted to unite for the Communist revolution (p. 44) (see J.A. 1339-1342).

This international and revolutionary aspect is further stressed in the writings of Lenin and Stalin. In *State and Revolution* (Ex. 139), Lenin objects to the "chauvinism" of those "leaders of Socialism" who would water down Marx's doctrine by limiting it to single states (p. 5). Speaking of the Russian Revolution of 1917, he states: "This revolution can be understood in its totality only as a link in the chain of Socialist proletarian revolutions called forth by the imperialist war" (p. 6). "A Marxist is one who *extends* the acceptance of the class struggle to the acceptance of the dictatorship of the proletariat" (p. 30). In *The Dictatorship of the Proletariat* (Ex. 423, pp. 47-48; J.A. 1749-1751), one of Lenin's fundamental postulates is quoted by Stalin on the international question: International imperialism cannot live side by side with the Soviet Republic and the greatest difficulty of the Russian Revolution is "the necessity to solve international problems, the necessity to call forth the world revolution" (J.A. 1750). Stalin makes this thought even clearer in *Foundations of Leninism*. He says (J.A. 1428) that Leninism is not merely a Russian but an international phenomenon; and (J.A. 1429) that the Russian Communists were im-

pelled by the whole situation, domestic and foreign, to transfer the struggle to the international arena. The same thought is even more forcibly expressed in Stalin's definition of Leninism (*Problems of Leninism*, (Ex. 138, pp. 7-9; see also p. 19) (J.A. 1500-1503)). From this definition it is clear that the whole movement based on Marxism-Leninism is regarded by its founders and chief protagonists as an internationalism which must operate with common theory and strategy and tactics in all countries. It is inescapable that all those working for the ultimate ends of the movement must work in unison and in one cohesive organization on a world-wide basis. This thought is expressed strongly in the Theses and Statutes of the Third (Communist) International (Ex. 8, p. 67):

> "4. It follows from the fundamental principles laid down above, that the policy of the Communist International on the National and Colonial questions must be chiefly to bring about a union of the proletarian and working masses of all nations and countries for a joint revolutionary struggle leading to the overthrow of capitalism, without which national equality and oppression cannot be abolished.
>
> "5. The political situation of the world at the present time has placed the question of the dictatorship of the proletariat in the foreground, and all the events of world politics are inevitably concentrating around one point, namely, the struggle of the bourgeois world against the Russian Soviet Republic, which is grouping around itself the Soviet movements of the vanguard of the workers of all countries, and all national liberation movements of the colonial and subject countries, which have been taught by bitter experience that there can be no salvation for them outside of a union with the revolutionary proletariat, and the triumph of the Soviet power over Imperialism."

The same thought suffuses the Classics throughout. It is not a tenet that can be accepted here and rejected there.

It is integral in the whole texture of the material of the movement which those Classics represent. Like a fast dye, it colors every portion of that movement and cannot be eradicated because it is of its very essence.

It would burden this report unduly to quote in extenso the references in the Classics to the international and revolutionary nature of Marxism-Leninism and the interrelation of the sections of the Communist parties in all countries which it requires. Attention is directed to a number of places where these references are deemed particularly significant:

*Foundations of Leninism* (Ex. 121, pp. 17-19; p. 45, last par. and p. 46; J.A. 1427-1443); *History of the Communist Party of the Soviet Union* (B) (Ex. 330, pp. 273-75; J.A. 1618-1632); *State and Revolution* (Ex. 139, pp. 5, 6); *The Theory of the Proletarian Revolution* (Ex. 422, pp. 85-89; J.A. 1746-1748); *The Dictatorship of the Proletariat* (Ex. 423, pp. 48-49; J.A. 1749-1751).

We conclude from the above that the Classics advocate a revolution of the proletariat on an international basis, through the instrumentality of an international organization.

The primary objective of the world revolution is the termination of capitalism and establishment of the dictatorship of the proletariat. Lenin used the word "imperialism" to designate what he calls the parasitism and decay of capitalism at its highest stage of historical development (*Imperialism*, Ex. 140, p. 14). This imperialism is the arch enemy of the proletariat (J.A. 1520-1521):

> "Not the slightest progress can be made toward the solution of the practical problems of the Communist movement and of the impending social revolution unless the economic roots of this phenomenon are understood and unless its political and sociological significance is appreciated.
>
> "Imperialism is the eve of the proletarian social revolution. This has been confirmed since 1917 on a world-wide scale."

It should be noted that the Classics emphasize strongly the use of slogans. The word "imperialism" and its adjective-noun form "imperialist" are used therein to form a variety of slogans. Thus, it will be seen from *The History of the Communist Party of the Soviet Union* (Ex. 330, pp. 167-69) that the Bolsheviks advanced the slogan of "*converting the imperialist war into a civil war*" and the slogan-policy of "*the defeat of one's own government in the imperialist war*" (J.A. 1618-1619). As a corollary to this approach, wars are designated as "just" and "unjust". The "just" or "anti-imperialist" war is waged assertedly to liberate the oppressed from the yoke of imperialism. The "unjust" war is supposedly to conquer and enslave others. Wars of the first kind, the Bolsheviks supported. Of wars of the second kind, the Bolsheviks said, a resolute struggle must be waged against them to the point of revolution and the overthrow of one's own imperialist government (J.A. 1619). From these pages it will be seen that, according to Lenin, while capitalism is decaying and moribund, "imperialism" would not rot on the stalk; it could not be overthrown without a revolution.

We conclude from this that the Classics designate as the enemy, against which the international revolution must be directed, that form of capitalism which they term "imperialism"; and that they declare that any war waged against such imperialism is a just war and any war waged in its behalf is an unjust war.

Equally basic with the international and revolutionary character of the movement is the tenet of the dictatorship of the proletariat. In view of the divergence of testimony of witnesses for Petitioner and those of Respondent concerning the meaning and application of this tenet, we have taken particular pains to ascertain its real character. It is best understood from the volume *Dictatorship of the Proletariat* (Ex. 423, J.A. 1749-1751), which is one of a series of "Readings in Leninism", consisting of articles and excerpts dealing with basic points of Leninist theory. Lenin's postulates on this question (pp. 47-54 of Ex. 423) make clear how important this phase of the revolution is

deemed. Having once seized power through revolution, he states it becomes necessary that this power be held by a "dictatorship of the proletariat". A definition of what this is intended to be appears on page 49:

> "The dictatorship of the proletariat is not the end of the class struggle but its continuation in new forms. The dictatorship of the proletariat . . . which has achieved victory and has seized political power, against the bourgeoisie who have been defeated but not annihilated, who have not disappeared, who have not ceased their resistance, who have increased their resistance."

Lenin makes clear that this dictatorship is not to be confused in any way with "popular" and "non-class" government. He goes on to say:

> "The class that has seized political power has done so, conscious of the fact that it has seized power alone. This is implicit in the concept of the dictatorship of the proletariat: This concept has meaning only when one class knows that it alone takes political power into its own hands, and does not deceive either itself or others by talk about popular, elected government, sanctified by the whole people."

Having seized power, the proletariat may find it necessary to enter into certain alliances to maintain that power. These alliances, however, are only temporary for the purpose of consolidating the revolutionary victory. It is emphasized again on page 52 that violence is essential, although not exclusive. The following passages are enlightening (J.A. 1750):

> "But of course, the dictatorship of the proletariat does not merely mean violence, although there is no dictatorship without violence.
>
> "Dictatorship (says Lenin) does not mean violence alone, although it is impossible without violence. It likewise signifies a higher organization of labor than

that which previously existed. (*Collected Works*, Russian edition, Vol. XXIV, p. 305)"

It involves the concept of "exercise of violence, unrestricted by law" (p. 54). Also significant is the position to be held by the Communist Party in the dictatorship of the proletariat. It is stated (p. 100): "The stronger the Communist Party created by us in each country the sooner will the 'Soviet idea' triumph." The Communist Party has declared itself to be necessary to the working class not only before the seizure of power and not only during the seizure of power, but before the power has passed into the hands of the working class. It is further stated (p. 101) that the Party must keep in control until the classless society is finally attained.

From *Problems of Leninism* (Ex. 138, pp. 34-38, J.A. 1500-1510) it will be seen what meaning Lenin and Stalin give to the dictatorship of the proletariat. At the core of the dictatorship is the Party which gives directions. These directions are carried out by the mass organizations of the proletariat and are fulfilled by the general population. The minority seizes power and controls because the exploited workers have not yet developed their human faculties. There is another step which may become necessary. If the bourgeoisie resist or there is intervention in its behalf then the active body is the proletariat as a class. The Party takes power, the Party governs the country, and it is the core of this power; but it takes power in the name and purportedly on behalf of the class.

In *Foundations of Leninism* (Ex. 121, p. 53), the origin of the dictatorship of the proletariat is thus stated (J.A. 1431-1432):

> "Briefly: *the dictatorship of the proletariat is the rule—unrestricted by law and based on force—of the proletariat over the bourgeoisie, a rule enjoying the sympathy and support of the labouring and exploited masses.* (The State and Revolution.)

"From this follow two main conclusions:

"*First conclusion*: The dictatorship of the proletariat cannot be 'complete' democracy, democracy for *all*, for the rich as well as for the poor; the dictatorship of the proletariat 'must be a state that is democratic in a new way—for * the proletarians and the propertyless in general—and dictatorial in a new way—against * the bourgeoisie . . .' (Lenin, *Selected Works*, Vol. VII, p. 34.)" * My italics.—J.S. (Ex. 121, p. 53).

"*Second conclusion*: The dictatorship of the proletariat cannot arise as the result of the peaceful development of bourgeois society and of bourgeois democracy; it can arise only as the result of the smashing of the bourgeois state machine, the bourgeois army, the bourgeois bureaucratic machine, the bourgeois police." (Ex. 121, p. 54).

We conclude that "dictatorship of the proletariat" as used in the Classics connotes a seizure of power by or in the name of the proletariat through violence, if necessary, and the absolute and despotic rule by a minority in the name of the proletariat.

In addition to the requirements for a rigid Party organization with a hard core of dedicated workers, noted above, the over-all policies and rules for effectuating the ends and objectives of the Party are to be found in the Classics. These are effected through an organizational principle known as "Democratic Centralism" and by general directions for strategy and tactics.

The *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, p. 198, J.A. 1623) states that in July and August 1917, prior to the successful October Revolution, the CPSU adopted "new Party rules" providing that "all Party organizations shall be built on the principle of *democratic centralism*", which provided, inter alia, that all directing bodies of the Party shall be elected; that they give periodic reports to Party organizations; that there be strict Party discipline and the subordination of the

minority to the majority; and that all decisions of higher bodies shall be absolutely binding on lower bodies and on all Party members.

*Strategy and Tactics of The Proletarian Revolution* (Ex. 343, p. 62) states (J.A. 1658):

> "The Party is the vanguard of the working class, and consists of the best, most class-conscious, most active and most courageous members. It incorporates the whole body of experience of the proletarian struggle. Basing itself upon the revolutionary theory of Marxism and representing the general and lasting interests of the whole of the worl ng class, the Party personifies the unity of proletarian principles, of proletarian will and of proletarian revolutionary action. It is a revolutionary organization, bound by iron discipline and strict revolutionary rules of democratic centralism, which can be carried out owing to the class-consciousness of the proletarian vanguard, to its loyalty to the revolution, its ability to maintain inseparable ties with the proletarian masses and to its correct political leadership which is constantly verified and clarified by the experiences of the masses themselves."

"Democratic Centralism" is stated by the witnesses for Respondent to represent the highest form of democracy in that it provides that all decisions and policies of the Party are determined by the membership and that authority flowed up from this membership through intermediate local and regional committees to the central committee. A decision once made, however, would be binding on all members. Witnesses for Petitioner testified that "Democratic Centralism" was theoretically a two-way process by which authority flo ed upward from Party cells through intermediate local or regional committees to the top and discipline flowed downward from the same channels. However, they stated that in practice the double process has been reduced to a single process in which discipline flows

downward with limited right of discussion in the lower echelons on matters of local tactics.[1]

This policy is strongly expressed in the *Programme of the Communist International* (Ex. 125, p. 84, J.A. 1464):

> "This international Communist discipline must find expression in the subordination of the partial and local interests of the movements to its general and lasting interests and in the strict fulfillment, by all members, of the decisions passed by the leading bodies of the Communist International."

The idea behind democratic centralism is best expressed by Stalin in *Foundations of Leninism* (Ex. 121, pp. 119-121, J.A. 1442): What is required for success is an iron party under iron discipline. A Communist Party will only be able to perform its duty if its Party center is a powerful and authoritative organ. No factions are permitted—there must be absolute unity of will and that must emanate from the Party's center. All groups or factions which disagree must be immediately expelled.

We conclude from the whole record that "Democratic Centralism", as it is used in the Classics, is an organizational principle which contemplates a rigid discipline emanating from the top of the movement, binding on the parent and all subsidiary organizations and on all members

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[1] As witness Kornfeder states it, (J.A. 306) he was taught that the Party's basic form of organization is a super-centralized political party with a high degree of discipline. He describes it as a military type of political organization with an established chain of command, permitting lower units considerable leeway in discussing local tactical problems. He states that he was taught that the general staff or the general headquarters of the organization was the Communist International, in Moscow. At the time of which he speaks, he says that the Communist parties of all countries were affiliated with the Communist International. Witness Philbrick stated (J.A. 780-781) when asked whether a member of his group could refuse to accept the decision of the Cominform and still continue membership in the Communist Party of the United States, that such member could not continue as a member of the Party. Witness Lautner (J.A. 973-974) says that it was a breach of democratic centralism for any Communist Party anywhere, including the CPUSA, to refuse to follow the dictates of the Soviet Union.

of such organizations. Failure to adhere to such discipline is punishable by expulsion from the movement.

With the organizational structure thus indicated, the Classics then provide strategic and tactical directions for arriving at the objectives of Marxism-Leninism.

One of the characteristics of Marxism-Leninism is that in addition to its doctrine it also provides directives for the attainment of the objectives contemplated by such doctrine. Marxism-Leninism is declared to be a guide to action. *(History of the CPSU (Bolshevik))* (Ex. 330, p. 306, J.A. 1630). While the ends to be reached are fixed, the manner and methods of reaching them, it will be seen, are exceedingly flexible. What these are appear most concisely in *Strategy and Tactics of The Proletarian Revolution* (Ex. 343, J.A. 1647-1655). In summary, it states the following: The strategy and tactics were elaborated in the period of proletarian revolution when the question of the overthrow of the bourgeoisie became a question of immediate practice. Lenin brought into the light of day the ideas of Marx and Engels on tactics and strategy and developed them further into a "*system of rules and principles for the leadership of the class struggle of the proletariat.*" (J.A. 1648). Communists of every country must adapt themselves to the peculiar features of the economics, politics, culture and national composition of the country in which they are operating (J.A. 1649). As long as national and state differences exist among peoples and countries, the unity of international tactics of the Communist working-class movement requires, not the elimination of variety, but an adaptation of the fundamental principles of Communism (Soviet power and the dictatorship of the proletariat) to the national and state differences. The vanguard of the working class having been won over, the next step is to seek the transition or approach to the proletarian revolution (J.A. 1650). The revolutionary class must be able to master all forms of social activity and must be ready to pass from one form to another with the utmost expedition (J.A. 1650). The

tactics of the Bolsheviks were correct because they were the only international tactics and did everything possible in one country for the development, support and stirring up of the revolution in all countries (J.A. 1651). Bolshevism has helped in a practical way to develop the proletarian revolution in Europe and America (J.A. 1651-1652). The world proletarian revolution has been assisted, accelerated and supported by the victory of the proletariat in Russia (J.A. 1652). The objective elements of the working class movement are the economic development of the country, the development of capitalism, the disintegration of the old government, the spontaneous movements of the proletariat. The collision of classes proceeds irrespective of the will of the proletariat. But the subjective element, the reflection in the minds of the proletariat of these processes, is the subject of the directing influences of strategy and tactics (J.A. 1652-1653). The theory of Marxism postulates that the fall of the bourgeoisie, the seizure of power by the proletariat and the replacement of capitalism by socialism are inevitable (J.A. 1653). Strategy is the determination of the direction of the main blow of the proletariat at a given stage of the revolution (J.A. 1654) and it changes with the transition of the revolution from one stage to another and remains unchanged throughout the duration of a given stage (J.A. 1655). Tactics are the determination of the line of conduct of the proletariat during the ebb and flow of the movement, changing the forms of struggle and its slogans (J.A. 1656). Thus, in the Russian revolution changes were made as the struggle progressed; strikes, boycotts, slogans were used and varied along with the forms of organization, a worker's party operated more or less openly, as the immediate situation required. In the earlier phases the Party was compelled to resort to tactics of retreat. When the revolution ebbed, operations were less open and the Party went underground; and cultural work and the organizations "permitted by law" took the place of revolutionary mass organizations. The same was true

during later stages of the revolution (J.A. 1656-1657). Tactics are the operations suited to the concrete situation of the struggle at any given moment (J.A. 1657). The successful struggle for the dictatorship of the proletariat presupposes the existence in every country of a compact Communist Party, hardened in the struggle, disciplined, centralized and closely linked up with the masses. The Party is a revolutionary organization, with these fundamental strategic aims: It must extend its influence over the majority of the members of its own class, including working women and youth. It must secure predominant influence in the broad mass proletarian organizations, e.g., trade unions, factory councils, cooperatives, sport and cultural organizations. It is particularly important to win over the trade unions (J.A. 1456). Leadership of wide sections of the toiling masses should be acquired by the proletariat and the membership of the middle classes of the peasantry must be secured (J.A. 1456). It must carry on propaganda against all forms of "chauvinism" and against "imperialist" maltreatment of enslaved peoples and races (e.g., Negroes, "yellow labor" and anti-semitism) (J.A. 1457). In determining its line of tactics, each National Communist Party must take into account the concrete internal and external situation, the correlation of class forces, the degree of stability and strength of the bourgeoisie and fit slogans and methods of struggle to the circumstances of the particular country. Demands and slogans must be lent to the revolutionary aim of capturing power and overthrowing bourgeois capitalist society. The Party is to utilize the daily needs and struggles of the working class as a starting point from which to lead the working class to the revolutionary struggle for power (J.A. 1458-1459). When the ruling class is disorganized, propaganda in favor of increasingly transitional slogans and mass action should be used. Strikes and armed demonstrations should be used, as well as intensified revolutionary work in the army and the navy (J.A. 1459). When conditions are right, it is dangerous to fail to start

rebellion. When the revolutionary tide is at ebb, partial slogans and demands should be made which correspond with the everyday needs of the workers. United front tactics should then be used (J.A. 1460). In this period of marking time, demands and slogans should be made in such spheres as labor, local politics and world politics, e.g., the attitude toward the USSR, the struggle against "imperialism" and the war danger, and systematic preparation for the fight against imperial war (J.A. 1461-1462). Also systematic work must be carried on among the proletarian and peasant youth; and, in imperialist countries, Communist Parties must impair the war effort against colonies (J.A. 1462). The further consolidation of the Land of the Soviets, the mighty growth of the international authority of the Communist Party of the Soviet Union, the growth of the Communist International are all accelerating the development of the world Socialist revolution (J.A. 1658). The capitalist world is entering a period of sharp clashes. The united front of the working class must be established. The victory of the revolution has to be prepared for by a strong proletarian revolutionary party (Ex. 343, 81-82; J.A. 1658). When the country in which they live engages in an imperialist war in order to utilize the economic and political crisis, it is the duty of Communists to turn the war into a civil war for the overthrow of capitalism (J.A. 1463). Should an imperialist war break out, the interest of the workers of all countries demands that the defense of the Soviet Union be considered paramount (J.A. 1463, 1659).

From this resume, it becomes apparent that the rules for making the doctrine effective have within them instructions for short range and long range action and that they are intended for more than local application. In addition, there has been provided an elasticity which makes them applicable under an endless variety of circumstances. Considerable significance, therefore, may attach to their use by allied groups under given

circumstances at a given time. Therefore, the manner and extent of their application by the CPUSA is a factor to be considered in determining whether the United States Party is a part of a world-wide movement and whether it is dominated and controlled by the Soviet Union.

Another factor of Marxism-Leninism which pervades the Classics with the same insistence as its international revolutionary character is the dominant position of the Soviet Union, that is to say, the Communist Party of the Soviet Union, in the world Communist movement. At an earlier date, i.e., after the successful revolution in Russia, Stalin points out (*Problems of Leninism* (Ex. 138, p. 64, J.A. 1510)) that for an ultimate victory of socialism in the world, the protection of that Russian victory by workers of all countries is necessary. In *Foundations of Leninism* (Ex. 121 at p. 19) he quotes Lenin (J.A. 1429-1430):

> "'History has now confronted us [i.e., the Russian Marxist-J.S.] with an immediate task which is the *most revolutionary* of all the *immediate* tasks that confront the proletariat of any country. The fulfillment of this task, the destruction of the most powerful bulwark, not only of European, but also of Asiatic reaction, would make the Russian proletariat the vanguard of the international revolutionary proletariat'.
>
> "In other words, the centre of the revolutionary movement was bound to shift to Russia.
>
> "As we know, the course of the revolution in Russia has more than vindicated Lenin's prediction.
>
> "Is it surprising, after all this, that a country which has accomplished such a revolution and possesses such a proletariat should have been the birthplace of the theory and tactics of the proletarian revolution?

"Is it surprising that Lenin, the leader of this proletariat, became the creator of this theory and tactics and the leader of the international proletariat?"

* * * * *

In *The Theory of the Proletarian Revolution* (Ex. 422, p. 87, J.A. 1747) Stalin states it is necessary to support Russia in order to make it "the basis of the further unfolding of the world revolution, into the lever for the further disintegration of imperialism." He emphasizes this (J.A. 1747) by asserting that "the victorious proletariat of Russia" should "after it has expropriated the capitalists and organized its socialist production at home," rise against the capitalist world, attract to itself the oppressed classes of other countries, raise insurrection in them against the capitalists, and even use military force against the exploiting classes and their states.

Dimitroff in *The United Front* (Ex. 149, at pp. 279 and 280; J.A. 1545-1548) restates the importance of the USSR to the international proletariat. And in the *Theses and Statutes of the Third (Communist) International* (Ex. 8, p. 67, J.A. 1332) it will be seen that the Russian Soviet Republic is "grouping around itself the Soviet movements of the vanguard of the workers in all countries."

What is being advocated is an extension of Lenin's hard core principle to a wider area: Whereas in the Soviet Union the Party is that core, in the world scheme the USSR becomes the center. As such, it must be protected, and from it will emanate leadership which will direct and hold together the party in other countries. This thought is thus expressed in *Strategy and Tactics of the Proletarian Revolution* (Ex. 343, p. 81, J.A. 1658):

"In the struggle to defend against fascism the bourgeois-democratic liberties and the gains of the toilers, in the struggle to overthrow fascist dictatorship, the revolutionary proletariat prepares its forces, strengthens its fighting contacts with its allies and

directs the struggle toward the goal of achieving real democracy of the toilers—Soviet power.

"The further consolidation of the Land of the Soviets, the rallying of the world proletariat around it, and the mighty growth of the international authority of the Communist Party of the Soviet Union, the turn toward revolutionary class struggle which has set in among the Social-Democratic workers and the workers organized in the reformist trade unions, the increasing mass resistance to fascism and the growth of the revolutionary movement in the colonies, the decline of the Second International and the growth of the Communist International, *are all accelerating and will continue to accelerate the development of the world Socialist revolution.*"

At pages 95 and 96 (J.A. 1659) it is declared that if an imperialist war breaks out, the defense of the Soviet Union must be considered paramount.

It will be seen from the above that allegiance to the Soviet Union assumes considerable proportions in the Classics of Marxism-Leninism. First, after the 1917 Revolution, it must be protected from outside intervention. Thereafter, its role as a leader of a successful world revolution is stressed. At all times, loyalty and assistance are due it in any conflict which may arise between it and any "imperialist" power.

We conclude from the Classics that the Soviet Union has a specific place in Marxism-Leninism; it represents the first victory of the proletariat; therefore, it is the center of the world proletariat and it is entitled to the allegiance of the proletariat everywhere. The authority of its Communist Party is international. The corollary of this is that a Communist Party which adheres to Marxism-Leninism is, of necessity, under the domination and control of the Soviet Union.

It is also evident from the Classics that as the Soviet Union is to be considered the leader of the world

proletariat in the class war, so the United States takes on a special importance as the mightiest of the "imperialist" powers, the arch enemy of the proletariat. Lenin, in *Imperialism* (Ex. 140, p. 125, J.A. 1521) states: "In the United States economic development in the last decades has been even more rapid than in Germany, and for this very reason the parasitic character of modern American capitalism has stood out with particular prominence." Stalin points out (*Foundations of Leninism*, Ex. 121, last par., p. 55 and 1st two pars., p. 56, J.A. 1432-1433) that conditions in the United States had changed since the days of Marx and that this country could no longer be considered one in which there could be a "peaceful evolution of bourgeois democracy into a proletarian democracy." The United States has become definitely "imperialistic" and "the law of violent proletarian revolution" becomes applicable to it (J.A. 1433-1434). This quotation from Lenin in this connection (J.A. 1433) reveals how strongly the Soviet Union felt that action was required in this country:

> "Today, said Lenin, 'in 1917, in the epoch of the first great imperialist war, this qualification made by Marx is no longer valid. Both England and America, the greatest and the last representatives—in the whole world—of Anglo-Saxon 'liberty', in the sense that militarism and bureaucracy were absent, have slid down entirely into the all-European, filthy, bloody morass of military-bureaucratic institutions to which everything is subordinated and which trample everything underfoot. Today, both in England and in America, the 'preliminary condition for every real people's revolution' is the smashing, the *destruction* of the 'ready-made state machine' (brought in those countries, between 1914 and 1917, to general 'European imperialist perfection.'" (*Selected Works*, Vol. VII, p. 37)

*A Resolution On The American Question* (Ex. 43) issued by the Communist International in 1929, begins with the statement that (J.A. 1352): "The United States of America has developed into the mightiest imperialist power . . . The task of the Workers (Communist) Party is to form a broad united front and to intensify the struggle against American imperialism." (See also R. 2290, 2338-2339). Specific attention is directed to this aspect of the approach to be used in applying Marxism-Leninism to the United States. In Dimitroff's *The United Front* (Ex. 149, pp. 41-43, J.A. 1546) an anti-fascist party is suggested. We find, at page 43, some revealing language. "Our comrades in the United States acted rightly in taking the initiative for the creation of such a party. . . . We should develop the most widespread movement for the creation of such a party, and take the lead in it." The "we" who are planning parties in the United States have "comrades" there who have already started work in that direction. The *Theses and Statutes of the Third (Communist) International* (Ex. 8, p. 28, J.A. 1326) has this to say:

> "The class struggle in almost every country of Europe and America is entering the phase of civil war. Under such conditions the Communists can have no confidence in bourgeois laws. They should create everywhere a parallel illegal apparatus which at the decisive moment should do its duty by the party, and in every way possible assist the revolution. In every country where, in consequence of martial law or of other exceptional laws, the Communists are unable to carry on their work lawfully, a combination of lawful and unlawful work is absolutely necessary."

In *Strategy and Tactics of the Proletarian Revolution* it is stated (J.A. 1651-1652):

> "Bolshevism has helped in a practical way to develop the proletarian revolution in Europe and America more powerfully than any party in any other country has ever succeeded in doing."

From these expressions, it must be concluded that the Classics disclose a positive attitude on the subject of the United States which makes it a prime objective for the activities of the Soviet Union and for any of its subsidiaries.

In order fully to understand what Marxism-Leninism is, the significance of certain of its programs and policies must be considered. Certainly in the Classics themselves, these programs and policies are all aimed at one objective: the forwarding of the world revolution. That such a revolution was not an evolutionary one in the normal use of this term appears from Stalin's statement in the *History of the Communist Party of the Soviet Union* (Ex. 330, p. 168; see J.A. 1618-1622) which he presents as one of Lenin's teachings; without a revolution of the working class capitalism cannot be overthrown; even though capitalism is moribund, it must be given the coup de grace (J.A. 1620):

> "Lenin showed that under imperialism the unevenness of development and the contradictions of capitalism have grown particularly acute, that the struggle for markets and fields for the export of capital, the struggle for colonies, for sources of raw material, makes periodical imperialist wars for the redivision of the world inevitable."

There is nothing to indicate that "The elements of a war of liberation from imperialism" is used in any figurative sense. The context in which this appears leads to a contrary conclusion.

Consequently, while some of the policies and programs may have a dual character, one of the elements of each of them is always the furtherance of the *war* against capitalism and of speeding the ultimate victory of the proletariat over the "imperialists". This we find to be so in work with and in labor unions, with youth and with minorities; it is the real purpose in resorting to secrecy, entering into united fronts, and in resorting to slogans;

it is the moti ating force in training Communists, requiring reports from them and insisting that they do not deviate from the strict Party line.

As appears from Lenin's *What Is To Be Done?* (Ex. 417, pp. 105, *et seq.*) the Marxist should not be interested in labor unions, as such, but rather from the use which can be made of such organizations as part of the revolutionary scheme. A union can be used as a front for political, agitational and revolutionary org nizations. As Stalin points out in *Problems of Leninism* (Ex. 138, p. 30, J.A. 1508-1509), they are the all embracing organizations of the working class. "They constitute a school of Communism." "They unite the masses of the workers with the vanguard." In effect, what Lenin and Stalin are saying is: Here are ready-made groups of substantial size, made up of members of the class which according to the labor theory of value are the exploited, and consequently should belong in the revolution; and infiltration of such groups by a hard core of diligent workers for the Party offers a ready field for propaganda and proselytizing. As it is stated in the *Theses and Statutes of the Third (Communist) International* (Ex. 8, p. 29, J.A. 1328),

> "Every party desirous of belonging to the Communist International should be bound to carry on systematic and persistent Communist work in labor unions, co-operatives and other labor organizations of the masses."

The same volume discusses the trade union movement (Ex. 8, p. 53, *et seq.*), and (J.A. 1331) it states: "Consequently, the Communists must strive to create as far as possible complete unity between the trade unions and the Communist Party, and to subordinate the unions to the practical leadership of the Party, as the advance guard of the workers' revolutions." *Strategy and Tactics of the Proletarian Revolution* (Ex. 343, pp. 67-68) states that ne of the principal ta ks of a Communist is the joining of a union to win the leadership in the workers' struggle.

We conclude that the Classics direct Communists to engage in activity in trade unions in order to utilize such unions for the purposes of the Party and to further the world revolution.

The Classics disclose that youth programs are considered to be important. Concerning the Young Communist League, Stalin says in *Problems of Leninism* (Ex. 138, p. 31), "Its task is to help the Party educate the younger generation in the spirit of socialism. It provides young reserves for all the other mass organizations of the proletariat in all branches of administration." Lenin's attitude on the necessity of particular emphasis on youth may be gleaned in part from two quotations in an article in *Political Affairs* (Ex. 477, pp. 86 and 88, J.A. 1775-1776):

> "Is it not natural for young people to predominate in our party, the party of revolution? We are the party of the future and the future belongs to the youth. We are a party of innovators and innovators are always followed most eagerly by the youth. We are a party of self-sacrificing struggle against the rotten old system, and the youth are always the first in self-sacrificing struggles."
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> * * * * *
>
> "The youth will decide the issue of the whole struggle, the student youth, and still more the working-class youth . . . Do not fear their lack of training, do not tremble at their inexperience and lack of development. If you are unable to organize and stimulate them to action, they will turn to the Mensheviks and the Gapons, and this inexperience of theirs will cause five times more damage. . . . Only you must unfailingly organize, organize and organize hundreds of circles. . . . Either you create new, young, fresh, energetic, militant organizations everywhere for revolutionary Social-Democratic work of all sorts and kinds, and among all strata, or you will perish, enveloped in the glory of 'committee' bureaucrats."

Dimitroff offers another reason for enlisting the efforts of youth (*The United Front*, Ex. 149, p. 150, J.A. 1546-1547):

> "The whole anti-fascist youth is interested in uniting and organizing its forces. Therefore you, comrades, must find such ways, forms and methods of work as will assure the formation, in the capitalist countries, of a new type of mass youth organizations, to which no vital interest of the working youth will be alien, organizations which, without copying the Party, will fight for all the interests of the youth and will bring up the youth in the spirit of the class struggle and proletarian internationalism, in the spirit of Marxism-Leninism."

There is no question that the enrolling and training of youth is deemed to have value in the world revolutionary movement. From the *Theses and Statutes of the Third (Communist) International* (Ex. 8, p. 8, J.A. 1322), it appears that the International League of Communist Youth was given a representative with a right to vote on the Executive Committee of the Communist International and the Communist International had the right to a similar representative on the Executive Committee of the League. And in the *Strategy and Tactics of the Proletarian Revolution* (Ex. 343, p. 69), it is stated that "Systematic work must also be carried on among the proletarian and peasant *youth* . . ." it will be seen from this that a youth program is considered an essential part of the activities of the Party in all countries and is required by the dictates of Marxism-Leninism.

We conclude that the Classics direct Communists to engage in youth programs for the purposes of the Party and to provide reserves for the world revolution.

In *Foundations of Leninism* (Ex. 121, p. 89, J.A. 1430), Stalin states that Lenin developed the tactics of Marx and Engels and combined them into a system of rules and guiding principles for the leadership of the class struggle. Among these, as noted above, is the use of slogans and

their propaganda value. (*Strategy and Tactics of the Proletarian Revolution*, Ex. 343, pp. 66-67); *Foundations of Leninism* (Ex. 121, p. 92). "Imperialism" is one of these; and as a corollary thereto, "anti-imperialism" and "just and unjust wars". "Peace" was another of the slogans which eventually came into use. These slogans have been used by the Soviet Union, by the Communist Parties throughout the world, and by the CPUSA. Their common use, contemporaneously and currently by the Soviet Union and the CPUSA, is significant. Their use also is recommended for the purpose of forwarding the world revolution. (*Strategy and Tactics, supra*).

The same can be said to apply to united front tactics. Throughout the Classics, the value of such tactics is stressed. The extent of such collaboration furnishes a considerable part of the texts of the writings of Lenin and Stalin. Dimitroff's *The United Front* (Ex. 149; J.A. 1545-1548) devotes itself to that tactical principle. Again, it should be noted that united fronts, at the organizational, political and national levels, are to be used but not in any way that might bolster capitalism. At all times they are to be used to protect the Party in Russia, to increase the number of its adherents and always to promote the world revolution. Their simultaneous adoptions by the Parties in various forms in various countries also cannot be ignored. This stands out particularly at the time of the Soviet Union's changes of alliances before and during World War II.

We conclude that the use of slogans as shibboleths for the purposes of Communist Parties, including Respondent, in order to advance the world revolution, is directed by the Classics.

Secrecy and its uses also finds a place of prominence in the Classics. (See Ex. 343, pp. 22-26; see J.A. 1657; and Ex. 417). Respondent contends that its practice by the CPUSA was not for the purpose of concealing foreign direction, domination and control or of expediting or promoting its objectives, but rather to protect its members

from local hysteria or from being harassed and penalized economically for the holding of unpopular views. In *What Is To Be Done?*, which Respondent urged its members to read as recently as 1951, Lenin shows how Party members can use trade unions as a front, keeping their identity as revolutionists secret. Stalin, in his speeches on the CPUSA (Ex. 109), published by the Central Committee of the CPUSA, in pamphlet form, speaks of the danger of exposing the "conspirative" nature of the Communist Party (J.A. 1425). The manner of use and timing, and the nature and degree of these practices negatives the contention of Respondent's witnesses (see also: J.A. 667-668). Certainly, as used in the Classics, secrecy was not always to be used for legal purposes. (*What Is To Be Done?*, Ex. 417, p. 7).

We conclude that the secrecy directed by the Classics is, among other things, for the purpose of concealing the conspiratorial nature of Communist Parties and for the advancement of the world revolution.

Operationally, it will be seen that the Classics propose a strong central organization, on an international as well as on a national scale. As Trachtenberg says in the introduction to *What Is To Be Done?* (Ex. 417): "Only a centralized party, working according to a carefully prepared plan, with each member assigned a specific task for which he is to be held accountable, could successfully lead the Russian working class in the struggle against capitalist exploitation and tsarist rule." Lenin points out that this, it is necessary for the organization to be composed of professional revolutionists, trained men, that no movement can be durable without a stable organization of leaders to maintain its continuity. The training of cadres is thus basic in the movement (p. 116); and in view of the centralized nature of the organization, leaders and cadres once trained, can be depended upon to keep in touch with the center of the movement and keep it informed of all that transpired by reports.

We conclude that the training of leaders and cadres and

the reporting by such leaders to the controlling body of the movement is directed by the Classics.

The position taken by the Classics on the questions of Minorities and Colonials is also basic to the whole movement advocated by Marx and Engels, Lenin and Stalin, particularly the latter two. Any contributions in those directions by their collaborators is no more than elaboration and amplification of the words of these four. They are implicit in Lenin's definition of imperialism (See Ex. 121, pp. 76-82; Ex. 138; Ex. 140; Ex. 343, pp. 63-65; J.A. 1434-1435, 1655, 1658). It will be seen from these and other portions of the Classics that the founders of the movement were not concerned with purely local conditions in Russia. In *Foundations of Leninism*, cited above, it becomes clear (p. 79) that the national problem is part of the general problem of the proletarian revolution to be used for that purpose only to the extent that it is of advantage to such revolution (J.A. 1427-1431). This also appears from *Strategy and Tactics* (*supra*, pp. 63-65; J.A. 1651-1652).

We conclude that the Classics contemplate work among Colonials and Minorities to advance the world revolution (see also; J.A. 1462-1463).

One of the requirements of Marxism-Leninism is conformity. Discipline is considered vital. Deviation from doctrine and practice is not permissible except in local problems in the area of minor tactics. That non-deviation is abjured is patent from *Foundations of Leninism* (Ex. 121, pp. 119-21, J.A. 1442):

> "The achievement and maintenance of the dictatorship of the proletariat is impossible without a party which is strong by reason of its solidarity and iron discipline. But iron discipline in the party is inconceivable without unity of will, without complete and absolute unity of action on the part of all members of the Party."

As stated by Stalin (J.A. 1442), the existence of factions is incompatible either with the party's unity or its iron discipline. He quotes Lenin:

"In the present epoch of acute civil war," says Lenin, "a Communist Party will be able to perform its duty only if it is organised in the most centralised manner, only if iron discipline bordering on military prevails in it, and if its Party centre is a powerful and authoritative organ, wielding wide powers and enjoying the universal confidence of the members of the Party." (*Selected Works,* Vol. X, p. 204).

The penalty for nonconformity is expulsion from the Party (p. 121). (See also *Strategy and Tactics,* Ex. 343, p. 62).

We conclude that the Classics require conformity on the part of all organizations and members in the movement and that no deviation from the party line is permitted on penalty of expulsion therefrom.

From the Classics themselves, Marxism-Leninism constitutes an uncodified system of political philosophy and practice which declares that it is inevitable that a classless state of society will be reached through an intermediate stage in which there will be socialist states controlled by dictatorships of the proletariat under the leadership of the Soviet Union. For the attainment of these dictatorships, a hard core of revolutionary zealots is required who operate under exceedingly flexible rules on an international basis. The vehicle for their operation is a so-called political party, the Communist Party, which is provided with strategic and tactical directives. The first objective is to bring to an end capitalistic (bourgeoisie) society. For this purpose, special attention must be paid to labor unions, youth, Minorities and Colonies. Temporary alliances, known as fronts, may be entered into, but always with the ultimate revolutionary goals in view. Capitalism is termed "imperialism". Slogans should be employed in aid of the Party's objectives. "Anti-imperialism" and "peace" are two of the slogans which may be effective. The leader of the movement which is integrated on an international scale, must be the Soviet Union, which must be protected as the first country in which the dictatorship of the proletariat

has been attained. All allegiance is due the Soviet Union as the leader of the vanguard of the proletariat. Force and violence shall be used to reach objectives if persuasion and guile are ineffective. Where lawful methods are effective, these should be used; where not, unlawful methods should be resorted to. Secrecy, where necessary, should also be used. Discipline must be rigid, though a certain amount of latitude is permissible in local tactical matters, under an organizational structure designated as democratic centralism. This is supposed to be a two-way process but orders emanating from the top, which is the Soviet Union, may not be ignored. Operations are to be on a world-wide basis, including in its sphere, *inter alia*, the United States. Taken on its face, Marxism-Leninism, as it appears in the Classics, is a system under which there is to be a world-wide revolution for the establishment of the dictatorship of the proletariat under the domination and control of the Soviet Union. This revolution is to take place in the various countries as conditions permit. An accepted Marxist-Leninist party is one which is a part of this system.

Subjecting the content of the Classics to further scrutiny in the light of the testimony of the witnesses for both sides, we are better able to reach a determination of the real meaning of Marxism-Leninism. All of the witnesses (except Petitioner's witnesses, Dr. Mosely, Logofet and Carrington) testified to some knowledge of the Classics and of Marxism-Leninism. They studied it, were taught it, or were subject to it in practice. Admittedly, the Classics have been in use by the members of the CPUSA continuously to the date of the hearings in this proceeding.

Respondent's chief witness concerning Marxism-Leninism was Herbert Aptheker, a teacher at the Jefferson School of Social Science, a school with a general Marxism-Leninism orientation (J.A. 1261), whom it offers as an expert and who says Marxism-Leninism principles are fundamental to the CPUSA. (J.A. 1262).

Summarized, his testimony is to the effect that Marxism-Leninism is in its inception and thereafter to be found in

the writings of Marx, Engels, Lenin Stalin and others (J.A. 1262-1267); that its heart is dialectic materialism; that its aim is the end of capitalization and the attainment of a socialist state which will eventually dissolve into Communism; that it is a science, usable in all countries as such and that in this sense it applies to the United States which is an "imperialist" nation; that it only contemplates revolution in the sense of an evolutionary change to rule by the proletariat, and that a dictatorship of the proletariat means rule by that class when that class represents a majority; that its international aspects are only fraternal and represent a similarity of interests of the working class of all countries; that the Classics are used for illumination and for historical background by Communists; that Marxism-Leninism provides a guide for action only as a science would be a guide for a scientific experiment; that it contains no directives and the CPUSA is not controlled or dominated by the Soviet Union thereby; that the name Marxism-Leninism is not used to denote any hidden meaning for the direction of initiates in the Communist movement (J.A. 1242-1274).

What is not clear from his testimony is the actual content of Marxism-Leninism and the extent of its applicability to the CPUSA. It is not possible to determine therefrom what portion of the Classics have asserted current validity and how much of Marxism-Leninism is acknowledged to be applicable in any particular place. Moreover, the credibility of his testimony as a whole is impaired by the inverted outlook it discloses. An example of this appears (J.A. 1272) from his explanation of Lenin's use of Aesopian language (*Imperialism*, Ex. 140, p. 7, J.A. 1518-1520) which Lenin said was used to avoid Czarist censorship when the pamphlet was originally written. Aptheker says, as a Marxist-Leninist scholar, that Marxists understood Lenin's use of Aesopian language not in terms of deception: Lenin was not trying to fool anybody; he was trying to illuminate ideas by the use of allegory (J.A. 1272). This is patently not so, as far as the censors were concerned. It did apply to the initiates of his own party.

Again, his insistence that Douglas was right in lying to a court because that court represented what the witness characterized as tyrannical oppressors is indicative of a viewpoint that might permit his conscience to misstate facts if they did not favor his side. His explanation that the American revolution was not in a real sense a revolution because the colonists were oppressed by England casts some doubt on his definitions of revolution and the dictatorship of the proletariat. Moreover, these definitions are not in accord with those which appear in the Classics. The evasiveness of Aptheker's testimony, and the distorted viewpoint, indicated above, renders extremely questionable what he says concerning Marxism-Leninism and the Classics and the extent to which they apply to the CPUSA.

Respondent's witness Gates adds little to the meaning to be given to Marxism-Leninism. He says it is a social science (R. 14353, 15032, 15360). He says that the CPUSA is an independent and completely autonomous organization (R. 15044). Concerning the Classics, he states that while *Problems of Leninism* has been used for teaching in the CPUSA schools, it is taught as historical writing and not as a blueprint or an order for Communists to follow all over the world and that it is not the program of the CPUSA (R. 15250).

Witness Flynn states that the Classics have been and are used in the Party schools as of the date of her testimony (June 26, 1952) but as reference books for history, and for the principles of Marxism-Leninism (R. 15968-15971).

The witnesses for Petitioner,[1] all of whom, as Party members, had some instruction in the meaning of Marxism-Leninism and some of whom were officials, writers or teachers for the Party, agree with Respondent's witnesses only to the extent that one of the component parts of Marxism-Leninism is the philosophic-sociological concept that capitalism must and will inevitably be superseded by a dictatorship of the proletariat which will eventually be succeeded

[1] Whose testimony we accept in this connection.

by a stateless class of society known as Communism. This original Marxist doctrine, they state, has superimposed on it the revisions and the supplementations of Lenin, Stalin, Dimitrov, and others which provide it with plans, policies, programs and directives to bring about the end of the present capitalistic era, designated as "imperialism", on a world-wide scale and by any means, including force and violence. The effort to bring about the dictatorship of the proletariat is an integrated effort of the working classes in all countries and the leadership thereof is in the Soviet Union, where it has succeeded.

Witness Lautner states (J.A. 970): "The leader of the world Communist movement is the General Secretary of the Communist Party of the Soviet Union, Joseph Stalin[1] . . . And the Party he represents". He says adherence to Marxism-Leninism has implicit in it complete subservience on the part of all Communist Party organizations, whether in the United States or elsewhere, and on the part of the individual members in all strategic and most tactical matters, to the rulers of the Soviet Union. The CPUSA adheres to Marxism-Leninism and consequently its Constitution is no more than a by-law (J.A. 979) to Marxism-Leninism and has no validity except insofar as it conforms thereto. Petitioner's witness Budenz, a former Party member and Editor of the *Daily Worker* testified (J.A. 1152-1153) when asked the meaning of the first sentence of the Party's 1945 Constitution (which sentence is identical with the first sentence of the 1948 constitution):

> "Marxism-Leninism is a well-known and historical term in the Communist documents and discussions. It is that interpretation of so-called scientific socialism based on the writings of Marx, Engels, Lenin and Stalin, and which holds as the goal of the Communist Parties of the world the necessity for the violent shattering of the bourgeoise states in order to set up in

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1 The record discloses no basis for any inference that the death of Stalin will terminate, lessen, or otherwise affect the domination of Respondent by the USSR.

their place a completely new state machinery, the dictatorship of the proletariat. This shall be achieved under Marxism-Leninism through the Party of the new type, the Bolshevik Party under Bolshevik discipline, which rejects the concept of class peace'' (J.A. 1153).

He goes on to state that the Communists in the United States at that time (1945) regarded the American government as a bourgeois state and that further statements in the Preamble concerning the Communist Party's defense of the United States Constitution were not reconcilable with the sentence above quoted. He goes on to say:

''The statements cannot be reconciled. The dedication of Marxism-Leninism is the dedication historically and categorically to the violent shattering of the bourgeoise state as the necessary step toward progress, and this other language in the light of that, since Marxism-Leninism principles prevail, is merely a window-dressing for legal protective purpose. It is part of the Aesopian language recommended by Lenin''[1] (J.A. 1153-1154).

He states further that the Classics were used in his work up to the time he left the Party (October 1945 (J.A. 1160-1161)). Speaking of his use of Aesopian language, he states:

''I referred to Marxism-Leninism. I referred to Stalin as the leader, teacher and guide, things of that sort, which was Aesopian to the extent that it presented Stalin as the leader, teacher, and guide, but didn't explain that he completely controlled the Communist movement, although I could have done it because Bittelman had stated in Milestones that Stalin was the leader, the Communist Party of the Soviet Union was the leader'' (R. 13304).

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[1] For a definition of ''Aesopian'', see ''Imperialism, the Highest Stage of Capitalism'' (Ex. 140, p. 7, n. 1, J.A. 1518, fn. 1).

He says, concerning Communist activity in the trade union movement: "No Communist is permitted to deviate from the line set down for the Communists of the world . . . " (R. 14330). Petitioner's witness Lautner, former Party member leader and teacher, tells what he was taught concerning the meaning of Marxism-Leninism, and at J.A. 947, states:

> "Marxism-Leninism taught us that monopoly capitalism or imperialism was a world-wide phenomenon, therefore there is need of a world-wide organization, an organization that has ties to successfully cope with this problem and eventually bring about the downfall of monopoly capitalism and imperialism."

Further, that the *Program of the Communist International* (Ex. 125, J.A. 1446-1472) was used by him in classes in 1947, 1948 and 1949 "because the program of the Communist International lays down the strategic aims of the Communist Parties" (J.A. 954).

Another witness for Petitioner, Meyer, said he taught Marxism-Leninism in Respondent's schools and that it was a body of doctrine which is first a philosophy of history, secondly, a guide to the Communist Party on the basis of that philosophy, in carrying out its historical role which is the overthrow of the capitalist system and its replacement with dictatorship of the proletariat to establish socialism which is to lead to the stage of Communism (J.A. 733). Petitioner's witness Philbrick, states he was taught this, and that the lessons of Marxism-Leninism were to be applied to present day affairs as a guide to action (J.A. 758 et seq.).

The witnesses for the Petitioner aver that the Classics represent a body of living doctrine and directives by which the Communists throughout the world are guided and governed. Witness Meyer testified (J.A. 689-691, 730) that the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, J.A. 1613-1632) was used on a living guide to revolutionary action based on the experience of

the Bolsheviks and the writings of Lenin and Stalin. He points to a speech by Trachtenberg made in Washington, D. C., in 1949, which declares that the leaders must know the Classics and be able to apply the basic principles to any current situation at any time (J.A. 748). Witness Matusow says, by way of example of current applicability of the Classics that the *Communist Manifesto*, (Ex. 31, J.A. 1339-1342), though 100 years old, "is just as relevant today as it was in 1848 when it was written." He goes on to say that this was so of other pieces of Marxist literature, pointing out particularly *The Young Generation* by Lenin, written in 1905 and used extensively in the Labor Youth League in 1949 (J.A. 1057). The Classics were in use by the CPUSA, to his knowledge, as of December 1950 (J.A. 1048-1049). Witness Evans says the Classics were used in the Marxist-Leninist Institute from April 1949 to June 1950 (J.A. 1104-1107). Witness Budenz testified (J.A. 1166-1167) that Trachtenberg, head of the cultural commission in charge of the direction of Communist cultural activities and in charge of the Party's general publishing field, stated he was not permitted to issue any Marxist literature, especially the Classics, without the authorization of the Marx Institute in Moscow. The *Daily Worker* used the Classics in its work (J.A. 1160-1161). He states that Dennis recommended: "A thorough return throughout the Party to the Marxist-Leninist Classics, particularly to the writings of Stalin, the History of the Communist Party of the Soviet Union, Foundations of Leninism, and Dimitrov's Report to the Seventh Congress, which dealt with the true nature of how to conduct the United Front while forwarding the Communist revolutionary aims" (J.A. 1145-1146). While writing for the *Daily Worker* (from 1935 to 1945), Budenz did not directly advocate the overthrow of the government by force and violence. This was done by reference to Marxism-Leninism and the Classics (J.A. 1185-1186). Witness Lautner testified that on the basis of the Classics, at the National Training School in 1941, he was taught how Lenin applied Marxism to the epoch of imperialism and estab-

lished a party of a new type; how Stalin applied this to the party as a force, the leading political party of the working class; that Marxism-Leninism was a guide to action in the party in the United States; that the aim of the party was to gain political and economic power in this country and that this was to be accomplished, on the basis of Marxism-Leninism, by a world-wide organization (J.A. 943-947).

From the Classics themselves, it is clear that force and violence was deemed necessary for the overthrow of the government of the Czars by the Russians. It is also clear that they call for international action by the working class in other countries so that Russia, when freed from the Czars would not be left standing in a hostile bourgeois world alone and friendless. The Classics definitely call for action on an international scale. It is the contention of the Respondent that the call to aid the Soviet Union was only applicable when the Soviet Union was weak and struggling; now that it is strong such international action on her behalf is not necessary. Is this so? It is clear that, in the period of the Communist International, the Classics were admittedly meant to be applied as the basic law of all Communist Parties, in every country where such parties existed. Under this basic law, the Soviet Union was the leader of a world organization of all such Communist Parties, in a world-wide movement to emancipate the working class from capitalist rule, so that directives, programs, and policies by which this was to be accomplished were clearly set forth in such Classics. Deviation therefrom was considered heresy and not to be tolerated.

While Marxism-Leninism is allegedly dynamic, there is no internal evidence in the portion of this amorphous amalgam which has been reduced to writing, and has become known as the Classics, which indicates a change in its character to make it inapplicable to the CPUSA. On the contrary, Petitioner's witnesses have established that the Classics are in current use and are applicable to the Party. Dr. Aptheker admits that no CPUSA member has altered the fundamental precepts of Marxism-Leninism.

We find the testimony of the witnesses for Petitioner, concerning Marxism-Leninism credible and in accord with the meaning thereof to be obtained from a reading of the record as a whole.

We find that the testimony of the witnesses for the Respondent concerning Marxism-Leninism is in and of itself, and in the context of the record as a whole, unrealistic, apologistic rather than explanatory, and not credible, except as to the origins of Marxism-Leninism and, generally speaking, that its objectives are the attainment of a socialist state under a dictatorship of the proletariat and an eventual classless state of society known as Communism.

How Marxism-Leninism is understood used and followed, by Respondent has been established in the discussion of the testimony of the witnesses, above. In addition thereto, consideration has been given to the numerous exhibits which shed light on the above question. From them it further appears that Respondent, its leaders and its members, taught, studied, discussed, used and applied the Classics in the manner intended by the authors of these Classics and to an extent incompatible with any claim that the Classics are not binding upon them in all fundamentals.

One of the most important, if not the most important, of the Classics in the period under examination in this proceeding, is the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, J.A. 1613-1632).[1] A reso-

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[1] Witness Meyer's testimony on this point (J.A. 689) is sufficiently significant to warrant quotation here:

> "THE WITNESS: The fundamental textbooks used before the History of the Communist Party of the Soviet Union appeared—that must have appeared late in 1939, but I can't date it exactly. I can date it by epoch. It appeared during that general 1939 to 1940 epoch but I think it appeared in late 1939 or it might have been early 1940. At any rate before that appeared the major textbooks used, at the core of the whole problem—there were others used but the essential ones always were the Communist Manifesto of Marx and Foundations of Leninism by Stalin. The whole course of Marxism-Leninism was organized around these two. Then, so to speak, radiating from them were special problems: Lenin's State and Revolution, Lenin's Imperialism, Stalin's Problems of Leninism. I should say these were the central ones, except at one point also, I think in the earlier part of this period primarily, there were three rather

lution, adopted August 10, 1939, signed by the Communist Parties of France, Great Britain, the United States, Germany and Italy, (Ex. 296), states, *inter alia* (p. 73):

> "The appearance of the *History of the Communist Party of the Soviet Union (Bolsheviks)* is one of the greatest events in the life of the Communist world movement and of the international labor movement, in the struggle of the working people of all countries for emancipation. Written with the immediate participation of Comrade Stalin and authorized by the Central Committee of the C.P.S.U. (B.), the *History* occupies an extraordinary place among the classic works of Marxism-Leninism. The *History* is intended to play—and will undoubtedly play—a very important role in the successful mastering of Bolshevism by the Communists of the capitalist countries, in the consolidation of the Sections of the Communist International, and in raising their ideological and political level" (J.A. 1601-1602).

A reading of the exhibit as a whole is enlightening concerning the use of the Classics advocated by Respondent and the position they are given in the propagation of Marxism-Leninism. At page 83 it states:

> "(g) The work of the publishing houses is to be so organized that, besides the contemporary agitational literature, they not only publish the works of Marx, Engels, Lenin and Stalin, but also strive to achieve for them the very widest distribution" (J.A. 1608).

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widely used textbooks of excerpts from the writings of Marx, Engels, Lenin and Stalin. One was called Strategy and Tactics, another the Theory of the Proletarian Revolution, and another one the Dictatorship of the Proletariat. After the History of the Communist Party of the Soviet Union appeared it became the Central Textbook."

Not only are the Classics given wide distribution but they are also integral in the teachings and activities of the Respondent.[2]

Consequently, we conclude that the Classics are one of the chief means by which the CPSU directs, dominates, and controls the CPUSA.

From a review of the Classics and of the testimony, we make the following findings concerning Marxism-Leninism as it is understood, used and followed by Respondent:

Marxism-Leninism is a composite of the doctrines, dogmas and guides to action of Marx and Engels, as supplemented and revised by Lenin, Stalin and others, which advocates a world-wide revolutionary movement. The objective of the movement is the destruction of capitalism (which it designates as "imperialism"). It asserts as its ultimate goal a stateless class of society which it designates as Communism. The first step toward this end is the attainment of a socialist state under a dictatorship of the proletariat. "Proletariat" generally is synonymous with "working class". But, "a dictatorship of the proletariat" connotes the rule by a minority in the name of the working class. Such a dictatorship should, theoretically, come about by a nonviolent revolution which would evolve from natural economic change. Actually, Marxism-Leninism requires that such revolution be hastened by action. This action must be taken by a dedicated group of revolutionaries banded to-

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[2] Some of the instances of the use of various of the more important Classics in evidence appears from the following exhibits which refer to study outlines, reading lists, school curricula, sales lists of Marxist literature and advertisements. It should be noted that these represent use of the items in years 1948 and 1949 and 1950. *Foundations of Leninism* (Ex. 121) Exs. 339, 346, 351, 369, 370, 416, 419, 420, 424, 425, 427; *Problems of Leninism*—Stalin (Ex. 138) Exs. 370, 416, 419; *State and Revolution*—Lenin (Pet. Ex. 139) Exs. 346, 370, 424; *Imperialism, The Highest Stage of Capitalism*—Lenin (Ex. 140) Exs. 339, 346, 369, 370, 419, 425, 427; *Communist Manifesto*—Marx and Engels (Ex. 31) Exs. 339, 351, 369, 370, 420, 424; *The Theory of the Proletarian Revolution* (Ex. 422) Exs. 419, 425, 427; *The United Front, The Struggle Against Fascism and War* (Ex. 139) Exs. 346, 420, 424, 427; *Theses and Statutes of the Third (Communist) International* (Ex. 8) Ex. 7; *Mastering Bolshevism*—Stalin (Ex. 335) *Exs.* 370, 416; *What Is To Be Done?* Ex. 417) Exs. 346, 370, 416, 420, 424.

gether as a so-called political party; the Communist Party. Under the leadership of the Soviet Union, this Party shall bring about, by force and violence if necessary, dictatorship of the proletariat in every country of the world whenever circumstances shall permit. Marxism-Leninism includes within itself the plans and procedures to accomplish this end. Adherence to its principles involves acceptance of its doctrines, tenets and obligations; and membership in the world revolutionary movement mentioned above. Marxism-Leninism contemplates the Communist Party of the United States as part of the world Communist movement. The name Marxism-Leninism is frequently applied in an esoteric sense to conceal from the uninitiated the full implications of such adherence and membership.

We proceed to examine the record as to Respondent's basic policies and activities to determine the extent to which they are formulated and carried out pursuant to Marxism-Leninism as hereinbefore defined; the extent to which such policies and activities reflect compliance in their formation and execution with other directives or instructions of the Soviet Union; and, the extent to which such policies and activities have as their purpose the furtherance of the policies of the Soviet Union and the advancement of the objectives of the world Communist movement. We treat first with the voluminous evidence concerning what Respondent and other Communist Parties throughout the world Communist movement constantly term the "struggle against imperialism", and with Respondent's participation in such "struggle".

### 3. Imperialism

The record establishes and we find that among the major activities of Respondent are teaching, advocacy, and agitation in opposition to what Respondent calls United States imperialism. This includes programs and activities such as "the struggle for peace"; the doctrine of "just and unjust wars"; the theory that the world is divided into two hostile camps, one led by the Soviet Union and the other by

the United States; and, the necessity of overthrowing existing "imperialist" governments by force and violence if necessary.

The record further establishes, and therefore we find, that a basic objective of the Soviet Union and of the world Communist movement is to bring about the downfall of the so-called "imperialist" countries including the United States believing that in so doing, several coveted objectives will be achieved; protecting and defending the Soviet Union, establishing the dictatorship of the proletariat in the various countries, centralizing of all power—political, economic, and social—in the Communist Parties.

Upon consideration of the evidence hereinafter summarized and upon the entire record, we further find and conclude that Respondent's teachings, advocacy, and agitation as above stated have as their objective and purpose the advancement of the world-Communist movement; and they are formulated and carried out on the basis of Marxism-Leninism and other directives and instructions from the Soviet Union. We proceed to review the more significant evidence establishing the foregoing findings.

Respondent's witness Dr. Aptheker says there never was a period when the Communists of the United States ceased to characterize the United States Government as imperialist, and that the United States with its social system and ruling class, fits the definition of imperialism as given by Lenin and as adopted by Respondent (J.A. 1273-1274). Typical of Respondent's position in this respect is the following quotation from an article appearing in the January 1951 issue of *Political Affairs* (J.A. 1721):

> "* * * U. S. imperialism is the most reactionary force in the world today, seeking to fascize, not only America, but every capitalist country" (Ex. 378, p. 9).

Additional illustration is furnished by an article by Betty Gannett published in the February 1951 issue of *Political Affairs* (Ex. 376, pp. 183-194) which emphasizes that the United States is imperialist and is plotting a new world

war (J.A. 1713); that "one of the main pillars of U. S. imperialism is its anti-Sovietism" (J.A. 1713) whereas the Soviet Union is for peace, is not an aggressor, and, being a workers' state, cannot and does not pursue an imperialist course (J.A. 1713-1714). The oral and documentary evidence establishes convincingly that Respondent has consistently characterized the United States as an "imperialist" nation. This fact, standing alone, is not disputed on the record.

We proceed to review the evidence and make our findings concerning why Respondent teaches, advocates, and agitates against what it calls American imperialism. The *Communist Manifesto* (Ex. 31, p. 9) declares that society as a whole is splitting into two great hostile camps, the bourgeoisie and the proletariat (J.A. 1340). Lenin in *Imperialism* (Ex. 140, pp. 9, 11, 126) designates capitalism as "imperialism" and predicts a proletarian victorious revolution after the impending imperialist war; the United States is designated as imperialist (J.A. 1520-1522). In *State and Revolution* (Ex. 139, p. 6), Lenin explains in the preface that the Russian Revolution of 1917 "can be understood in its totality only as a link in the chain of Socialist proletarian revolutions called forth by the imperialist war." Stalin in *Foundations of Leninism* (Ex. 121, p. 15) develops the idea further to show that "imperialism" has made the revolution inevitable and has provided favorable conditions for it (see J.A. 1429, 1433-1434). In *Problems of Leninism* (Ex. 138, p. 9), he indicates that Leninism provides "suitable and obligatory" theory and tactics for the proletarian revolution against "imperialism" (J.A. 1503).

In 1927, the Communist International issued a "Resolution On The American Question" (Ex. 43) which states that "The United States of America, during the last decade, has developed into the mightiest imperialist power" (J.A. 1352); and, that the task of the Communist Party is "to form a broad united front and to intensify the struggle against American imperialism" (J.A. 1352). The *Resolution* lists the policy of the United States in China and its attitude against the Soviet Union among the questions that

"must" be utilized by the Party to rally the broad masses in defense of the Soviet Union and in its struggle against American imperialism (J.A. 1353).

The evidence summarized above is illustrative of a quantity of evidence which establishes that it is fundamental to Marxism-Leninism and to the world Communist movement led by the Soviet Union that all countries other than those of a victorious socialist revolution—which encompasses only the Soviet Union and those brought within its orbit—are characterized as "imperialist", against which the Communist Parties must wage the "struggle against imperialism".

In addition to the voluminous documentary evidence of record, Respondent's continuous adherence to these fundamentals of Marxism-Leninism and of the world Communist movement is established by the testimony of Petitioner's witnesses based upon their experiences as members and officials of Respondent; upon directions they received while in the Party and the instruction they gave as teachers in the party; and upon their study of official Party publications. The more significant oral testimony is summarized as hereinafter set forth.

While Petitioner's witness Gitlow was a high officer of Respondent, until 1929, its aims and purposes were: to defend the Soviet Union as the fatherland of the working class of the world; to carry out the orders and directives of the Communist International; and to work for the undermining of the foundations of the American government in order to make it possible for Respondent to overthrow our form of government and set up in its place a dictatorship patterned after that which operates in the Soviet Union today (J.A. 225-226).

In 1932 (J.A. 351), Petitioner's witness Kornfeder, a former leading official of Respondent, taught in a school at the Party headquarters that the main doctrine of Lenin called for the complete and total overthrow of all existing social institutions, the government, the existing organizations that support the government, the complete elimina-

tion of the present state structure and its replacement by a dictatorship led by Respondent (J.A. 351-352).

Petitioner's witness Nowell was taught at the Lenin School in Moscow in 1932, and subsequently he himself taught in Respondent's schools in 1933 and 1934 in the United States, that the Government of the United States was the executive committee of the capitalist class in the United States and was subject to the same Marxism-Leninism laws of growth, development and decay as all capitalist states; that the proletarian revolution and the dictatorship of the proletariat were necessary and equally as inevitable in the United States as in other capitalist countries; that it was the duty of the Communists to work for the overthrow of the Government of the United States and the establishment of the dictatorship of the proletariat, following the form of the Soviet, and under the hegemony of Respondent and the Communist International; and, that it was the necessary duty of Respondent, as a part of world Communism, to work for the overthrow of the other "imperialist" nations (J.A. 383-387; 388-392).

Petitioner's witness Meyer taught in Respondent's schools until near the end of 1945 (J.A. 684). He instructed the members of Respondent that Marxism-Leninism is a guide to Respondent in carrying out its *historical role or mission* to overthrow the capitalist system and political states founded on the capitalist system, to destroy the economic organization on which that society is founded and its political system, and to replace it with the dictatorship of the proletariat, to establish the kind of socialism that will lead to Communism (J.A. 729).

Petitioner's witness Johnson was taught at Respondent's training school in about 1932 that it was the duty of the Communists to build themselves up to the position where they could challenge the power of the government, and that the Red Army would not hesitate to throw its weight into the scales to tip the balance in favor of the Communist revolutionists in America; also, that the Communists should agitate and work for the demoralization of the armed forces of the United States by convincing them that

they must refuse to fight against the Soviet Red Army and go over on the side of the Red Army using their guns against the government of the United States and all forces that remained loyal to it (J.A. 652-653). This was the policy of Respondent throughout Johnson's membership, until 1940, and was elaborated upon by such leaders as Foster, Bedacht, Bittelman, Browder and Stachel, at committee meetings and conventions (J.A. 653). It is significant that Foster is the present national chairman of Respondent and some of these others are still high officials (see pages 36-38 herein).

Petitioner's witness Lautner who was a member of Respondent until 1950, and Petitioner's witness Janowitz who was a member at the time of testifying in this proceeding, corroborate this evidence (J.A. 947-948, 1023).

Petitioner's witness Matusow stated the aims and objectives of Respondent in case of a war between the United States and the Soviet Union were not to support the American "imperialists". The establishment of the dictatorship of the proletariat in the United States would have to be accomplished by violent means because "the ruling class would not give up its power" (J.A. 1055). While in the Party (1947 to 1951), he did not hear or see anything to indicate a change in the aims of Respondent. He refers to a statement of Izzy Brown, Club Education Director of the Friedlander Youth Club in New York in 1948, that it was the policy of Respondent not to support the United States in an "imperialist war" against the Soviet Union (J.A. 1057-1058).

Petitioner's witness Scarletto relates a discussion in the latter part of 1950 by Party members in which it was felt advisable that members go into the service of the United States in the Korean War because they would be in a position to sabotage the United States effort (J.A. 1088-1089). At a meeting about the middle of November 1950 of functionaries of the Mexican Concentration Club, a suggestion was made to raise money through a neutral country for the North Koreans. The chairman of the Club at a meet-

ing in the latter part of 1950, told witness Scarletto that it would be a good idea if he went back into the Navy Air Corps where he would have a good opportunity to sabotage. At a meeting of a Party club about December 1, 1950, the chairman reported American officers had been killed by their Korean orderlies. There were several expressions of satisfaction over this and the report that the war was going against the Americans at the time (J.A. 1089-1090).

Petitioner's witness Evans, a member of Respondent from 1948 to 1952, was taught that in a war between the Soviet Union and the United States all members of Respondent should help defeat the predatory aims of imperialism [1] (J.A. 1114).

In the years between 1945 and 1950, Petitioner's witnesses Cummings (J.A. 852-853), Hidalgo (J.A. 868), Blanc (J.A. 813) Markward (J.A. 747) and Baldwin (J.A. 1015) were taught that the world was divided into two camps: the imperialists and the anti-imperialists (democracies); that Russia was anti-imperialist and democratic; that the wars of the imperialists were unjust wars and the wars of the anti-imperialists were just wars; that in a war between imperialists and anti-imperialists, the members of the CPUSA must aid the anti-imperialists; and that this would hold true in the case of a war between the Soviet Union and the United States.

Documentary evidence of Respondent's expressions confirms the oral testimony that Respondent's policy is to oppose many United States policies and activities as imperialists, and as aggressive against the Soviet Union; also, that Respondent's policy is to support the Soviet Union and defeat the aims of imperialism (See Exs. 144, 148, 155, 158, 343, 427). *Political Affairs* for March 1951 describes President Truman's activities as "imperialism" on the way to bankruptcy and as a provocative semi-mobili-

[1] The organ of the Communist Party of the Soviet Union in March 1950 stated that while imperialism exists there also exists the danger of new aggression and that in the presence of imperialism and its predatory plans wars are unavoidable. (*Pravda*, Ex. 217, J.A. 1580).

zation for an outright war against the Soviet Union (Ex. 479).

A pattern throughout the world Communist movement for teaching, advocating, and agitating for the overthrow of "imperialist" governments exists in the concept or slogan that the world is divided into two hostile camps, one led by the Soviet Union and the other by the United States. As previously herein set forth, Lenin, Stalin, and the Communist International, in interpreting and adapting to the world Communist movement the writings of Marx and Engels, took the original concept that society is divided between the bourgeoisie and proletariat, and developed it into the doctrine or slogan that the world is divided into two hostile camps—the camp of the imperialist states and the camp of the dictatorship of the proletariat in the USSR. In the *Programme of The Communist International* (Ex. 125) this is explained as follows (J.A. 1447):

> "The difference in class structure and in the class character of the government in the two camps, the fundamental differences in the aims each pursues in internal, foreign, economic and cultural policy, the fundamentally different courses of their development, brings the capitalist world into sharp conflict with the victorious proletariat State. * * * The class struggle, which hitherto was conducted in circumstances when the proletariat was not in possession of State power, is now being conducted on an enormous and really world scale; the working class of the world has now its own State—the one and only fatherland of the international proletariat. * * * " (pp. 24 and 25).

* * * * *

(J.A. 1448):

> "Thus, as a result of the first round of imperialist wars a new, fundamental antagonism has arisen of world historical scope and significance; the antagonism between the U. S. S. R. and the capitalist world." (p. 25).

The record establishes a consistent advancement of this doctrine or slogan by the Soviet Union and by the Communist Information Bureau and it acceptance and use by Respondent. Of late, the slogan of "peace" has been added as hereinafter covered.

The Soviet Union in January. 1949 characterized the post-war foreign policy of the United States and Great Britain as one of aggression and unleashing a new war for world domination, whereas, it stated the Soviet Union struggles for universal peace and international security (Ex. 251). This position of the Soviet Union as reported in *Pravda*, points out that "The very existence of the Soviet State, with its growing power and its international authority, and likewise the powerful support given to it by the democratic forces in other countries constitute an insurmountable barrier in the way of all plans of any kind for the establishment of world domination by one power or another." (Ex. 251, p. 19, J.A. 1588).

*Pravda* for March 11, 1950 (Ex. 217) contains a speech by V. M. Molotov which states that "Since the October Revolution in our country, the victory of the national liberation movement in China appears as a new and most powerful blow at the entire system of world imperialism and at all plans of imperialist aggression in our time.", (J.A. 1579) and "Now the Soviet Union has not only come out of international isolation but is also the center of the powerful international democratic camp. * * * In the capitalist countries themselves we now have millions of active friends who are closing ranks more and more in a broad democratic, anti-imperialist movement." (p. 5 of Ex. 217; J.A. 1579). * * * "*The democratic camp*, which unites the USSR and the countries of the people's democracy, is opposed by the camp of the imperialist powers headed by the ruling circles of the United States of America." (J.A. 1579) (emphasis added).

*For a Lasting Peace, for a People's Democracy* issue of November 10, 1947, sets forth a speech deliver by A. Zhd-

anov [1] at the Informative Conference of the Nine Communist Parties held in Poland at the end of September 1947. A section of this speech is entitled: "The New Post-War Alignment of political Forces and the Formation of Two Camps: the Imperialist and the Anti Democratic Camp, and the Anti-Imperialist and Democratic one" wherein it is stated the principal driving force of the imperialist camp is the United States with whom Great Britain and France are allied; the second camp—anti-imperialist—is based on the USSR and the "new democracies". (Ex. 214-A, J.A. 1576).

*For a Lasting Peace,* issue of March 10, 1950, contains an article which concludes with the following (J.A. 1732):

> "A comparison of the economic successes achieved by the Peoples' Democracies in a very short period of their history with the extremely difficult position of the working people in the capitalist countries constitutes a terrible indictment of American imperialism and of the whole decaying capitalist system." (Ex. 412, p. 1).

With respect to Respondent, when Petitioner's witness Lautner left the Party at the end of 1949, the Party line was that the United States headed the imperialist forces of the world and that Russia led the anti-imperialist forces and that everything should be done to aid Rusia and to disconcert the United States (J.A. 947-948). Further, in 1949 an instructor in courses on the ABC's of Marxism included the United States in the imperialist camp (J.A. 747) and a similar position was taken by a Party group in Boston, Massachusetts, in 1948, where it was stated that the United States led the "imperialists" and the Soviet Union led the anti-imperialists or People's Democracies (J.A. 777-782).

A "Discussion Outline" on "The Marxist Position To-

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[1] The Zhdanov Report has recently been widely used and followed by Respondent. It was published in *Political Affairs* (J.A. 970-972) and discussed and studied throughout the Party while Lautner and Philbrick were members (J.A. 777-778, 970-972). It is variously listed as "required reading" (Ex. 424), "reading material" (Ex. 399), and "reading", in study and teaching materials used by Respondent in 1949.

ward War" issued by Respondent's Educational Department, Michigan State Committee, in April 1949. (Ex. 400) has a section entitled (J.A. 1731-1732):

> "IV. World War II was Just War" which says in part:
>
> "The post-war world was split by the U.S. and Britain into two camps—the camp of imperialism and fascism under the leadership of American imperialism and the camp of democracy, national freedom and peace, headed by the USSR." (p. 4).

Similar teachings by Respondent are evidenced by study and teaching material used in various schools and groupes. (Ex. 425, p. 16; Ex. 424, Session 9, J.A. 1753-1754).

Related to the concept of the world being divided into two hostile camps, is the concept or slogan set forth by Lenin and Stalin that distinguishes between "just wars", which are those carried on by "anti-imperialist" nations, and "unjust wars", i.e., those engaged in solely by "imperialist" nations among themselves or against any "socialist" country, such as the Soviet Union. We find that the concept of "just" and "unjust" wars, requiring the Communist Parties to support the Soviet Union in a war between the Soviet Union and any other country, and in a war between the Soviet Union and their own country to use every means to assist the Soviet Union, is basic to Marxism-Leninism; and that it has been continuously advanced and advocated by the Soviet Union, and has been continuously taught and followed by Respondent. Respondent's policies and activities centering around the doctrine of "just" and "unjust" wars is covered later in this report in connection with the issue as to what country the leaders of Respondent consider they owe allegiance. Accordingly, it is sufficient at this point to state our finding that Respondent's teachings and advocacy of this line represent a continued following of directions as to the line from Marxism-Leninism, the Communist International, and the Soviet Union.

We proceed to review the evidence concerning Respondent's use of the words "peace" and "democracy" in connection with the struggle against "imperialism" and for the advancement of the aims and objectives of the world Communist movement. Earlier in this report we have reviewed the united-front tactic as set forth in Marxism-Leninism as one of the means used for establishing the dictatorship of the proletariat. The united front has taken various approaches throughout the period since 1919. In the interest of reasonable summarization of the record, we limit this report to the use of the united-front tactic from 1935 on.

In 1935, the Communist International, which Respondent represented (J.A. 485-486, 841; Ex. 185), mapped out the "tactical line" for the years ahead which consisted of forming a "united-front" with other organizations in order to achieve national unity in the various countries for the purpose of combatting fascism.[1] (Ex. 137). The record shows that early in the 1930's, Stalin, in a report on behalf of the Central Committee of the CPSU to its Party Congress, pointed out that "the Bourgeoisie would seek a way out of the economic crisis, on the one hand, by crushing the working class through the establishment of fascist dictatorship, i.e., the dictatorship of the most reactionary, most chauvinistic, most imperialistic capitalist elements." (Ex. 330, pp. 300-301, J.A. 1627). The record also shows that the Soviet Union realized a "second imperialist war" represented a serious danger to the USSR. (Ex. 330, pp. 334-5, J.A. 1627-1628). In mid-1935, discussions were started in the Communist International on the matter of the united front—the "anti-Fascist front"—which were supported by the Communist Party of the Soviet Union as evidenced by an article in the August 6, 1935, issue of *Pravda;* this points out that "Unity—that is the command of the moment". and emphasizes "that this unity be directed against Fascism, against the danger of a new imperialist war, against the offensive of capital", while also

[1] In Communist documents, fascism is a form of imperialism.

emphasizing that the Communist "know that only the dictatorship of the proletariat, only the Soviet Government is the sole salvation of the working class * * *" (Ex. 183, J.A. 1566).

Thus, it is more than a coincidence that the Communist International in 1935 gave the reasons for developing the "new tactical orientation", the economic crisis facing capitalism, the offensive of fascism, and the growth of the threat of a new imperialist war and of an attack on the USSR (Ex. 137, pp. 21-22). In a speech at the close of this meeting of the Comintern, Georgi Dimitrov pointed out that "Ours is a Congress of struggle for the preservation of peace, against the threat of imperialist war."[1] (J.A. 1943) and that (J.A. 1494):

> "Standing firmly on the impregnable position of Marxism-Leninism, which has been confirmed by the entire experience of the international labor movement, and primarily by the victories of the great October Revolution, our Congress, acting in the spirit and guided by the method of living Marxism-Leninism, has reshape the tactical lines of the Communist International to meet the changed world situation." (*ibid*, p. 11)

The Resolution of the Comintern concerning the new approach or use of the united-front tactic lays down various things which the Communist Parties are to do in carrying out the revised line, and in that connection uses such words as "enjoins" (p. 26), "must" (p. 36), and "imperative" (p. 37). The record shows that Respondent fully and completely complied with this line laid down by the Communist International as evidenced by the following, which is among the more significant evidence of record on this point.

In November 1935 the Central Committee of Respondent adopted a resolution "fully and wholeheartedly" endorsing

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[1] The speech of Dimitrov and the Resolutions adopted by the Comintern were printed in pamphlet form in the United States by Workers Library Publishers and have been widely used by Respondent. (J.A. 441-442, 957-959, Ex. 427; Ex. 346 (see J.A. 790)).

the decisions of the Seventh World Congress of the Communist International in which resolution the "chief task" of Respondent at the time is stated to be "to reorientate the work of the Party in accord with the tactical line of the Seventh World Congress" and in which "The Central Committee calls upon the Party organizations and every Party member to prosecute the struggle for the united front with the utmost determination and flexibility in the *new way* pointed out by the Seventh World Congress." (emphasized in text) (Ex. 185, 1182-1184, J.A. 1570). Like the resolution of the Comintern and the statements of the Soviet Union, Respondent's resolution takes care to point out that the line is an application "in a living way" of "the teachings of Marx, Lenin, Engels and Stalin"; and that it is linked to the prosecution of the Party's "revolutionary aims" and "revolutionary principles and program." (*ibid*, p. 1185) (See also: Witness Mosely (J.A. 533-536); Lautner (J.A. 988)).

Some of the details of Respondent's compliance with the instructions of the Communist International are furnished by Petitioner's witness Nowell who in the latter part of 1935 was instructed by William Weinstone and other functionaries of the Michigan District of Respondent to proceed to set up certain organizations in accordance with the united front policy and conforming to the new type of reorientation, as set forth in the resolutions of the Comintern. The witness shows that he carried out these instructions by forming fractions in various organizations for the purpose of influencing the policies of the organizations and to guide them along the lines of the Communist Party in setting up the "united front" movement (J.A. 392-397).

In 1936, Respondent's Central Committee issued a statement which was printed in R pondent's magazine, *The Communist*, issue for May 1936 (Ex. 380-B), calling upon all workers to unite to defeat fascism and on May Day to pledge to defend the Soviet Union. *The Communist* for May 1940 carries an article by "Gene Dennis" which points out the danger to the Soviet Union from the imperialist war and states that the united front can only be achieved

successfully if consistently directed against the imperialist war and capitalist reaction (Ex. 436, pp. 404, 405).

Some aspects of Respondent's line during the period of the second world war shifted back and forth to follow the position of the Soviet Union. The pertinent facts in this respect are covered in our findings under the section of this report on the issue of non-deviation; we have taken them into consideration as part of the pertinent evidence involving Respondent's following of foreign directions concerning the use of the united front tactic. The record shows that after World War II, the use of the united front tactic received a different emphasis in the form of the united front for "peace". The testimony of Petitioner's witness Lautner, which is corroborated by other evidence of record, furnishes a clear understanding of this aspect of the issues and is therefore pertinent for review in some detail. The witness testified in part as follows, which we find to be an accurate statement of the facts:

> "The United Front tactics of the Communist Party were part of the subject matter of Marxism-Leninism, and in class [referring to Party classes in 1948] we tried to convey the idea that the Seventh World Congress decisions pertaining to the United Front tactics and Dimitrov's report in no way eliminated or negated the decisions of the Sixth World Congress but implemented the decisions of the Sixth World Congress in a way to enable the party to develop a wider base on specific issues. Before the Seventh World Congress we had United Fronts that were based on a narrow concept popularly known as United Front from Below, United Fronts on specific issues, but were elements that were ready and willing to work on specific issues with the Communist movement. In the main it was an effort to increase and to advance the influence of the Communist Parties. This poli y, based on the strategy and tactics of the Sixth World Congress, was a failure of the party in Germany to make headway, the defeat suffered by the German Party, based on the strategy and

tactics and the program of the Sixth World Congress, the failure in China, the failure to build the Red International Trade Union movement, the failure to gain a way or win a way to working classes, the organized section of the working classes from the influence of social democracy, with the result that reaction gained power in a number of countries. Hitler came to power in Germany. The Seventh World Congress devised a new tactical approach in order to achieve the main strategic objectives by developing a program of United Front from below and from above, and also the program of the people's fronts and coalitions around a specific issue in the struggle against fascism and in the struggle against war, because fascism was the main danger of war at that time.

* * * *

"So The United Front is not a repudiation of the basis [sic] strategic aims of the Communist movement, but as step that will bring closer the realization of that strategic aim.

* * * *

"After 1945 there came a re-evaluation of the world situation. Now the problem was to find that link in the chain again with which a new coalition could be developed on a united front basis, on a minimum program, on a partial program of the Communist International, with which coalition we could go forward to a new milestone, to a new point and gain new adherents to the Communist movement, and when we reached that milestone there would be a new situation, a new realinement of forces, and we would find that new link with which we could go forward again. *This link after the second world war was the struggle for peace.* The question of peace was the new link. At the reconstitution convention Foster in his report already indicated the direction in which the Party will travel in this postwar period, and Zhdanov's report later on precisely sets the two world camps and the main issue in the coming period, the issue of peace. That is the new link today

around which the Party develops its activities to broaden out and to bring about an alinement of forces on the basis on which it can extend its influence and exert its influence among the broader section of the population of this country." (J.A. 957-960) (underlining added)

The record clearly shows that the Communist Parties throughout the world, including the Respondent in the United States, are now actively and strongly presenting the the line of "peace", particularly the united front in the "struggle for peace". The very name of the official organ of the Communist Information Bureau, which is *For a Lasting Peace, for a People's Democracy,* is indicative thereof. Key material used by Respondent in forming its "peace" line is the Zhdanov report, previously mentioned (see p. 80 and footnote 1), from which a typical quotation is as follows (J.A. 1576):

> "All the forces of the anti-imperialist and anti-fascist camp are united in the effort to secure a just and democratic peace. * * * These countries, and in the first place the new democracies * * * have proved themselves in the post-war period staunch defenders of peace, democracy and their own liberty and independence against all attempts on the part of the United States and Great Britain to turn them back in their course and to bring them again under the imperialist yoke." (Ex. 214-A, p. 2).

The position or line of the Soviet Union in this matter is evidenced by a report delivered by G. M. Malenkov at the meeting of the Moscow Soviet in November 1949 and printed in the November 11, 1949 issue of *For a Lasting Peace, for a People's Democracy.* In this report, Malenkov devoted a substantial portion to the heading "The Soviet Union Stands for Peace and Defends the Cause of Peace" (Ex. 231, p. 1, J.A. 1582). He points out that there is not a single country in which the movement uniting the sup-

porters of peace does not possess a "base" (J.A. 1583) and that the successes of "the camp of peace" drives the "enemies of peace", "by means of violence and new wars", to attempt the creation of an American world empire designed to turn the whole world into a "colony of the American imperialists, of reducing sovereign peoples to a state of slavery" (J.A. 1583).

The December 1951 issue of *Political Affairs* contains a condensed translation from the Soviet philosophical journal *Voprosi Filosofie* which is entitled: "Stalin on the War Danger and the Possibility of Averting It". This Soviet statement, which by its publication in *Political Affairs* and in view of the entire record, makes it reasonable to conclude that it was adopted by Respondent and thus becomes the line of Respondent and is very similar in content to the above-mentioned Zhdanov and Malenkov reports. The statement outlines various forms which "the struggle for peace" has taken, such as fighting for an end to the war in Korea, against rearming West Germany and Japan, and a ban on atomic weapons. It also quotes with approval a declaration by Joseph Stalin in 1946 to the effect that "the peoples" are taking the fate of their states in their own hands and establishing "democratic regimes" and "carrying on an active struggle against the forces of reaction, against the incendiaries of a new war" (Ex. 488, p. 20).

Respondent's following of the line of the united front, and particularly the united front for peace, is evidenced by a quantity of documentary material probative of Respondent's policies and doctrines. Typical recent expressions of this line by Respondent appear in the *Daily Worker* issues of March 3, 1949 (Ex. 331), June 9, 1950 (Ex. 269), July 13, 1950 (Ex. 270), September 18, 1950 (Ex. 440), February 19, 1951 (Ex. 451), April 1, 1951 (Ex. 455), October 19, 1951 (Ex. 467), November 7, 1951 (Ex. 468), and June 9, 1952 (Ex. 495). The issue of November 7, 1950 contains the following as part of an editorial:

> "Today the Soviet Union is indestructible. The work of Lenin and Stalin is immortal. The Socialist

State has become the leader of a new force in modern history—the great camp of peace. This new alliance of hundreds of millions of people in China and the People's Democracies, together with the vast millions in the colonial and capitalist countries, can prevent war. This is the new achievement of the Soviet Union, the glorious vision that the people can make a reality." (Pet. Ex. 468)

Recent indications of Respondent's following of this united front for peace line also appear in *Political Affairs* for November 1950 (Ex. 477), February 1951 (Ex. 376), April 1951 (Ex. 480), December 1951 (Ex. 488), and January 1952 (Ex. 489). The issue of February 1951 (Pet. Ex. 376; J.A. 1714-1718) contains "greetings" from Communist Parties of some thirty countries sent to Respondent on the occasion of its 15th National Convention. These greetings condemn American imperialism and support the struggle for peace. The "greetings" from the Soviet Union says in part "May the international solidarity of the toilers in the struggle for peace, democracy and Socialism gather strength." The People's Democratic Republic of China advised Respondent "As a result of common struggle of the people of the world and awakened people in the United States, American imperialism has met with huge defeats and will continue to meet with even bigger defeats." The French Party pointed out that Respondent's decisions "taken in the light of the teachings of Marx, Engels, Lenin and Stalin, will enable you to advance forward on the road of unity of action of the working class." The Italian Party stated Respondent's struggle in defense of peace was greeted as its struggle. The German Democratic Republic said Respondent's fight is their fight "just as the struggle of the German friends of democracy and peace is your struggle". The Party of Great Britain expressed its "solidarity" with Respondent in the common struggle against Anglo-American imperialism. The Canadian Party expressed certainty that "Headed by the Mighty Socialist

Soviet Union * * * the world camp of peace is going forward to win" and that Respondent "will not be found wanting".

Respondent's teaching materials used in its training schools and for self-study by the members furnish, among other things, still further evidence on the following of the united front for peace line. The "Discussion Outline" on "The Marxist Position Toward War" (*Supra*, pp. 90-91 of this report) put out in 1949 devotes considerable space to "Peace" and lists works by Lenin and Stalin and the *History of the CPSU (B)* as reading material. The "Outline For Nine-Day School", issued in 1948 (Ex. 346, J.A. 1663-1664), has as the topic for the third lesson "Imperialism-War-Fascism-Struggle For Peace" and lists Lenin's *Imperialism* and the *United Front Against Fascism* as the reading material. Part II of the Study Outline for the Marxist Institute, issued in 1949 (Ex. 427, J.A. 1754-1757) includes the study of the tactics of the Seventh World Congress of the Communist International and teaches that in the present period the strategic objective remains the same but the tactical line of the united front and peoples coalition developed still further, citing Dimitrov's report to the *7th World Congress* as required reading and the *History of the CPSU (B)* as supplemental reading (Session 9, pp. 1-3).

We find based on the foregoing and upon the entire record, that "the struggle for peace" including the tactic of the united front for peace, is presently a main line of Respondent, the Soviet Union, and the Communist Information Bureau, and that this line is based upon the tactics set forth in Marxism-Leninism. It is therefore important to consider what the Communists mean by "peace", as an aid in determining whether the "peace" line is a link or tactic in seeking to advance the objectives of the world Communist movement. The testimony of Petitioner's witness Lautner regarding the united front tactic as heretofore set forth is relevant to this matter. Also, the *History of the CPSU (B)* teaches (J.A. 1618):

"The Bolsheviks were not mere pacifists who sighed for peace and confined themselves to the propaganda of peace, as the majority of the Left Social-Democrats did. The Bolsheviks advocated an active revolutionary struggle for peace, to the point of overthrowing the rule of the bellicose imperialist bourgeoisie. The Bolsheviks linked up the cause of peace with the cause of the victory of the proletarian revolution, holding that the surest way of ending the war and securing a just peace, a peace without annexations and indemnities, was to overthrow the rule of the imperialist bourgeoisie" (Pet. Ex. 330, p. 167).

The *History* further teaches that to achieve "peace" the Communist Parties should convert imperialist war into civil war and defeat one's own government in an imperialist war (J.A. 1618-1619).

The understanding of the "struggle for peace" as an active, revolutionary struggle is further evidenced from a resolution adopted in 1935 by the Comintern, which resolution reads in part as follows (J.A. 1498):

"At the present historical juncture, when on one-sixth part of the globe the Soviet Union defends socialism and peace for all humanity, the most vital interests of the workers and toilers of all countries demand that in pursuing the policy of the working class, in waging the struggle for peace, the struggle against imperialist war before and after the outbreak of hostilities, the defense of the Soviet Union must be considered paramount" (Ex. 137, p. 48).

These tactics are also revealed in Dimitroff's *The United Front*, a part of the body of Marxism-Leninism, which says, *inter alia* (J.A. 1547):

" . . . You cannot carry on a real struggle against fascism if you do not render all possible assistance in strengthening the *most important buttress* of this struggle, the Soviet Union. You cannot carry on a

serious struggle against fascism instigators of a new world blood bath, if you do not render undivided support to the USSR, a *most important factor* in the maintenance of international peace . . . " (Ex. 149, p. 279, emphasized in text).

Additional insight into Respondent's use of the "struggle for peace" is furnished by the aforementioned "greeting" sent to Respondent by the Soviet Union on the occasion of Respondent's 15th National Convention in late 1951. This "greeting" is later herein discussed in more detail with respect to the issue of Respondent's reporting to the Soviet Union. Petitioner's witness Lautner, based on his experiences as a member of Respondent, including what he taught and was taught, considers the greeting "a political document of the highest importance" (J.A. 994), which raises all the basic questions that Respondent is confronted with at the present time and "gives leadership to the American Party" (J.A. 994-995). Lautner interprets "struggle for peace, democracy and socialism" as "the new tactical approach since the end of the war, the link with which this tactical united front is to be built." (J.A. 995); and so we conclude.

In view of the foregoing and upon the entire record, we find and conclude that the "struggle for peace" as used and practiced by Respondent, sometimes called the "struggle against reaction", represents the present emphasis of the "struggle against imperialism" which is and has been a basic, active, revolutionary doctrine taught and advocated by Respondent for the purpose of overthrowing "imperialist" governments (by force and violence if necessary) and substituting the dictatorship of the proletariat. We further conclude and find that Respondent's "struggle for peace", "struggle against imperialism" and united front tactics followed in connection therewith, represent a continued following of directives of the Soviet Union as contained in Marxism-Leninism, in specific instructions of the Soviet Union and in the program of the

Communist International; and are designed to advance the objectives of the world Communist movement.

**4. Democratic Centralism and Self-Criticism**

Respondent's use of the organizational principle known as "Democratic Centralism", hereinbefore referred to under "Marxism-Leninism", is one of the many facts indicative of its operation pursuant to directives from the Soviet Union through which the policies of the Soviet Union are effectuated.

The *Programme of the Communist International* covers democratic centralism as follows (J.A. 1465-1466):

> "The Communist International and its Sections are built up on the basis of democratic centralism, the fundamental principles of which are: (a) election of all leading committees of the Party * * *; (b) periodical reports by leading Party committees to their constituents; (c) decisions of superior Party committees to be obligatory for subordinate committees, strict Party discipline and prompt execution of the decisions of the Communist International, of its leading committees and of the leading Party centres.
>
> "Party questions may be discussed by the members of the Party and by Party organizations until such time as a decision is taken upon them by the competent Party committees. After a decision has been taken by the Congress of the Communist International, by the Congress of the respective Sections, or by leading committees of the Comintern, and of its various Sections; these decisions must be unreservedly carried out even if a Section of the Party membership or of the local Party organizations are in disagreement with it." (Ex. 125, p. 86)

Respondent admittedly follows and applies the principle of democratic centralism.[1] It has done so substantially

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[1] Respondent's witness Gates says democratic centralism is the principle which governs the party organization and function. He does not, however, indicate its origin (J.A. 1204).

throughout most of its existence. In 1945, when Respondent was reconstituted as the Communist Party, its leader, William Z. Foster, proclaimed:

> "* * * Only by applying the sound principles of Leninist-democratic-centralism can our Party keep its mistakes to a minimum and develop the clear-thinking unity of action and resolute discipline that are the great strength of Communist parties all over the world." (Ex. 372, p. 793).

Respondent's position with respect to the issue of democratic centralism is as expressed by its counsel in arguing before us: "What has all that got to do with domination and control by Moscow?" (R. 1708). Respondent's evidence is to the effect that the principle of democratic centralism is the ultimate in democracy in that the rank and file members elect the next higher officers and so on up to the highest authority of the Party—the national convention. Respondent states that once a decision is reached by the majority, that decision is binding on the whole body (J.A. 965-966; 1204-1205).

Witnesses for the Petitioner testify to a different understanding of democratic centralism.

Gitlow stated (J.A. 217): "The Comunist Party in the United States was a centralized organization, ruled from the top down, and not from the bottom up;" and when he, Lovestone and Wolf were deposed in the schism of 1929, arrangements were made in Moscow that control of the United States party was to be vested in a representative of the Communist International who was given specific power to nullify any decision that any committee or any branch of the CPUSA made. He was also given power to expel any member of the party as well as other powers over the party (J.A. 270).

Kornfeder likened the party structure to a military one, with power coming from above (J.A. 306).

Nowell testified that, during his membership (between

1929 and 1936), in actual practice authority descends upon the membership from the top (J.A. 353).

We find that the materiality and relevancy of the issue of democratic centralism lies in its source as concerns Respondent's acceptance and practice of it, and in its use as a means of bringing Respondent within the authority of the Soviet Union. The record leaves no real doubt that, at least until 1940, Respondent followed democratic centralism as a requirement of membership in the Communist International,[1] and that on the basis of democratic centralism all decisions of the Communist International had to be fulfilled by Respondent (Ex. 145, p. 24); Ex. 125, p. 86; J.A. 1535-1537, 1464, 1658). From this it follows, based on the evidence elsewhere herein set forth, that for the period covering over twenty years of Respondent's existence, the principle of democratic centralism was one of the means whereby Respondent came within the authority of the Soviet Union.[2] Upon consideration of all of the evidence concerning Respondent's policies, activities, and conduct over the subsequent period of its existence, particularly the evidence covering nondeviation and allegiance as elsewhere set forth in this report, it is reasonable to conclude, and we do so, that Respondent's continued following of the principle of democratic centralism keeps Respondent within the authority of the Soviet Union.

We further find that the principle of democratic centralism is one of the policies established by the government and Communist Party of the Soviet Union, through adaptations of Marxism-Leninism, as an organizational Policy of the world Communist movement, and that Respondent's operations based upon the following of the principle evidences the purpose to effectuate the policies of the Soviet Union and of the world Communist movement.

In making our findings and conclusions concerning democratic centralism, we have taken into consideration the

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[1] See pages 18 to 25 concerning the Communist International and Respondent's membership therein.

[2] See pages 50 to 53 herein.

disciplinary aspect of the principle which is treated later in this report.[1] We have also taken into consideration the evidence concerning the collateral Marxist-Leninist concept or device called self-criticism, as followed and understood by Respondent. In arguing about self-criticism before us, Respondent's counsel stated as follows concerning self-criticism:

> "Another instruction or directive that the recommended decision relies on is what the Marxists call self-criticism. What is self-criticism? You get it from the books that are in evidence here. You get it from testimony of the witnesses. It is the proposition that Marxists assert that any serious political party should be willing openly to admit its mistakes, should discuss its mistakes of the past openly, and in the course of such public and open discussion also decide how those mistakes should be corrected. That is all that this principle of self-criticism means." (R. Jan. 7, 1953, p. 54)

The record, however, shows that the source of the doctrine and its use by Respondent lies in Marxism-Leninism and has as its primary purpose keeping Communists in line with the policies of the Soviet Union. As elsewhere herein noted, Respondent in 1945 re-emphasized the revolutionary line of Marxism-Leninism and expelled Earl Browder as a "revisionist" (J.A. 1136-1151). Those who had supported Browder engaged in "self-criticism" by saying that they were wrong in adhering to Browder's de-emphasis of the revolutionary line of Marxism-Leninism and in committing the other errors pointed out by Jacques Duclos, a spokesman for the world Communist movement (J.A. 1574-1575, 1692-1694; Exs. 208, 372).

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[1] This includes the evidence furnished by Petitioner's witness Johnson and others which establishes that in the past Respondent's organization included a Central Control Commission—the national disciplinary body—which was the American section of the International Control Commission in Moscow that maintained the strictest, iron discipline in the Party and kept every Communist in line (J.A. 647-648, 659-660, 1470-1471).

"Self criticism" is a device for safeguarding the unity of the Party and the iron discipline required by the Soviet Union. Elsewhere herein we discuss the evidence on these points in more detail. It is pertinent here to set forth a few illustrations from the record. Respondent's *Manual on Organization* contains the following:[1]

> "It is clear, however, that basic principles and decisions, such, as for example, the Program of the Communist International, cannot be questioned in the Party. (Ex. 145, p. 26, J.A. 1537

> * * * *

> "We do not question the correctness of the revolutionary theory of the class struggle laid down by Marx, Engels, Lenin and Stalin." (*ibid*, pp. 26 and 27, J.A. 1537).

> * * *

> "Self-criticism is a natural part of the life of the Party * * *. Without self-criticism, there can be no Communist Party. But this criticism must never depart from the line of the Party, from the principles of Marxism-Leninism. * * * destructive criticism * * * if tolerated * * * leads to factionalism." (*ibid*, pp. 32 and 33, J.A., 1538).

In short, the policies of the Soviet Union cannot be questioned.

An "Outline On Fundamentals of Marxism For Class Use or Self Study", issued by Respondent's National Educational Commission, cites Stalin's *Foundations of Leninism* as the "source of unity and discipline in the Communist Party" and quotes from Lenin, *Selected Works*, on

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[1] According to Respondent's witnesses, the *Manual* is obsolete in Party circles. On the other hand, the evidence furnished by witnesses Nowell, Crouch, Lautner and Budenz, and the fact that the author of the *Manual*, J. Peters, a high officer of Respondent, only left the United States and Party work in 1949, preponderates to establish the continued use of the *Manual* until at least 1949 (J.A. 398-400, 425-428, 431-432, 897-898, 905, 960-965, 1032, 1121).

the practice of self-criticism (Ex. 370, p. 31, J.A. 1688-1689), which is indicative of the source of Respondent's use of the doctrine. Further, an article in *Political Affairs* for January 1951 covering the main resolutions of Respondent's 15th National Convention, treats with the practice of criticism and self-criticism as "the inner law of Party development", (Ex. 378, p. 33) and includes the following:

> "Thus the whole Party does not often enough participate in evaluating major developments and struggles; does not sufficiently learn from mistakes committed.
>
> "This in turn leads to many 'independent' estimates which are not resolved into one single Party estimate. This tends to weaken Party discipline and the carrying out of Party decisions. (J.A. 1723).
>
> * * *
>
> "The 15th National Convention of the Communist Party, U.S.A., demonstrates the firm political unity of our Party. It calls upon the whole membership to guard the monolithic character and unity of our Party, based on democratic centralism. We must strive for the highest discipline arising out of conscious understanding of the Party's theory and political line. Tendencies toward factionalism are totally impermissible and must be sharply dealt with because they weaken the Party and make it possible for the enemy more easily to penetrate its ranks" (J.A. 1723-1724).

In view of the foregoing and upon consideration of the evidence concerning discipline and allegiance as later in this report reviewed, and upon the record as a whole, we find and conclude that Respondent practices the doctrine of self-criticism in compliance with the requirements of the Soviet Union and for the purpose of keeping its members in line with the policies and directives laid down by the Soviet Union.

### 5. Foreign Representatives in the United States

The foregoing facts concerning Respondent's organizational structure and the changes therein, the true meaning and use of Marxism-Leninism, and Respondent's policies and activities in "the struggle against imperialism" demonstrate and confirm the international character of the world Communist movement; that Respondent is the United States section or part of that movement; and, that the movement is dominated and controlled by the Soviet Union. Further confirmation and demonstration are found in the evidence concerning other activities or programs which the record establishes are the subjects of Respondent's major attention and efforts. These are hereinafter covered under the headings "Major Programs" and "The Communist Press".

We find that from time to time throughout Respondent's existence, the formulation and carrying out of its policies, programs, and activities as aforesaid have been directed or supervised by foreign representatives in the United States from the Soviet Union; this serves to illuminate and explain the basis and source of the policies and activities, and further illustrates the international aspects of Respondent's operations, as well as the foreign control thereover. A condition of the Communist International which was accepted and followed by Respondent was that (J.A. 1469-1470):

> "The E.C.C.I. and its Presidium have the right to send their representatives to the various Sections of the Communist International. Such representatives receive their instructions from the E.C.C.I. or from its Presidium, and are responsible to them for their activities. Representatives of the E.C.C.I. have the right to participate in meetings of the central Party bodies as well as of the local organizations of the Sections to which they are sent. * * * Representatives of the E.C.C.I. are especially obliged to supervise the carrying out of the decisions of the World Congresses and

of the Executive Committee of the Communist International." Ex. 125, pp. 89 & 90)

It would unduly burden this report to trace the many instances of record where such foreign representatives have been in the United States and active in the affairs of Respondent. Among such representatives identified in the record are Gerhardt Eisler (sometimes known as Edwards and Hans Berger), (J.A. 321-325, 379, 424, 875-877, 1142-1143, 1186-1187), J. Peters (J.A. 398-400, 425-428, 431-432, 897-898, 905, 960-965, 1032, 1121, 1168), Pogany (John Pepper) (J.A. 255, 265, 315, 423), Golos (J.A. 263, 1163-1166), Peterson (J.A. 248), Frank Miller (J.A. 249), P. Green (Gussev) (J.A. 245-246), Yusefovich, Merker (Wagner) (J.A. 489-491, 1165-1166), Walettsky, and Allen (J.A. 491) (See also: J.A. 316-319, 338). Limiting this report to a few examples, the record supports the testimony of Petitioner's witness Johnson who testified, based on what he was taught in Respondent's training school in 1932, that a representative of the Comintern had power superseding that of any leader in the American Party and was the complete boss over Respondent's policy (J.A. 660-661). Similarly, Petitioner's witness Lautner shows that when a Comintern representative spoke at Party meetings, no one questioned his decisions and they were accepted as the Party line (J.A. 321-325, 461-462, 660-661, 692-693, 874, 969-970, 1140-1143).

In the light of the record, we find that many of the policies and activities presently being carried out by Respondent were originally formulated under the supervision of representatives of the Communist International, and that this fact is indicative of foreign domination and control of Respondent. This, however, is not the entire state of the record as to activities of foreign representatives. When viewed in the light of the facts that Respondent announced its disaffiliation from the Comintern in 1940 to avoid identification as a foreign agent in the United States, and that the dissolution of the Comintern was announced in 1943 as a tactical move for unity in World War II and to elimi-

nate that manifestation of foreign direction over the member Communist Parties, the less apparent but yet identifiable subsequent activities of foreign representatives in the United States becomes significant.

We have previously found that Manuilsky, while a Soviet Union representative to the United Nations in 1945, sent word to Respondent to the effect that it should heed Duclos' statement concerning the reconstitution of the Communist Party.[1] Other individuals who had previously been here as Communist International representatives are identified on the record as active in the United States after 1940. J. Peters and Gerhardt Eisler[2] are the subjects of considerable testimony.

Respondent's witness Flynn states on direct examination that since she assumed her duties as a member of the National Committee in 1938, Respondent has not received any directives or instructions from any representative of the CPSU and that to her knowledge no Communist International representative has been in the United States since 1946 (J.A. 1289). She knows Gerhardt Eisler but did not meet him until after his arrest. She states that neither he nor any of her fellow officers in the CPUSA ever told her that he (Eisler) was a representative of the Communist International. The testimony of Respondent's witness Gates is to the same effect (J.A. 1250-1251).

Of the reputed Communist International representatives in the United States, Eisler was the most conspicuous and most noteworthy. Eisler was in this country for many years and fled the United States while on bail, pending the appeal of his conviction in 1949 for false swearing. Witness Kornfeder shows that in 1933 Eisler, whom he had

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1 See *supra* page 30; see also J.A. 1137, 1182-1183.

2 The record shows that both Peters and Eisler as well as other Comintern representatives have used various other names and aliases. Eisler has been known as "Edwards" and "Berger", (J.A. 424, 692-693, 1142-1143, 1163, 1186-1187), and on one occasion he asked witness Nowell to call him "Brown" (J.A. 379, 660). J. Peters was also known as William Peters, Alexander Stevens and Clarence Miller (J.A. 399). Also as Joe Peters, Alexander or Goldberg (J.A. 961).

originally met in Moscow, was a Comintern representative in the United States and discussed with him the infiltration of the American Federation of Labor and the Railroad Brotherhoods (J.A. 320-322). Eisler warned him of serious consequences if he spoke against a new trade union policy at a national convention of the Communist Party in 1934. Kornfeder disregarded Eisler's warning and was told to repudiate in the Party press within sixty days what he had said (J.A. 322-325). He was expelled from the Party (J.A. 325). Witness Johnson stated that Eisler's word was law in the CPUSA (J.A. 660-661). Witness Meyer knew Eisler as a Comintern representative (J.A. 692-693) as did witness Lautner (J.A. 874). Lautner testified that after 1945 he knew that Eisler undertook to influence Party activities in the United States (J.A. 969-970). Witness Budenz said that Stachel, a high Party leader, received orders from Eisler in 1943 and 1944 (J.A. 1162-1163) and that there was talk of Eisler as a Comintern representative in 1945. During this period Stachel consulted with Eisler frequently (J.A. 1140-1142).

Another person conspicuously active in the activities of the CPUSA was J. Peters, author of Respondent's *Manual On Organization*. Witness Nowell identifies him as a Comintern representative (J.A. 376-378). Witness Crouch said he took orders from Peters between 1934 and 1940 (J.A. 426-428), and witnesses Johnson and Lautner testified that Peters provided them with secret codes (J.A. 664-665, 876-877).

Peters was deported in 1949. Subsequently, an official actively engaged in Respondent's youth activities met Peters in Hungary while the former was attending the World Youth Festival there (J.A. 1032, 1037-1038).

We find that the testimony of Petitioner's witnesses is credible and that the testimony of Respondent's witnesses is not in accord with the facts in this matter. A preponderance of the evidence clearly shows that representatives of the CPSU were in the United States and that through them Respondent received directives and instructions.

### 6. The Communist Press

In addition to the foregoing, further indication that the Respondent operates pursuant to directives of the Soviet Union, and is controlled by the Soviet Union in its views and policies, is furnished by the evidence hereinafter summarized concerning the Communist press and its use for the exchange of information. In the United States, the *Daily Worker* and *Political Affairs* operate as guides for the membership of Respondent as to the correct views and policies. (J.A. 336, 359, 464-465, 745, 767-768, 938-942, 1128-1130, 1309) In the Soviet Union, the organ of the Communist Party of the Soviet Union is a paper called *Pravda* (See Ex. 217). On an international scale, *For a Lasting Peace, for a People's Democracy* is the organ of the Information Bureau of the Communist and Workers' Parties (Cominform).

We find that one significant aspect of the issue of domination and control lies in the formation, nature, and character of the *Daily Worker*. The record shows that the Communist International required the member parties to "create a new type of periodical press . . . in which the Communists . . . learn to utilize the slightest liberty allowed by the laws . . ." and without which "the preparation for the dictatorship of the proletariat is impossible." (Ex. 8, p. 20, J.A. 1325). The International also required that such a Party press carry on a policy fully corresponding to the policy of the Party; edited by reliable Communists; and subject to the control of the governing body of the Party (*ibid.*, p. 27, J.A. 1325-1326). We find that the policy, content, and advocacy of the *Daily Worker* is and has been under the complete supervision and control of Respondent's leaders and top committees; that officers of Respondent have been the principal officers of the paper; that the paper's policies correspond to the policies of the Party and the paper is considered a necessity for the effectuation of the Party's aims and purposes (J.A. 940-943, 1134-1138, 1160-1161, 1176-1178). In its early years, the *Daily Worker* was aided by financial subsidies from Moscow and until

about 1944 was furnished free information or dispatches at nominal cost, from Moscow through a Soviet Union news service. The record shows various directives issued by the Communist International concerning the *Daily Worker*, which were followed. Upon consideration of the foregoing and upon the whole record, we find and conclude that the *Daily Worker* was established pursuant to directives of the Communist International and presently fulfills the function it has always had.

We further find, on the basis of the evidence hereinafter summarized, that the *Daily Worker* is the counterpart in the United States of the Soviet Union organ, *Pravda*, translated issues of which are part of the record in this proceeding. While Petitioner's witness Budenz was managing editor of the *Daily Worker* (1941-1945), staff meetings were held for political education—"to keep the staff on their toes regarding Party theory and thinking"—at which meetings the *History of the Communist Party of the Soviet Union (Bolsheviks)* was used (J.A. 1160-1161). We have heretofore found that the *History* constitutes one of the principal sets of rules and guides followed by Respondent. It is stated in the *History* that, "A powerful instrument used by the Bolshevik Party to strengthen its organizations and to spread its influence among the masses was the Bolshevik daily newspaper *Pravda* . . . founded, according to Lenin's instructions, on the initiative of Stalin, Olminsky and Poletayev" (Ex. 330, p. 149, J.A. 1614-1618). The *History* also states that *Pravda* "directed the working class movement toward one definite aim—preparation for revolution" (*ibid*, p. 153) and that a legally published newspaper "could not call openly for the overthrow of tsardom" and " had to resort to hints, which, however, the class-conscious workers understood very well . . ." (*ibid*, p. 150, J.A. 1615). Examples are given of "modest" sounding words which were understood by the workers as a "call" (*ibid*, p. 151, J.A. 1616). Respondent's official concept of the *Daily Worker* in the 1930's, which the record shows still persists, is that the paper is "One of the main

and most important instruments of agitation and propaganda . . . for reaching and winning the masses." (Ex. 145, pp. 78-79, J.A. 1540). This is pertinent for comparison with the aforequoted concept of *Pravda* as "A powerful instrument used by the Bolshevik Party to . . . spread its influence among the masses."

We treat now with the issue as to whether the foreign Communist press contains articles or statements that constitute directives or instructions to Respondent. Respondent's witness Gates is a member of the National Committee, and is editor of the *Daily Worker*.[1] He denies that any foreign publication contains directives to the Respondent (J.A. 1208-1211). The testimony of Respondent's other two witnesses is to the same effect. On the other hand, while Petitioner's witness Budenz was managing editor of the *Daily Worker*, "the Communists looked in these articles from Moscow for the directives and the line that was to be pursued, the attitude that should be taken" (J.A. 1170-1171).

The direct oral testimony, however, is not the full state of the record in the premises. In resolving this issue, we have taken into consideration the facts elsewhere herein set forth concerning "non-deviation", and particularly, as established by a review of the pertinent documents of record, the fact that the *Daily Worker* does not deviate from or disagree with the Soviet press.[2] We have also taken into consideration the background of the Communist press in this country and in the Soviet Union as heretofore set forth, and the aforementioned principle that the press resorts to "hints" or "modest" language but which the "workers" understand. Further, it is not seriously disputed on the record that the *Daily Worker* receives political news from abroad, particularly from Moscow, which in-

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1 He held these positions prior to starting to serve a prison sentence for conviction in 1950 for violation of the Smith Act, and, as far as he knows, still retains the positions.

2 Respondent's witness Gates says the similarity between Respondent's views and those of the Soviet Union is only the coincidence of the common application of Marxist-Leninist principles (J.A. 1252-1254).

cludes translations from the Soviet press (See e.g., Budenz, J.A. 1168-1170), and that a correspondent of the *Daily Worker* is stationed in Moscow.

Additional evidence on this issue consists of the fact that the Communist publication *For a Lasting Peace, for a People's Democracy* is distributed in the United States to functionaries of Respondent, and copies have been made available by Respondent to meetings of various of Respondent's committees and groups. Petitioner's witness, Matusow, furnishes an example of the effect of an article in *For a Lasting Peace, for a People's Democracy.* In the summer of 1948, the director of the Jefferson School gave a lecture at the school's summer camp to the effect that the Communists agreed with Tito and Yugoslavia and all the things they were trying to do. A few weeks later, the news was published in *For a Lasting Peace, for a People's Democracy* that Marshal Tito and the Yugoslav Communist Party had been denounced by the Cominform. The same school director then took the reverse position in his lectures although his only source of information was the Cominform journal (Matusow, J.A. 1056-1057).

Other parts of this report present our findings concerning the well-established requirement of the Soviet Union that vigilance be maintained against "reformists," "opportunists", "stool pigeons", etc.; and the application in this respect of the Communist doctrine of self-criticism. An article by Gilbert Green, high officer of Respondent, entitled "For Communist Vigilance" appears in the May 1950 issue of *Political Affairs.* The article refers to the way in which the Polish and Bulgarian Communist Parties dealt with lack of vigilance—"the reflection of opportunism in the thinking and work of the Party" (Ex. 363, p. 118)—and quotes articles from *Pravda* and *For a Lasting Peace, for a People's Democracy* on the need for Bolshevik criticism and self-criticism (*Ibid*, pp. 127 and 128). It is reasonable to conclude from the article that the author considered the foreign articles as authoritative instructions.

Some of the articles which are in evidence from *Pravda* contain specific reference to the United States. The March 11, 1950 issue (Ex. 217) contains a speech by Molotov on the international situation in which the following appears (J.A. 1579):

> "The democratic camp, which unites the USSR and the countries of the people's democracy, is opposed by the camp of the imperialist powers headed by the ruling circles of the United States of America. (*ibid*, p. 6)
>
> * * *
>
> "It is our permanent task and important duty to watch everything that is going on in the camp of imperialism. (*ibid*, p. 6).

* * *

(J.A. 1580):

> "We fully stand for the Leninist-Stalinist principles of peaceful coexistence of the two systems and their peaceful economic competition. But we know it to be true that while imperialism exists, there also exists the danger of new aggression and that in the presence of imperialism and its predatory plans wars are unavoidable. Therefore, the advocates of a durable peace among the peoples must not be passive and become empty pacifists who are charmed by phrases, but they must everyday conduct a stubborn and still more effective struggle for peace, drawing into it the masses of the people and not stopping before appropriate measures when the imperialists attempt to unleash new aggression." (*ibid*, p. 11)

When read in the light of the considerable evidence of record respecting Respondent's position concerning the United States as an aggressive, imperialist power, and Respondent's policies and activities in the struggle for peace, all of which is set forth in detail elsewhere in this report, it is reasonable to conclude that the foregoing article in *Pravda* demonstrates that the so-called struggle for peace

is used in order "to sweep imperialism and aggression from the face of the earth forever." (Ex. 217, p. 11, J.A. 1580).

Upon the whole record, we find and conclude that articles published in *Pravda* and *For a Lasting Peace, for a People's Democracy* are understood by Respondent and treated as authoritative instructions or directives as to the line to be taken or the policy to be pursued.

### 7. Major Programs

We have hereinbefore referred to the fact that Marxism-Leninism, through the so-called Classics, sets forth certain programs and policies as the means of forwarding the world revolution. Particular emphasis as to programs (as distinguished from organization and discipline in the world Communist movement and from the strategies and tactics for the overthrow of imperialism), is placed upon work in and with labor unions, youth, and minority groups (see pages 62 to 68, *supra*).

We also find that such programs were basic requirements of the Communist International and have been and are constantly advanced by the Soviet Union. We find further that Respondent early formulated and has consistently carried out such programs in the United States in conformance with Marxism-Leninism and pursuant to other directives of the Communist International and of the Soviet Union, and that the formulation and carrying out of such programs have as their aims and purposes the advancement of the objectives of the world Communist movement. The evidence as to Respondent's activities in and with labor unions, youth, and minority groups, particularly the Negroes, is voluminous. It would unduly burden this report to set forth the many detailed facts from which the foregoing findings are established. We limit ourselves to what we consider the more significant—those in the past which determine the source and illuminate the present, and those of more or less current use and application which determine the continuity and consistency.

It is clear, and as we read the record not disputed, that major attention is given by Respondent to trade union work, to youth and to "the struggle for national liberation of the Negro people". At issue are the reasons for this attention—why and for what purposes. In other words, this proceeding is concerned with whether these policies and activities were formulated and are being carried out on Respondent's initiative or whether they come within Section 13 (a)(1) of the Act.

The preceding section of this report which establishes the meaning of Marxism-Leninism as understood and used by Respondent shows that trade union work, youth work, and work among the minorities, are given importance in the world Communist movement. Trade Unions and youth under Marxism-Leninism are the "belts" and "levers" without whose aid the dictatorship of the proletariat cannot be realized, while the directing force is the Party. Trade unions are "a school of Communism"; youth are "young reserves"; and national minorities have "latent revolutionary capacities". Under the Classics, Communists are taught the necessity of "winning over" and "utilizing" unions in order to carry on the struggle against the government; the necessity of "organizing the Marxist-Leninist training of youth"; and, the necessity of "utilizing" the latent revolutionary capacities of the minority groups for "the overthrow of imperialism".

Additional evidence as to the importance of trade unions, youth, and national minorities in the world Communist movement is furnished by the consistent requirements of the Communist International. The *Theses and Statutes* required that the component member parties carry on Communist work in labor unions and form Communist groups within the organizations to "win over labor unions to Communism" and "to subordinate the unions to the practical leadership of the Party, as the advance guard of the workers' revolution" (Ex. 8, pp. 29-57, J.A. 1331); that organizational relations between youth and the Communist Party be basically defined in every country after the same system

(p. 8) and, that a policy be carried out for the closest union between all national and colonial liberation movements and Soviet Russia—"to support the revolutionary movement among the subject nations (for example, Ireland, *American Negroes,* etc.) and in the colonies" (p. 69, J.A. 1332; emphasis added). In discussing preparation for the dictatorship of the proletariat, the *Theses and Statutes* says in part (J.A. 1323):

> "In every organization, union, association—beginning with the proletarian ones at first, and afterwards in all those of the non-proletarian workers and exploited masses (political, professional, military, co-operative, educational, sporting, etc.,) must be formed groups or nuclei of Communists—mostly open ones, but also secret ones which become necessary in each case when the arrest or exile of their members or the dispersal of their organization is threatened; and these nuclei, in close contact with one another and with the central Party, exchanging experiences, carrying on the work of propaganda, campaign, organization, adapting themselves to all the branches of social life, to all the various forms and subdivisions of the working masses, must systematically train themselves, the Party, the class, and the masses by such multiform work." (p. 16).

The *Programme of the Communist International* further emphasizes these policies and activities. Concerning trade unions, the *Programme* says (J.A. 1456):

> ". . . It is particularly important for the purpose of winning over the majority of the proletariat, to capture the *trade unions* (emphasized in text), which are genuine mass working class organizations closely bound up with the every day struggles of the working class. To work in reactionary trade unions and skillfully to capture them, to win the confidence of the broad masses of the industrially organized workers, to change and 'remove from their posts' the reformist leaders, repre-

sent important tasks in the preparatory period." (Ex. 125, p. 76).

With respect to youth, the *Programme,* in what we find to be adherence to the principles of Lenin and Stalin, points out that the Party relies directly on the mass organizations which include youth, and that systematic work must be carried on among the proletarian and peasant youth (J.A. 1462).

Concerning minorities, the *Programme* points out the necessity to support every movement "against imperialist violence in the colonies, semi-colonies and dependencies themselves"; to carry on propaganda against all forms of chauvinism and against the "imperialist maltreatment of enslaved peoples and races, big and small (treatment of Negroes, yellow labor, anti-semitism, etc.)" (J.A. 1457).

Still further evidence concerning the role to be given trade unions, youth, and national minorities in the world Communist movement lies in the official organ of the Communist Information Bureau. The December 2, 1949, issue of *For a Lasting Peace, for a People's Democracy* contains a report submitted to the Cominform by M. Suslov, representative of the Communist Party of the Soviet Union, entitled "Defense of Peace And The Struggle Against The Warmongers", which emphasizes the necessity of drawing trade unions into the "camp of the fighters for peace, against the warmongers"; it points out the help that can be furnished by youth; and says that the duty of the Communist and working class parties in the capitalist countries is to merge the struggle for the national independence with the struggle for peace (Ex. 249, p. 3, J.A. 1584-1586). The Zhdanov report, previously herein referred to, includes the following statement:

> "Imperialist countries like the United States, Britain and countries near to them become dangerous foes of the national independence and self-determination of nations, while the Soviet Union and the countries of the new democracy are a secure bulwark in the de-

fense of the equality and national self-determination of nations." (Ex. 214, p. 22, J.A. 1577).

Upon consideration of the foregoing and upon the entire record, we find and conclude that trade union work, the training and organization of youth, and national liberation movements, all under the guidance of the Communist Party, are essential elements in carrying out the world communist movement and that these policies were formulated and have been from time to time implemented by Lenin and Stalin, the Communist International, and the Communist Information Bureau. We proceed to examine the record concerning Respondent's use and application of these elements. Evidence as to Respondent's direction in its trade union and national liberation programs is furnished from an article by "Alex Bittelman" which was printed in the March 1934 issue of Respondent's magazine *The Communist* (J.A. 1473-1483). The author, Bittelman, is presently a high official of Respondent. The theme of the article was to seek to make it appear that the Communist International did not "interfere" in American affairs or "dictate" to Respondent, but that Respondent heeded the Comintern in the exercise of Respondent's own conviction and will.[1]

With respect to trade union work, Bittelman wrote in part as follows (J.A. 1476-1479):

> "The next milestone in the Comintern leadership for the American party we find on the question of trade union work. * * * The Comintern brought the American militants and lefts closer to the world labor movement and to the basic problems of the American labor

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1 Bittelman's attempt to explain away control by the Comintern is not in accord with the facts. From the record as a whole, it is apparent that the Comintern in fact dominated and controlled Respondent under conditions whereby Respondent could not exercise its own volition in any major respect. An example is furnished, among many, by Kornfeder's expulsion from the Party for failure to follow the instructions of a Comintern representative. See page 130 herein. Cf. Nowell's trial by the Comintern for opposing the Negro policy of the Comintern, pp. 139-140.

movement. The trade union question was one of them. * * * Even the best and most experienced among the left and militant leaders of the American workers * * *, such as the late Charles E. Ruthenberg, as well as the present leader of our Party, William Z. Foster, were able to rid themselves and our movement of the old ballast of opportunism only by coming closer to Leninism and into the Comintern * * *. (p. 239).

"It was Comintern advice and guidance that helped the American Communists to turn full face to the building of a left-wing in the reformist unions beginning with 1920; it was the advice of the Comintern that helped formulate a correct solution to one of the basic problems of the American proletariat—the organization of the unorganized into trade unions; it was advice of the Comintern on independent leadership of the economic struggles by the revolutionary elements that helped formulate strike policies and tactics; * * * (p. 240).

"Comintern influence on the development of revolutionary trade union policies in the United States has especial significance. * * * It is significant, therefore, that the first question which Comrade Stalin put to the American trade union delegates was: 'How do you account for the small percentage of American workers organized in trade unions?' * * * the intent of Stalin's question is clear: Why don't you organize the workers in trade unions? Why don't you strengthen them against the capitalists? (pp. 240-241). And it was in this direction that the Comintern threw the full weight of its influence and advice in the American labor movement. * * * Tactics and methods of work might vary, depending upon the state of the class struggle. * * * But the strategic aim always remained the same, and for this aim the Communist Party fights bravely and persistently and with increasing effectiveness. * * * So, we ask again: can any American worker, who is alive to the needs of his class and is willing to fight

for them, find anything to object to in this 'interference' of the Communist International in American affairs? And will he object to the Communist Party of the U.S. accepting and taking deep satisfaction in such 'interference'? No, he will not. * * * " (p. 241).

And concerning the matter of national liberation, the article includes (J.A. 1480-1481):

"Once more came the 'outside' influence of the Comintern, and what did it say? It said that the struggle against discrimination and for Negro rights is a revolutionary struggle for the national liberation of the Negroes, that we must fight for complete Negro equality, and that in the Black Belt the full realization of this demand requires the fight for the national self-determination of the Negroes, including the right to separation from the United States and the organization of an independent state. Furthermore, it was the interpretation of Leninism and its application to the United States as made by the Comintern that showed the American Communists that the agrarian revolution in the Black Belt, * * * is the basis of the national-liberation movement and that this movement is one of the allies of the American proletariat in the struggle for the dictatorship of the proletariat. * * * Will the Negro workers, farmers, and city poor consider the Comintern advice on the Negro question 'outside dictation'? No. They will, as they actually do, receive this advice with outstretched arms and will continue in every larger masses to rally around the Communist Party as the leader of the liberation fight. * * * (*ibid*, p. 244).

A review of Respondent's early documents and the testimony of witnesses who were officials of Respondent during its formative years, establish that Respondent gave to trade unions, youth, and minorities as prominent a place in its structure as did the founders of the dictatorship of the

proletariat in the Soviet Union. Respondent's articles Publications and other documents, together with the testimony of witnesses, show that throughout its existence and up to the time of this proceeding, Respondent has continued to give importance to trade union work, the mass organization and training of youth, and the struggle for national liberation of the Negroes. It is not necessary to review herein the considerable quantity of evidence that shows the extent of Respondent's policies and activities in furtherance of the world Communist trade union, youth, and national liberation movements; nor to review the large quantity of evidence from which we find that these policies and activities of Respondent represent to a substantial degree the continued following and adherence by Respondent to unrepudiated directives given by the Soviet Union. We limit this report to some of the more significant indications. For clarity, we treat the subjects separately. The evidence hereinafter set forth is in addition to the fact, which we find, that Respondent's policies and activities with trade unions, with youth, and in the struggle for national liberation are based upon and adhere to Marxism-Leninism.

### (a) The Trade Union Work

In 1927, Benjamin Gitlow, at the time a member of the Politburo of Respondent and its Central Committee, was sent by Respondent to the Soviet Union at the special request of the Communist International to attend the Plenary sessions of the Executive Committee of the Communist International (J.A. 265). While there, Gitlow, and other leaders of Respondent, met with Joseph Stalin at Stalin's office at the Headquarters of the Central Committee of the Communist Party of the Soviet Union. Stalin directed the Communist Party to make a very serious effort, among other things, to get a foothold in the trade union movement of the United States, in order to attract to the Communist Party a much larger membership, and to await a sharpening of the economic and social situation in the

United States for future revolutionary action (J.A. 265-266).

It will be noted that Stalin's statement is in line with the policies of Marxism-Leninism and of the Comintern, to which we have previously referred. The record shows that Respondent has continuously and consistently placed major emphasis on trade union work to build up the Party (Ex. 376, p. 28, J.A. 1708) and to aid in what Respondent sometimes calls "the class struggle". (Exs. 378, p. 12 and 424, Session 5, Item II).

Petitioner's witness Nowell in 1929 received instructions from the Central Committee of Respondent concerning an elaborate program, later adopted at the founding convention (which Nowell attended as a representative) of a national parent organization—Trade Union Unity League—affiliated with the Red International of Labor Unions in Moscow, for organizing industrial workers in basic industries as well as to foster Communism in unions and for facilitating the proletarian revolution (J.A. 353-354). In 1935, Nowell was instructed as an official of Respondent to gain control of local unions for the purpose of gaining hegemony of the C. I. O. After certain strikes in 1936, Respondent counted on the C. I. O. as part of the People's Front movement to influence United States home and foreign policy in conformity with the International People's Front movement outlined by Dimitroff in his Seventh World Congress speech and resolutions in August 1935 (J.A. 397).

The official minutes of the proceedings of Respondent's governing committees for a number of meetings during the period from late in 1925 to late in 1928 were put in evidence by Petitioner. Many of these minutes show action by Respondent concerning trade union work pursuant to specific instructions and directives from the Communist International. (Examples are Exhibits Nos. 53, 63, 65, 77, 80, 87, and 91).

The record shows that Respondent's tactics in its trade union work have been changed at least three times pursuant

to directives of the Communist International and to effectuate the policies of the Communist International. Originally, the policy was to operate in existing unions. This was changed in 1928 to a policy of concentrating on forming new unions. In 1934, the policy reverted to one of operating in existing unions. This policy is still in existence as established by the evidence herein reviewed. Respondent's united front program in the trade union field which presently receives considerable attention from Respondent, originated with the Communist International. As expressed in the aforementioned article by Alexander Bittelman (J.A. 1477-1478):

> "* * * In short, at every stage in the development of the revolutionary trade union movement in the United States (TUEL, class struggle unions of the TUUL, the application of the united front on the trade union field, the fight for trade union unity, etc.), it was with the help of the Comintern that the American revolutionary workers were able to find the correct way, to correct their errors, and, through manifold changes in tactics, to press on to the goal of building a revolutionary trade union movement in the United States." (Ex. 126, p. 240).

Petitioner's witness Kornfeder taught a course at one of Respondent's schools at the national headquarters in New York in 1932 which covered Communist labor union tactics and strategy, including the organization of secret groups inside of labor unions for the purpose of gaining control of such unions, and the preparation and conduct of strikes.[1] (J.A. 351-352).

At its national convention in 1950, Respondent resolved (J.A. 1722):

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[1] His course also included one in Leninism, including the main doctrine calling for the total and complete overthrow of all existing social institutions, the government, and organizations which support the government, as well as the complete elimination of the present state structure and the substitution of a dictatorship led by the Communist Party. (J.A. 351-352).

"We must face the fact that the overwhelming bulk of the organized workers in the country are in the A. F. of L., C.I.O. and independent Right-led unions. It is this which must determine the main direction of all of the Party's work, and especially its trade-union and industrial concentration policy." (Ex. 378, p. 13).

In May 1940, Respondent published in its magazine *The Communist*, an article by Dennis, then and now a high official of Respondent, entitled "The Bolshevization of The Communist Party In The Struggle Against The Imperialist War" which states it is particularly urgent, in accordance with certain conditions outlined by Stalin in *Pravda* in 1925, to conduct more consistent and effective activity among the A. F. of L. Workers. (Ex. 436, pp. 412 & 417, J.A. 1767).

An article by Henry Winston appearing in *Political Affairs* for September 1948 (Ex. 418) entitled "For a Fighting Party Rooted Among the Industrial Workers" was used in discussions at Party Club meetings in October and November, 1948, attended by witness Matusow. The article concerns the necessity for mobilizing the workers in the factories as a main base for a successful fight against war and fascism (Ex. 418, pp. 839-840, J.A. 1741). In a subsequent discussion of the article with witness Matusow, the writer, Winston, said that the question of industrial concentration and the movement of young people, members of the Communist Party youth movement, to basic industries was important at this time because in the event of any "imperialist war" it would be necessary to have people in basic industries to mobilize the workers against such war in an effort to slow down production and to do anything possible to see that such an "unjust war" should not be successful (J.A. 1041-1042). The writer, Winston, is a member of Respondent's National Committee and was the National Organizational Secretary.

The February 1951 issue of *Political Affairs* (Ex. 376) "devoted to reports, speeches, and greetings of the 15th

National Convention of the Communist Party, USA, held in New York City on December 28-31, 1950''; contains an article by John Williamson entitled ''The Main Direction of the Party's Trade Union Work'' (J.A. 1709-1710) which direction, the author says, must be ''among the members of the reformist-led unions'' (primarily the A. F. of L. and C. I. O.). (J.A. 1709) The article refers to the role of the Party through its thirty-one years existence and concludes that ''in general, the trade union policies adopted by our Party were correct'' (*ibid*, p. 72). According to Williamson (J.A. 1710):

> ''The present situation demands from all Party trade-unionists, especially in positions of leadership, closer ties with the Party, better understanding of policies, and a more vigorous fight for Party policies among the masses.'' (*ibid*, pp. 72-73).
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> * * * * *
>
> ''We know . . . our Party, headed by its helmsmen Foster and Dennis, will lead the working class safely to the port of Socialism.'' (*ibid*, p. 73).

Petitioner's witness Janowitz was a member of Respondent both during the period it was called the Communist Political Association and after it reverted to the name Communist Party. He joined in 1943 (J.A. 1024) and was still a member at the time he testified in this proceeding. He held minor official positions and was active in Respondent's trade union work in Ohio. He and one Fred Haug, at a meeting of Communist labor members in 1950, were assigned the duty of getting new members for the Party (J.A. 1020). Also in 1950, at a meeting of a Communist Party group at the plant where Janowitz was employed, a state official of Respondent handed out copies of *New Times*, published by the newspaper *Tass* in Moscow, and of *For a Lasting Peace, for a People's Democracy*, official organ of the Cominform. The official told the labor members to read and study the documents and pass them on (J.A. 1018). These documents contain articles which strongly

condemn the United States while praising the Soviet Union (Exs. 412 and 413). On the basis of his experience in the Party, Janowitz learned that the Communists are to take advantage of every opportunity that arises to lead the masses, whether it be through depression or strikes or anything else, and are to be the leaders in any movement that unites the masses for the purpose of "getting rid of the capitalist system in America," and substituting Communism (J.A. 1023).

Petitioner's witness Evans attended a regional convention of Respondent in 1951 (J.A. 1101-1102) where a talk was made concerning the policy of industrial concentration and Communist work in trade unions. The witness describes the talk as including reference to the necessity of infiltrating the different unions, especially the key unions (J.A. 1103). His best recollection is that the speaker actually used the word "infiltrating". Similar evidence is furnished by Petitioner's witness Cummings who was taught in Respondent's schools in 1945 that to infiltrate trade union movements was one of the primary objectives of Respondent (J.A. 856).

We have previously referred to the supervision of Respondent's activities by foreign representatives in the United States. In trade union work, the record shows that Petitioner's witness Kornfeder, while an official of Respondent, disagreed with the change in trade union policy in 1934 and was expelled for failure to heed Gerhardt Eisler, a foreign representative, who told him not to voice his disagreement (J.A. 322-325). Witness Honig in the early 1930's was given instructions by a Communist International representative in the United States concerning his Party assignment as editor of a publication called "*Labor Unity*" (J.A. 475-477).

Members of Respondent have in the past been sent to the Soviet Union where they received schooling and instructions regarding trade union policies and activities. Four of the witnesses in this proceeding had this experience. Witness Nowell was taught trade union and strike strategy at the Lenin School in Moscow in 1931 (J.A. 369-371). Witness

Honig was sent by Respondent to Moscow in 1932 where he remained until 1935. While there, he studied the operations of the Soviet trade unions and helped the Communist International to formulate policies to be carried out by Respondent in the trade union field (J.A. 469-470). Honig sent back to Respondent reports on decisions made by the Communist International or its affiliated Red International of Labor Unions with headquarters in Moscow, on such things as where the Respondent was to step up its activities and try to produce strikes and try to capture control of unions. The Respondent reported back to Moscow commenting on the instructions it received to the effect that the Party had been attempting and believed it was succeeding in carrying-out these directives (J.A. 476-482).

The record shows that under Marxism-Leninism, as well as the Communist International and the Soviet Union, the incitement to strike is a tactic of labor union policy and activity. In the late 1920's a special committee was created by Respondent in an attempt to gain control of the United Mine Workers by utilizing anthracite strikes to Respondent's advantage. In 1934, the Comintern and the Red International of Labor Unions at joint meetings in Moscow, instructed Respondent to press the current situation among the longshoremen and dock workers in San Francisco to the point of a general strike (J.A. 479-480). These instructions were communicated to Respondent by coded message and were carried out (J.A. 480; Ex. 157 (see J.A. 1551-1559)). Manuilsky, then secretary-general of the Communist International,[1] expressed himself as anxious to have the strike since a cardinal principle of Leninism was that a general strike is a rehearsal for revolution or for a seizure of power by the Communist Party (J.A. 481-482).

A strike meeting was called at the Fisher Body Plant in Cleveland in the 1930's at the direction of the Communist International representative, Gerhardt Eisler (J.A. 321-322). In 1940, Respondent instigated a strike at Allis-

[1] Manuilsky in 1945 was Soviet representative to the initial United Nations Conference on international organization held in San Francisco.

Chalmers in order to slow down the production of war materials for Great Britain, then at war with the Soviet Union's then ally, Germany. In 1941, Respondent instigated and led a strike conducted by the aircraft division of the United Auto Workers at the North American Aviation Company in California.

(b) YOUTH WORK

As in the case of Respondent's other policies, activities, and programs, we have taken into consideration in arriving at our determinations regarding Respondent's youth work, the fact that Respondent has republished in the United States and uses as textbooks and guides to action, many of the documents, publications and writings of leading officials of the Soviet Union and organs under its control, such as the Communist International. We have also taken into consideration the fact that various members of Respondent have been trained in the Soviet Union and that some of its present top officials were intimately connected with the Communist International.

The evidence clearly preponderates to establish that while it was a part of the Communist International, Respondent's youth policies were formulated and carried out and its activities performed pursuant to directives of the Communist International. A decision of the Comintern in 1926, contained in the "Resolution on the American Question" and requiring greater attention to the building of a mass Young Communist League and pioneer movement was distributed by Respondent's general secretary to all District, City, Section Committees, and Language Bureaus of the Party (Ex. 40; J.A. 1351-1352).

A resolution of Respondent's Central Committee wholeheartedly approved the decisions of the Seventh World Congress of the Comintern in 1935 "to build the widest anti-fascist youth front through the world." The Central Committee in its resolution called upon the Party to do all in its power to help the Young Communist League accomplish a change in its character indicated by the Sixth World Congress of the Young Communist International and which

had subsequently been approved by the Communist International (Ex. 185, J.A. 1567-1572).

The minutes of various top committees of Respondent for the period from October 1925 through November 1938 disclose guidance by Respondent of the Young Communist League in the United States on the basis of directives from the Communist International. (Examples are Exs. 58, 71, 72, 73)

Additional evidence as to foreign direction of Respondents's youth policies and activities is furnished by Alexander Bittelman's pamphlet issued in 1932 entitled, *The Communist Party in Action* (Ex. 144) and by Respondent's *Manual on Organization of the Communist Party* (Ex. 145). In the pamphlet entitled, *The Way Out,*[1] issued by Respondent in 1934, the Young Communist League is defined as the mass political organization of young workers which leads them in the struggles for their demands and acts as a training school for Communism. It is organizationally independent of the Communist Party, but acknowledges its political leadership and is affiliated with the Young Communist International (Ex. 136, J.A. 1491).

The record establishes that the Young Communist League in the United States was dissolved in 1943 (when the Communist International ceased to exist) and that in its place the American Youth for Democracy was formed as what is known by Communists as a coalition group, being composed of both members and non-members of the Communist Party. It was technically a non-Communist organization, formed as a win-the-war organization designed to recruit and influence as many young people as possible for the Respondent Party. Witness Philbrick, a member of Respondent, was State Treasurer of the American Youth for Democracy and one of its leaders (J.A. 752-753). Witness Matusow joined the American Youth for Democracy in 1946 and through his associations therein became a member of Respondent in 1947. He con-

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[1] Manifesto and Principal Resolutions adopted by the Eighth Convention of the Communist Party of the USA, held in Cleveland, Ohio, April 2-8, 1934. (Ex. 136; J.A. 1490-1492).

tinued to be active in Respondent's youth work and in 1949 assisted in the formation of a new Marxist-Leninist youth organization in the United States—the Labor Youth League (J.A. 1024-1032). The plan of Respondent which was carried out was to disband all Communist youth clubs and to transfer their leadership to the Labor Youth League under Respondent's leadership. Among the books used by the educational committee of the Labor Youth League for training its members are: *Twilight of World Capitalism* by William Z. Foster; *The Tasks of Youth* by Stalin; and *The Young Generation* by Lenin (J.A. 1028-1029).

In view of the policy of the world Communist movement for the mass organization of youth organizationally independent of the Party, and in view of the various directives issued to Respondent, all as heretofore set forth, the following quotation from an article in *Political Affairs* for February 1951 (Ex. 376, J.A. 1711-1712) is relevant to the issues herein:

> "This Convention [15th Natl. Convention, Dec. 1950] reflects real progress in our youth work and better understanding of our Party policy in this field.
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> * * *
>
> "The 1948 Convention of our Party gave important emphasis to the need of establishing a non-Party working-class youth organization dedicated to the training of the youth in the spirit of socialism.
>
> * * *
>
> "The recent founding Convention of the Labor Youth League . . . has made a deep impression on our whole Party. In this short time the League has proven itself to be a worthy heir of all the best traditions of the Young Communist League, its 25-year record of struggle and its training of many of the outstanding leaders of our Party today. * * *" (p. 175).
>
> * * *
>
> "Experience has borne out fully the correctness of establishing L.Y.L. as an independent non-Party mass

youth organization. The best answer to those comrades who two years ago thought Party youth clubs filled the need for youth work are the thousands of non-Party members of L.Y.L. who are today participating in its activities and learning in a Marxist spirit." (p. 180).

Other contents of this article are pertinent for comparison with the principles of Stalin and of the Communist International, as previously herein set forth, that a matter of decisive importance in the proletariat's fight against imperialist wars is the work among the youth (See Ex. 148; J.A. 1543-1545). This 1951 article says:

"There can be no fully effective fight for peace without waging a struggle against the militarization of youth. * * * (p. 176).

* * *

"It follows that these are some of the most immediate issues around which our Party must develop an energetic struggle.

1. No extension of the draft to 18-year olds, veterans and married men. No lengthening of the draft service term. No universal military service and training." (p. 178).

Particularly significant for comparison with the foregoing evidence as to Respondent's present policy concerning work among the youth as part of the fight against imperialism, is the resolution passed by the Communist International in 1928 entitled "The Struggle Against Imperialist War and the Tasks of the Communists" (Ex. 148), which says the greatest efforts must be exerted—not only by the youth organizations, but by all Communists—in combatting bourgeois sport organizations, fascist organizations, military schools, etc., through which the bourgeoisie are training the youth for imperialist wars. Also, it is stated that bourgeois military training of the youth must be combatted. (J.A. 1544).

The obligation which the Sixth Congress of the Communist International (1928) placed upon all Communist Parties to assist in setting up Youth Leagues was approved by Respondent's publication as late as 1950, of an article in *Political Affairs*, entitled "A Generation of Soviet Youth", which refers to such obligation as still authoritative on Party members (Ex. 477, pp. 85-95; J.A. 1775-1777). In this article, the author holds up Lenin and Stalin as models for youth and, after reviewing the role which youth played in bringing about the establishment and consolidation of the dictatorship of the proletariat in Russia, pictures the lot of the Soviet youth under such dictatorship as one of security, free from unemployment and with the right to leisure, whereas in sharp contrast, the American youth must face the constant fear of unemployment under the scourge of American capitalism. In conclusion, the author declares that solidarity with the Soviet Union and appreciation of its leading role in the struggle for peace, democracy and socialism, become the touchstones of true internationism among young people of all countries; and that it is particularly important in the United States—the center of world imperialism—to bring this wonderful understanding to the young people who are studying Marxism-Leninism and to the Party which helps to guide their youth.

The experiences and careers of various witnesses in this proceeding while engaged in youth work as members of Respondent furnish still further relevant evidence. While in Moscow in 1927 and 1928, witness Crouch as a member of Respondent and a representative of the youth organization, was directed to form in the United States joint units of the Party and the Young Communist League to work together in the Navy yards. (J.A. 403-405). He followed this and other directives upon his return to the United States and upon reporting to William Z. Foster and the national officers of the Young Communist League. (J.A. 413). In 1929, Crouch was a member of the National Young Communist League Secretariat and National Educational Director of the Young Communist League but upon orders given to

the National Convention of the Young Communist League in 1929 by a representative from Moscow, Crouch was not elected National Secretary because of his previous support of Lovestone in the factional dispute of the Party (J.A. 419-421).

Witness Meyer before coming to the United States was a member of the Communist Party in Great Britain where he was active in work for the Young Communist League and was associated with the secretariat of the Central Committee of the British Young Communist League (J.A. 679-680). In 1934, he went to Paris, France, in connection with setting up a world student and youth congress with counterparts in America and Great Britain. This work, while Meyer was in Paris, was under the direction of Walter Ulbricht, who at the time Meyer testified herein was Vice Prime Minister of Eastern Germany (J.A. 680-681). Upon arrival in the United States in 1934, Meyer was assigned by "Gil Green" to youth work in the United States and during the summer of 1934 attended the convention of the Young Communist League of Canada together with "Gil Green" and a Max Weiss from the Young Communist League of the United States (J.A. 682-683).

Witness Philbrick was a member of the Young Communist League for a couple of years before joining Respondent in 1944, of which he remained a member until 1949, continuing his duties in the Young Communist League and later the American Youth for Democracy. The meetings of the American Youth for Democracy which he regularly attended were conducted along the same lines as those held by the Young Communist League which included training in organization, discussion of current activities on the part of young Communists in the group, and educational sessions on Marxism-Leninism (J.A. 753-756).

Respondent's witness Gates joined the Young Communist League in 1931 to attain what he thought to be the answer to the "personal tragedy" of the depression. (R. 14665-14673). His activities in the Young Communist League led to his attaining a position of leadership in Respondent, which he joined in 1933. He participated in League agita-

tion for the Unemployment Insurance Act and about the Scottsboro affair. (R. 14679-14680). He says his duties and activities as head of the League in New York State were almost identical with the general activities of Communists during the period—activities by the young people of New York State on behalf of the economic welfare, democratic rights and peace. Later herein we deal with the evidence as to the ideological aspects of Respondent's trade union, youth and minorities work.

### (c) National Liberation

We have previously herein referred to the fact that Marxism-Leninism, the Communist International, the Soviet Union, and the Communist Information Bureau give importance to what they call the national problem—the "world problem of emancipating the oppressed peoples in the dependent countries and colonies from the yoke of imperialism" (*Foundations of Leninism*, Ex. 121, p. 77). We have also noted that under Marxism-Leninism, the Comintern, the Soviet Union, and the Cominform, the "national problem" is applied to the Negroes in the United States on the theory that the Negro people in the Black Belt of the South constitute an oppressed nation within the territorial borders of the United States.

The record clearly establishes that a main "line" of Respondent is and has been what it calls the struggle for national liberation of the Negro people (See, in addition to the evidence hereinafter summarized, Ex. 378 (J.A. 1722-1723); Ex. 376 (J.A. 1709); Ex. 479 (J.A. 1777)). This proceeding is concerned with whether or not the concept and application by Respondent of the theory as to the right of the Negro people in the Black Belt to self-determination is a program which Respondent arrived at independently.

Respondent's position in this respect is summed up by its witness, Dr. Aptheker, as follows:

> "• • • I would stick to my answer that the Negro question is a national question, it is certainly not

something dictated from abroad or by the Communist International. The Negro question is a national question, is a reflection of objective reality. If it is dictated, it is dictated by life." (R. 16244).

Dr. Aptheker concedes that although certain Negro leaders after the Civil War thought in terms of the concept of Negro nationalism, that was not known to the leaders of Respondent and was not used by Respondent in evolving its position on the Negro question. Also, that at the time the policy of self-determination of the Negro people and the Black Belt was enunciated by the Party, it was not the policy advocated, in the developed sense at least, by the majority of the Negro people or a majority of their leaders. (J.A. 1306).

In the early 1930's, the Executive Committee of the Communist International drew up and passed certain resolutions concerning the Negro question in the United States which were sent to Respondent to be carried out. (J.A. 364). These resolutions established the line of the Communist International to be a demand for self-determination of the Negroes in the United States in the form of unconditional autonomy-separation, or secession from the United States and the establishment of a separate Negro government in the Black Belt of the South. (J.A. 363). As explained by witness Nowell and corroborated by the copy of the resolution in evidence, if no proletarian revolution has occurred, Respondent is to support the rebellious government of the Negro republic in its opposition to the Government of the United States, in order to weaken the Government of the United States and aid Respondent in precipitating and executing the proletarian revolution (J.A. 363-364). During Nowell's membership in the Party, definite steps were taken to execute this program (J.A. 364).

As a member of Respondent, witness Nowell attended the Lenin School in Moscow in 1931, where he was taught that the Negro question in the United States was a part of the colonial question; that the foundation of the colonial problem was imperialist exploitation by the mother coun-

tries; that the Communists were to help colonial countries break themselves away from their mother countries, thereby weakening the mother countries and thus aiding the proletariat and the Communist Parties in those countries to precipitate and carry through a proletariat revolution and the establishment of a communist dictatorship. (J.A. 371-372). Witness Nowell was disciplined while in the Soviet Union for voicing disagreement with the theory and demand for separation and secession by the Negroes from the government of the United States and the establishment of a separate government (J.A. 373-375).

Witness Johnson was active in Respondent's Negro work during his membership from 1930 to 1940. In 1932, he attended Respondent's National Training School in New York City (J.A. 648) where his instructors included William Z. Foster, Gilbert Green, Jack Stachel, Max Bedacht and others who are presently leaders of the CPUSA. (J.A. 648) At the school he was taught by a member of Respondent's Central Committee that members of the Party were to work for equal rights for Negroes which included specifically the right in the Black Belt to rebel and wage civil war to form an independent autonomous Soviet Republic; that the movement toward the establishment of this autonomous Negro Republic should be guided and steered in such a way by the Negro Communists that it would take place simultaneously with the general proletarian or Communist revolution in America (J.A. 654-655). Johnson, who became a Negro member of Respondent's Central Committee, subsequently lectured in the school and before Party meetings and study groups on this program (J.A. 654-655).

In its "*Manual On Organization*" first issued in the 1930's, Respondent said the Negro people are "the other important ally" in speaking of those that the proletariat must win to its cause, and "without whom there cannot be a successful revolution." (Ex. 145, pp. 14 and 15). The *Manual* quotes the following from an "Open Letter" adopted by Respondent's Central Committee in 1933 (J.A. 1534-1535):

"The Party must mobilize the masses for the struggle for equal rights of the Negroes and for the right of self-determination for the Negroes in the Black Belt. It must ruthlessly combat any form of white chauvinism and Jim-Crow practices. It must not only in words, but in deeds, overcome all obstacles to the drawing in of the best elements of the Negro proletariat, who in the recent years have shown themselves to be self-sacrificing fighters in the struggle against capital . . ." (*ibid*, pp. 15 and 16).

Witness Cummings was a member of Respondent from 1942 to 1949. He attended one of Respondent's training schools and many of Respondent's meetings. He also read Party literature. He was taught that the primary objective of Respondent was "to infiltrate trade union movements, Negro organizations, and any organizations that we were able to get into and take control of, to eventually change the system of American Government" (J.A. 856).

Benjamin Davis, National Committee member, in his report to Respondent's 15th Convention, held on December 28-31, 1950, in New York City, said an important feature of the Negro liberation movement is "the international significance of this question". (Pet. Ex. 379, p. 12); that the "Party's line on the Negro question is a Leninist-Stalinist principle and method of work" (J.A. 1726) and that (J.A. 1726):

"Tendencies to treat the Negro people as mere victims of oppression, without seeing their unique positive and revolutionary role in the struggle against capitalist reaction are a patronizing form of white chauvinism." (*ibid*, p. 19).

John Williamson, in a report to the 15th National Convention of Respondent in December 1950, pointed out that "the cause of the working class as a whole cannot advance unless a firm alliance is established with the Negro people and unless the working class assumes its full responsibility

in support of the struggle of the oppressed Negro nation for freedom." (Ex. 376, p. 69, J.A. 1709). Jim Jackson, another of Respondent's leaders, puts it as follows:

> "'The development of higher levels of the Negro national revolutionary struggle in the Black Belt, and the broad mass movement for democratic rights in the South as a whole, is an indispensable prerequisite for insuring the victory of the working class and the American people over the menacing challenge of the ruling class forces of fascism and war *presently*, and for working class victory over capitalism *ultimately*. This is a basic fundamental in the strategy for working class victory, and a special feature of the path to the triumph of Socialism in our country." (Ex. 376, p. 119).

An article in *Political Affairs* for January 1951, entitled "Working Class and People's Unity for Peace! (Main Resolution of the 15th National Convention, CPUSA)" characterizes the Negro people as a "tremendous reservoir of strength for the whole democratic movement" (Ex. 378, p. 11) and states (J.A. 1722):

> "Because U. S. imperialism is compelled to cloak with demagogic phrases about democracy and equality its drive for world conquest, particularly its military assault against the colonial liberation movement in Asia, the Negro question tears the mask off Wall Street's real face and assumes the greatest international significance." (*ibid*, p. 17).

### (d) Ideological Versus Political Aims

The foreign-evolved policies, activities, and programs for the carrying out of the world Communist movement, as set forth by the Soviet Union through Marxism-Leninism, the Communist International and otherwise, teach and sanction activities calculated to achieve reforms. The record shows that Respondent has campaigned for and championed reforms such as shorter working hours, non-

militarization of youth and Negro rights. However, the record shows that such activities are political and only incidentally ideological; that the campaigns are primarily carried out not for the ostensible objective of the campaigns but to aid in the accomplishment of the objectives of the world Communist movement.

In addition to the evidence hereinbefore set forth concerning the true purposes of Respondent's trade union work, youth work, and national liberation activities, the following is pertinent.

Petitioner's witness Evans, chairman of a Party club, delegate to a Party regional convention in 1951, and section educational director in 1951, states, on cross-examination as to recent Negro rights activities of his Party club, that a study of Communist tactics and of Communist strategy will refute the declaration that the interest of the Party in the fight for Negroes is focused upon the individual; he shows that, in effect, the fight for Negro rights is an effort by the Party to make the Negro a useful means of helping the Party obtain the victory of socialism (J.A. 1113-1114).

*Foundations of Leninism* points out that the necessity for the proletariat to support the national liberation movement of the oppressed and dependent countries does not mean everywhere and always, in every single concrete case, but only where the national movement tends to weaken, to overthrow imperialism, and not to strengthen and preserve it. (Ex. 121, p. 79, J.A. 1435-1436).

Respondent's publication *The Communist Party in Action*, written by one of Respondent's present leaders, Bittelman, in 1934, says the importance of the daily struggles concerning "small" grievances must not be underestimated, and quotes the Communist International as stating in effect that only by conducting every day struggles can the Party achieve a united front and lead the working class to a victorious dictatorship of the proletariat. (Ex. 144, pp. 43-44).

In 1924, Stalin wrote in *Foundations of Leninism* (J.A. 1439-1440):

"Some think that Leninism is opposed to reforms, opposed to compromise and to agreements in general. This is absolutely wrong. Bolsheviks know as well as anybody else that in a certain sense 'every little bit helps', that under certain conditions reforms in general, and compromises and agreements in particular are useful . . .

"Obviously, therefore, it is not a matter of reforms or of compromises and agreements, but of the use people make of reforms and compromises . . .

"To a revolutionary, . . . the main thing is revolutionary work and not reforms; to him reforms are by-products of the revolution". . .

"The revolutionary will accept a reform in order to use it as an aid in combining legal work with illegal work, to intensify, under its cover, the illegal work for the revolutionary preparation of the masses for the overthrow of the bourgeoisie." (Ex. 121, pp. 103-4).

### (e) Conclusion As To Major Programs

Our summary of the evidence concerning trade union work, youth work, and work among the Negroes, does not include all of the evidence relevant to these subjects. On the basis of the foregoing and upon the entire record, we find and conclude that early in its existence Respondent accepted these policies and programs and has continued to follow them and has not repudiated them; that Respondent's trade union work, youth work and national minorities work could only have as their aim the effectuation of the policies of the Soviet Union with respect to the world Communist movement; and that Respondent's policies and activities in these fields are substantially formulated, carried out, and performed, pursuant to directives of the Soviet Union.

### 8. Conclusions as to Foreign Policies and Directives

In view of the findings and conclusions hereinbefore set forth in this section of our report, we find and conclude that:

1. Respondent's organizational form is based upon instructions and directives issued by the Soviet Union;

2. Respondent's organizational policies are formulated and carried out to effectuate the policies of the Soviet Union and the world Communist movement;

3. A substantial number of Respondent's leaders have accepted the views and policies of the Soviet Union concerning the advancement of the objectives of the world Communist movement, and have made such views and policies the views and policies of Respondent;

4. Marxism-Leninism, as understood, used and followed by Respondent, consists of a body of doctrine, policies, strategies and tactics intended to bring about the end of capitalism and substitute for it a dictatorship of the proletariat; it has been promulgated and issued by the Soviet Union as the overall philosophy, authoritative rules, directives and instructions governing the world Communist movement;

5. Among other things, by the acceptance and following of the organizational devices of democratic-centralism and self-criticism, as these devices are defined and explained by the Soviet Union, and by the acceptance of and adherence to Marxism-Leninism, Respondent subjects itself to the authority of the Soviet Union;

6. Respondent throughout its existence has and does at the present time teach, advocate, and carry out activities having for their objective the overthrow of the United States Government and other governments which are designated as "imperialist" by the Soviet Union, pursuant to directives of the Soviet Union

and to effectuate the policies of the Soviet Union, all for the purposes of defending and protecting the Soviet Union and of establishing in the United States (and other countries) a dictatorship of the proletariat patterned after that in the Soviet Union;

7. Respondent has established a press in the United States patterned after that in the Soviet Union which operates as a means of setting forth for Respondent's members the correct line as laid down by the Soviet Union;

8. The press in the Soviet Union and the journal of the Communist Information Bureau are major communication means whereby directives and instructions of the Soviet Union are issued to Respondent;

9. Representatives of the Soviet Union who were sent by it to the United States have been instrumental in putting or keeping in power leaders of Respondent, devotedly loyal and subservient to the Soviet Union, who have continued to be and still are Respondent's leaders; that such representatives have on behalf of the Soviet Union directed the adoption and use of a number of the Respondent's present policies and activities;

10. Among the major programs set forth by the Soviet Union for the accomplishment of the objectives of the world Communist movement are trade union work, youth work, and work with national minorities; and, pursuant to requirements of the Soviet Union, Respondent has made these its major programs in the United States and carries out such programs pursuant to directives issued by the Soviet Union, for the purposes of effectuating the policies of the Soviet Union and advancing the objectives of the world Communist movement;

11. Respondent's policies are formulated and carried out and its activities are performed pursuant to

directives of, and to effectuate the policies of, the Soviet Union, which directs and controls the world Communist movement.

**C. Non-Deviation**

Section 13(e)(2) of the Act provides that the Board shall take into consideration "the extent to which its [Respondent's] views and policies do not deviate from those of such foreign government or foreign organization;".

The petition alleges, in part, on this subject:

> "Throughout its existence the Communist Party never knowingly has deviated from the views and policies of the government and Communist Party of the Soviet Union, the Communist International, the Communist Information Bureau and other leaders of the world Communist movement. Whenever such views and policies have conflicted with the position taken by the Government of the United States, the Communist Party has opposed the position of the United States."

Dr. Philip E. Mosely, Professor of International Relations at Columbia University and Director of the University's Russian Institute, was Petitioner's principal witness for the purpose of establishing that Respondent's views and policies do not deviate from those of the Soviet Union. Dr. Mosely has had a distinguished and active career in the field of international relations and for more than 20 years has devoted his research primarily to Russian political and diplomatic history. While so doing, he has had occasion to analyze carefully the publications and other documents issued by Respondent and the Soviet Union. He is eminently qualified to testify as an expert on evidence relative to the "non-deviation" criterion of the Act (J.A. 507-512).

Dr. Mosely's testimony traced the continuing stream of international questions, upon which both the Soviet Union

and the CPUSA have announced a position. He enumerated some 45 international questions of major import,[1] extending over the past 30 years, with respect to which there was, as revealed by his testimony, no substantial difference between the position announced on each by the Soviet Union or its official and controlled organs and that announced by the CPUSA or its official and controlled organs.

On each specific topic, several exhibits illustrating the views or policies of the Soviet Union and the CPUSA, respectively, were introduced contemporaneously with Dr. Mosely's oral testimony.

At the hearing, Respondent moved to strike Dr. Mosely's testimony and objected to the admission into evidence of the exhibits offered through this witness on the grounds that: (1) basing a registration order thereon would violate the First Amendment; (2) to base a finding of domination and control thereon would violate the Fifth Amendment; (3) it was not proved that the Soviet Union adopted its views first; (4) Respondent was not allowed proper cross-examination; (5) Dr. Mosely was disqualified as an expert; and (6) exhibits purporting to be translations from the Russian language were not properly authenticated. (R. 9056-9059).

Additional objections also raised at the hearing were that specific documents (a) predated the Act;[2] (b) pertained to subjects not covered in the petition; (c) were not shown to

[1] Among these are the following: the League of Nations; Soviet Union purge trials, 1937; Russo-Finnish War, 1939; Russian invasion of Poland, 1939; Hitler-Stalin non-aggression pact, 1939; attitude toward World War II before and after German attack on Soviet Union; incorporation of Latvia, Estonia, and Lithuania into the Soviet Union, 1940; second front in Europe; dissolution of Communist International, 1943; revision of Montreux Convention, 1946; Communist movements in Bulgaria, Roumania, Hungary, Albania, China, Czechoslovakia and Yugoslavia; Berlin Blockade, 1948; West Germany; Italian election, 1948; North Atlantic Pact; control of atomic energy; election of Yugoslavia to United Nations Security Council, 1949; Cardinal Mindszenty case, 1949; United Nations police action in Korea; Communist China's intervention in Korea, 1950; seating Communist China in United Nations; Peace Treaty with Japan, 1951; and peace in Korea.

[2] We discuss the question of pre-Act evidence later in this Report under the caption "Legal Discussion", pp. 236 to 238, *infra*.

express authoritative views; (d) did not establish a parallel view; (e) did not support allegations of the petition; and (f) did not support Dr. Mosely's testimony. (R. 10881-10920).

We have reviewed the entire record relative to all of the aforementioned contentions of Respondent. Those pertaining expressly to Constitutional issues will be treated later in this Report under "Legal Discussion".[1] Viewing the record in a light most favorable to Respondent, we find no error in the Panel's acceptance of this particular evidence or in its rulings with respect thereto.

Passing to its exceptions, Respondent took issue in the manner described heretofore (pp. 4-5, *supra*) with every statement in the Panel's decision concerning non-deviation. These exceptions are generally contentious, lacking in specificity and without merit; and, except to the extent that they pertain to matters discussed below or are incorporated in our findings, they do not warrant further comment.

In its brief accompanying its exceptions, Respondent contends that the Panel's concept of the non-deviation criterion is (a) irrational, erroneous and based on incompetent evidence, and (b) involves conclusions which Dr. Mosely admitted he could not draw. Respondent further asserts that the Panel's misconception in this regard is reflected by rulings which prevented it from showing on cross-examination of Dr. Mosely and in its affirmative case that its views preceded those of the Soviet Union, were correct and reasonable, were arrived at independently by Respondent, and coincide with universal opinion and the best interests of the American people.

With regard to these contentions, we find no material error or irrationality in the Panel's conception of this criterion. We likewise find no merit to the contention that the Panel reached a conclusion which the witness Dr. Mosely admitted he could not make. Dr. Mosely stated in effect that his expert testimony was directed toward analyzing the basic line of thinking, analysis and advocacy of views and policies of the Soviet Union and Respondent

[1] See pp. 239 and 240, *infra*.

and not at the process by which Respondent arrived at a given position on an international question, i.e., whether independently of the Soviet view or as a result of Soviet domination and control of Respondent. We do not understand this to conflict with, or detract from, the purport of his testimony. Whether the oral and documentary evidence adduced through Dr. Mosely tends to establish domination and control of Respondent when viewed with the evidence of record in the light of the other criteria of Section 13(e) of the Act is for the Board's determination.

With respect to the remaining contentions related above, we conclude that Respondent was permitted reasonable opportunity to cross-examine Dr. Mosely and to establish its affirmative case. It is noted in passing that Dr. Mosely was cross-examined for 15 days. Respondent was not permitted, and rightly so, to put in issue the merits of the views or policies of Respondent, which views and policies were placed in evidence by Petitioner to establish "non-deviation". For in applying the "non-deviation" criterion, the Board is required to view cumulatively the spread of the evidence relating to the non-deviation of views and policies without deciding the merits of any views or policies of Respondent.

Respondent has contended throughout that the term "non-deviation" as used in the Act should be interpreted to mean "following a course already established" and that since a substantial number of Petitioner's exhibits illustrating the view or policy of Respondent predated the exhibits expressing the Soviet view or policy, these exhibits did not show that Respondent adopted a previously established view of the Soviet Union but the contrary. Assertedly, this consideration was reinforced by the absence of proof by Dr. Mosely to establish that the announcement of the Soviet view had preceded the Respondent's expression on the same topic.

Petitioner, on the other hand, took the position at the outset of Dr. Mosely's testimony, and in advance of the raising of this objection by Respondent, that the exhibits under discussion were offered in evidence merely to illus-

trate the oral testimony of Dr. Mosely on the respective international questions, in order to show a documentary basis for his testimony; and that the documentary evidence was not intended to establish the date of the first announcement thereon by either the Soviet Union or the CPUSA. Petitioner further argued that in many instances the Soviet view or policy must necessarily have come first, particularly since the first announcement of the Soviet Union's position may have taken the form of a *fait accompli*, as for example, its unexpected signing of the Hitler-Stalin non-aggression pact.

As stated by Petitioner, these exhibits were placed in evidence to afford a documentary basis for the testimony of Dr. Mosely and not to establish the first announcements of views and policies. Moreover, we have considered Dr. Mosely's testimony with other evidence of record,[1] all of which establishes that Respondent invariably follows the views and policies of the Soviet Union. We do not believe, therefore, that the date sequence of the exhibits placed in evidence through Dr. Mosely is dispositive of whether Respondent's views and policies have deviated from those of the Soviet Union.

We now proceed to set forth our findings on the evidence established by Dr. Mosely and other witnesses relative to this criterion.

The nature of the evidence adduced through Dr. Mosely is illustrated by his testimony, and documents submitted through him, concerning the non-aggression Pact entered into by Hitler and Stalin, known as the Hitler-Stalin Pact of August 23, 1939. He established the identity of views between the CPUSA and the Soviet Union prior to the making of this Pact (J.A. 536-539); the parallel attitude of the Soviet Union and the CPUSA toward World War II while this Pact was in effect (J.A. 536-537, 539, 541-545, 548); and the simultaneous change of policy on the part of the Soviet Union and the CPUSA after June 22, 1941, the

[1] This consists of documentary evidence, and oral testimony of witnesses Witlow, Kornfeder, Markward, Matusow, Budenz and others, as illustrated later in this finding.

date on which the Pact was abrogated by the German attack on the Soviet Union (J.A. 548-551, 556-557).

To further illustrate the evidence, it is established that prior to the making of the Hitler-Stalin Pact, Respondent, conforming to the position taken by the Soviet Union, had denounced Fascism in Nazi Germany as the main threat of aggression in the world and as the foremost danger to peace and democracy (J.A. 536, 538-539) notwithstanding that the signing of the Pact by the Soviet Union on August 23, 1939, constituted a reversal of the anti-Fascist line and caused considerable consternation and defection among Respondent's leaders and members, Respondent immediately switched to the Soviet Union's position and hailed the non-aggression agreement as an important contribution to peace (J.A. 539, 878-879); when Germany invaded Poland, Respondent echoed the Soviet assertion that the Pact continued to be an important contribution to peace as it would limit the spread of war (J.A. 537, 539); and, further, that opposition to this territorial expansion was the work of war mongers (J.A. 529); after the defeat of Poland, the Soviet Union and Respondent both took the position that England and France were guilty of prolonging the war (J.A. 537, 539-540); that the war was an "unjust"[1] and imperialistic war and that no country which hoped for peace should assist England and France (J.A. 539-543, 545-548). Respondent, like the Soviet Union, strongly opposed lend-lease aid by the United States to Great Britain (J.A. 545-547). Immediately after the German attack on the Soviet Union on June 22, 1941, the latter reversed its position and almost simultaneously Respondent did the same; both suddenly concluded that the character of the war had changed (J.A. 548, 550-551); World War II became in the eyes of both a "just" war; they urged that the "Allies" should have the support of the United States and of all freedom-loving people; they advocated aid by the United States to Great Britain and to the Soviet Union (J.A. 548, 550), and Respondent branded those in the United States who opposed

[1] See discussion of "just" and "unjust" wars, pp. 230 to 233, *infra*.

such aid as agents of Hitler (J.A. 550). Soon after the German attack on the Soviet Union, Respondent joined with the Soviet Union in demanding the opening of a second front "now" with the United States participating therein (J.A. 556-557).

The views of the Soviet Union and Respondent likewise coincided on the trials and executions in the Soviet Union in 1937 (J.A. 448-450, 522-525, 840-841, Exs. 172, 173, 175); Respondent echoed the statements of the Soviet Union concerning the Russo-Finnish War (J.A. 525-527, 844; Exs. 176, 177, C.P. Ex. 39); the same situation prevailed in regard to the absorption of Latvia, Estonia and Lithuania by the Soviet Union. The Soviet Union and Respondent assumed the same position in 1947-1949 with regard to the internal crisis in Greece in that they both favored the actions of the Greek guerillas (Exs. 214, 241, 242, 243); and they coincided in their views on the change in the Czech government in February 1948 (J.A. 578-584; Exs. 214, 220, 221, 222, 223, 224).

The evidence relative to this criterion further established that, prior to the Cominform resolution which attacked the Tito government, Respondent paralleled the Soviet Union in giving approval of the course of post-World War II developments in Yugoslavia and of the Tito government (J.A. 612-614). On June 28, 1948, however, the Cominform issued a resolution, initiated assertedly through an exposure by the Soviet Union, which attacked Tito and his regime in bitter terms; among other charges, Tito and his leaders were derided for having entertained the hope that Yugoslavia could build "socialism" without "the support of the Soviet Union" (Ex. 344, J.A. 1659-1663). One day later, on June 29, 1948, Respondent also reversed its position on the Tito government and issued a statement lauding this Cominform resolution and criticizing the Tito regime for showing hostility to the Soviet Union and for attempting to "curry favor with Anglo-American imperialism" (Ex. 260, p. 699).

The views and policies of the Soviet Union and the CPUSA were identical on the question of the Berlin Block-

ade in 1948 (J.A. 603-604); they have likewise coincided on the course of events in post-World War II Germany (J.A. 602-605; Pet. Exs. 244, 248, 397, 398).

The views and policies of the Soviet Union and the CPUSA have been substantially the same with regard to the Truman Doctrine, the Marshall Plan, ECA, and the North Atlantic Pact, namely, that the United States participation and leadership in these measures are for the aggressive purpose of domination of the world; whereas the views and policies of the Soviet Union and Respondent, on the other hand, allegedly support peace and democracy (J.A. 606-612).

The Soviet Union and Respondent took the same position in regard to the Stockholm Peace Petition in 1950[1] in asserting that all true proponents of peace should support the petition, which was issued by a committee of the World Peace Congress (J.A. 624-627; Ex. 268). Respondent supports the Soviet Union's position, as opposed to that of the United States, concerning control and inspection of atomic energy (J.A. 630-632; Exs. 241, 273, 274). The same situation prevails regarding the seating of Yugoslavia in the United Nations Security Council, with Respondent supporting the Soviet Union's opposition to the United States on this question (J.A. 635-637; Exs. 277, 278, 279, 280). The Soviet Union and the United States Government have taken opposite positions with respect to the representation of China in the United Nations; Respondent maintains the Soviet position which favors the seating of the representatives of the Chinese Democratic Peoples Republic and the exclusion of representatives of the Chinese Nationalistic Government (J.A. 632-636, 837-838; Ex. 275, 276). Respondent concurred with the views of the Soviet Union in opposition to the United States peace treaty with Japan (J.A. 718-721; Exs. 210, 314, 315, 316, 317).

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[1] Respondent again expressed this view regarding the Stockholm Peace Petition in December, 1951 (Ex. 488, J.A. 1779-1781).

The CPUSA's position in support of the conduct of the Czechoslovakian government in the William Oatis case (American correspondent) coincides with the Soviet Union's position thereon (J.A. 721-723, 845; Ex. 318, 319).

The testimony and documentary evidence also established that the CPUSA and the Soviet Union express the same views regarding Korea; both maintain that the Syngman Rhee government is a reactionary "puppet regime" (J.A. 637-646, 862-864; Exs. 268, 269, 270, 281, 282, 286, 289); both vigorously condemn the hostilities in Korea as the direct result of American imperialism and aggression; both insist the United Nations police action is illegal and aggressive toward North Korea (J.A. 637-646; 724-726, 862-866; Exs. 282, 288, 289); both maintain that this war constitutes a threat to the Chinese Peoples Republic which justifies the Chinese Communist intervention in the conflict (J.A. 637-646, 707-708, Ex. 283); both assert that the Chinese intervention in support of North Korea aids the struggle of "peace-loving" peoples of the world, which are led by the Soviet Union, against the program of the American imperialist aggressors (J.A. 645-646; 707-708; Ex. 283, 290, 299); both charge that the United States desires continuation and expansion of the Korean War (J.A. 726; Exs. 320, 323); both insist that the United States has disrupted and delayed cease-fire negotiations and blocked peace in Korea (J.A. 726; Ex. 320, 321, 322, 323); and both demand acceptance of the proposals for cease-fire and "peace" made on behalf of the North Korea Peoples Republic (Ex. 320, 321, 322, 323). In short, Respondent and the Soviet Union, regarding Korea and the Korean conflict, coincide completely in their condemnation of the policies of the United States Government in its support of the United Nations in Korea.

In addition, other witnesses established that, during the existence of the Communist International, Respondent did not deviate from Comintern instructions in a single instance (J.A. 336, 668); further, that a CPUSA member could not disagree with a position taken by the Cominform and con-

tinue to remain a Party member[1] (J.A. 780-781); that in those instances in which the policies of the United States and the Soviet Union appeared to be in conflict, Respondent at no time expressed sympathy with the policy of the United States Government (J.A. 748-749); that the Soviet Union was never criticized in Party circles, but, on the contrary, it was a cardinal rule to praise the Soviet Union at all times (J.A. 782, 1161); that in 1941 and prior thereto, a Moscow news agency supplied Respondent with political and other news dispatches which were distributed to Respondent's leaders so that they could keep informed of the "party line" and its interpretations; and that the aforementioned dispatches were regarded by Respondent as being directives from the Soviet Union on positions to be taken, and were implemented accordingly (J.A. 1169-1171). It was stated in Respondent's 1942 Constitution (Ex. 328, Art. VI, Sec. 15) that no CPUSA member was permitted to have a personal or a political relationship with "Trotskyites", a term used in CPUSA and Soviet Union circles in an odious sense to signify persons sympathetic to a system of deviation from the official "line" of the Soviet Union (J.A. 264).

It is also shown by evidence, in addition to that adduced through Dr. Mosely, that throughout the entire existence of Respondent, including the present, it has agreed with the view of the Soviet Union to the effect that the United States is an imperialistic nation which seeks world domination and whose government should be overthrown, whereas the Soviet Union is a true democracy in search of peace and its aims should be fostered.[2] When the United States was a potential or actual ally of the Soviet Union this chant was not sung by either the Soviet Union or the CPUSA.

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[1] There have been instances of internal deviation within the CPUSA. Such instances usually resulted in dismissal from the Party, as in the cases of Gitlow and Browder. This, of course, in no wise detracts from these findings. In fact, these instances lend even greater weight to the findings, in that they highlight the intolerability with which any deviation is regarded by both Respondent and the Soviet Union.

[2] See "Imperialism", pp. 81 to 103, *supra;* and "Allegiance", pp. 215 to 233, *infra.*

Respondent made no effort to rebut the condition clearly shown to exist by Petitioner's evidence. It offered no evidence to establish a conflict between the policies of the Soviet Union and the CPUSA at any time or on any occasion. Nor is there any evidence to show that, where the views or policies of the United States as officially announced conflicted with the views of the Soviet Union, the CPUSA in any instance took a position thereon in harmony with the views of the United States, though its witnesses were repeatedly invited on cross-examination to show such an occasion. Each of Respondent's witnesses evaded a direct answer to the question and, curiously enough, each gave a similar circuitous and equivocal answer stating that Respondent's policies reflect what it conceives to be the true national interest of the American people; that if the views or policies of Respondent and the Soviet Union are similar or identical, this proves only that the national interests of the people of the two nations are the same; that Respondent takes the view that the true national interests of all people are identical; and that Respondent arrives at its views independently (J.A. 1224-1227, 1249-1250, 1252-1254, 1283-1284, 1299-1300).

These platitudes do not negate Petitioner's evidence. Respondent's witnesses were unable to cite a single instance throughout its history where, in taking a position on a question which found the views or policies of the Soviet Union and the United States Government in conflict, the CPUSA had agreed with the announced position of the United States; nor could they show a single instance when the CPUSA had disagreed with the Soviet Union on any policy question where both Respondent and the Soviet Union have announced a position.

The testimony of Dr. Mosely and documents submitted through him embraced a tremendous area of international problems on which the positions of Respondent and the Soviet Union coincide. We have pointed out a representative portion of them. The uniformity is constant and on a wide variety of questions, and is corroborated by other evidence of record.

In evaluating the foregoing evidence we have taken into consideration that during the early history of Respondent, when it was openly a member of the Communist International and less secretive about its objectives, it accepted and effectuated the principles and tactics of the Comintern pursuant to an express condition of membership in the Communist International which required Respondent so to do (Exs. 8, 6(c)). Moreover, in weighing the evidence set forth herein we have considered Respondent's adherence to Marxism-Leninism,[1] which in its essence requires acceptance by it of any position that the Soviet Union determines will advance the world Communist movement.

The record precludes the conclusion which Respondent would have us draw, i.e., that the uniformity of views results from "sharing a common scientific outlook" and independent application of principles by it and the Soviet Union. The great weight of the evidence is to the contrary.

We find on the entire record that the views and policies of Respondent throughout its history invariably coincide with the views and policies of the Soviet Union. Moreover, Respondent conforms immediately to each reversal in the Soviet Union's views and policies.

We conclude and find that Respondent's views and policies do not deviate from those of the Soviet Union.

### D. Financial Aid

We are directed by the Act to consider "the extent to which it [Respondent] receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization" (Section 13(e)(3)).

The petition alleges:

> "The Communist Party now receives and from time to time in the past has received financial aid, from or at the direction of the government and Communist Party of the Soviet Union, the Communist International and the Communist Information Bureau * * *"

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[1] See "Marxism-Leninism", pp. 38-81, *supra*.

The CPUSA sent members to the Soviet Union to attend schools located there, notably the Lenin Institute in Moscow. The expense for their travel and subsistence was borne by the Communist International (Gitlow, J.A. 528-529; Honig, J.A. 484-485; Nowell, J.A. 392; Kornfeder, 303-304; Exs. 72, 83, 87, 101).

In the 1920's and 1930's, the Communist International financed the travel of CPUSA officials and members to and from the Soviet Union and on missions to other countries for the purpose of orientation and the conduct of official business on behalf of international Communism, such as fulfilling representative functions in the Communist International; in addition to their subsi ence, salaries were paid them in some instances by the Communist International for the duration of their stay in the Soviet Union (Crouch, J.A. 401-402; Honig, J.A. 484-487; Kornfeder, J.A. 327-330; Exs. 63, 80, 89, 102).

During the period from 1920 to 1934 the CPUSA received financial assistance from the Soviet Union, often in the form of subsidies, which are described more fully in subsequent findings under this heading (Gitlow, J.A. 224, 259-261; Kornfeder, J.A. 327-329; Honig, J.A. 487-489; Ex. 102-A).

The Communist International contributed the sum of $50,000 to Respondent for the purpose of financing the 1924 campaigns of William Z. Foster and Benjamin Gitlow, the Communist Party candidates for President and Vice-President of the United States, respectively (J.A. 272); and the Communist International likewise contributed a substantial sum to Respondent to finance the campaigns of these candidates on the same ticket in 1928 (J.A. 257-258, 285-291).

The Communist International directed the establishment of the *Daily Worker* and contributed the sum of $37,000 to Respondent in 1924 for this purpose (J.A. 229-230; Ex. 47). During the period of 1936 to 1938 the expenses of the *Daily Worker* were reduced because international news was received from the International Press Correspondence, an organ of the Communist International (J.A. 656-657, 1117-1118).

In 1929, a delegation of ten CPUSA officials went to Moscow to appeal a decision of Stalin on a factional dispute within the Respondent organization. The Communist International paid the travel expenses of the members of this delegation (J.A. 261-264, 269-270; Ex. 103, J.A. 1418-1420).

The Communist International in Moscow announced the decision on the 1929 factional dispute within the CPUSA. Thereupon, the Communist International gave a substantial sum of money to the Chairman of the new Secretariat of the CPUSA, which had been formed by the Communist International. These funds were to be used to establish a new newspaper, loyal to the Communist International, in the event that the CPUSA lost control of the *Daily Worker* because of the factional dispute (J.A. 270, 315); further, the Chairman of the newly formed Secretariat was given a substantial additional sum to finance enforcement among the members of the CPUSA of the decision reached in the Soviet Union regarding the leadership of the CPUSA (J.A. 291-295, 315).

The Trade Union Educational League (TUEL) was formed in the early 1920's pursuant to instructions from the Communist International; the latter also furnished a subsidy for the initial financing of this newly formed organization (J.A. 317-318).

In 1928, a Trade Union Delegation was organized in this country by the CPUSA at the direction of the Communist International, to visit the Soviet Union. A member of this delegation's technical staff, who was a secret member of Respondent, eventually wrote the delegation report. The Communist International partially financed the organization and expenses of the delegation's visit to the Soviet Union (J.A. 233-236, 273-281).

About 1928, the Communist International subsidized, by grants of substantial sums of money, a campaign by the CPUSA among the members of the United Mine Workers to defeat John L. Lewis for the union presidency (Gitlow, J.A. 256; Kornfeder, J.A. 311-313; Ex. 95, 98).

During the early period of Respondent's existence in the United States, paid functionaries of the CPUSA were per-

mitted to purchase books at 1/3 discount from the International Publishers, the latter being a Soviet Union publishing organization in the United States (J.A. 264, 325-327, 1420-1421; Ex. 104).

In 1929, or shortly thereafter, the Communist International directed that Respondent form Port Bureaus at leading ports in this country. The purpose was to facilitate recruiting and organizational work on the waterfront on behalf of the CPUSA. The establishment of these bureaus was facilitated by funds furnished by the Communist International (J.A. 250-251, 407-409; Ex. 76).

In 1927, a representative of the Communist International requested that the CPUSA send a delegate to the International Miners Conference at Moscow. Respondent's Political Committee voted unanimously to reply that it would send a delegate but that funds for the delegate's fare should be cabled to the Respondent organization (J.A. 252, 1387; Ex. 77).

Amtorg is a trading corporation of the Soviet Union which was organized in the United States in 1924. From its inception until 1929, Amtorg rendered financial assistance to Respondent by: (a) paying excessive rates to Respondent publications for placing advertisements therein, and (b) making it possible for the Communist Party School of Business Relations to realize money from insurance and other activities (J.A. 238-239).

During the period from 1919 to 1934, members of the CPUSA were sent to other countries to assist in Communist Party activities there, in many instances under specific instructions from the Communist International; the Communist International financed these missions (Gitlow, J.A. 271-272; Kornfeder, J.A. 309-310, 330-333).

A member of Respondent organization, who was specializing in labor activities in the United States, was sent to the Soviet Union in 1934 to serve as a representative of the Trade Union Unity League at the Red International of Labor Unions at Moscow; the latter was a section of the Communist International. Funds for the trip were furnished by Jacob Golos, a representative of the Soviet

Union in the United States. Subsistence while in Moscow was borne by the Red International of Labor Unions (J.A. 466-485).

In 1927, the International Red Aid sent Russian films to the United States, free of any charge. The films were delivered to the International Workers Aid. The CPUSA determined the distribution of profits realized from the showing of the films in the United States (J.A. 252, 1388; Ex. 77).

In the 1920's the Communist International sent a show troupe to the United States called the "Blue Blouses." This troupe operated under the auspices of the Workers International Relief. The funds realized from their tour in this country were distributed to various organizations by Respondent, including itself and the *Daily Worker* (J.A. 257, 1407-1408; Ex. 96).

During the years 1930 to 1934 the Communist International provided subsidies for *Labor Unity,* a labor magazine operated under the direction of the CPUSA (J.A. 487-489).

In 1939, the Treasurer of the CPUSA stated that it was impossible to put additional CPUSA funds into the *Midwest Daily Record,* a CPUSA controlled paper, because at that time communications to their sources of funds abroad, i.e., the Soviet Union, had been disrupted (J.A. 1123-1125, 1180-1182).

During the late 1930's, the *Daily Worker* received political news dispatches free from the Runag news service in Moscow. These dispatches were used by the editorial staff of the *Daily Worker* and, also, were distributed to the Party leadership for scrutiny and study. After the passage of the Foreign Agents Registration Act in 1938, these dispatches were sent to *The Intercontinent News,* a corporation which had been formed by the CPUSA in New York City to handle the service in a manner that to all appearances would be independent of the *Daily Worker.* This medium in turn relayed the dispatches to the *Daily Worker* at a nominal cost[1] (J.A. 656-657, 1168-1175, 1195-1199).

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[1] This news service from Moscow ceased in 1944 when the Department of Justice ordered *The Intercontinent News* either to label its news material as

In or about 1949, Respondent, through International Publishers, received from the Soviet Union book plates and English translations of books, such as an edition of *The Selected Works of Lenin*, as well as actual page proofs for books, with no charge (J.A. 1035-1037).

After the passage of the Voorhis Act in 1940, with the consequent nominal disaffiliation of Respondent from the Communist International,[2] evidence of such financial aid does not appear in the record with one exception, this being the above instance of financial aid to Respondent in or about 1949.

Respondent denies that it receives financial aid from or at the direction of the Soviet Union or the Communist International; and denies the relevancy of the above findings to any issue in this proceeding.

We find a preponderance of the evidence in the record establishes numerous instances of substantial financial aid which flowed to Respondent from and at the direction of the Soviet Union and the Communist International; and we conclude that the above findings are relevant to the ultimate issue in this proceeding in the light of the whole record.

**E. Training and Reporting**

Sections 13(e)(4) and (5) of the Act provide that in determining whether or not an organization is a "Communist-action organization," the Board shall take into consideration:

> "(4) the extent to which it [Respondent] sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movement; and
>
> "(5) the extent to which it [Respondent] reports to such foreign government or foreign organization or to its representatives; * * *"

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propaganda or to discontinue its service. Thereafter, the *Bulletin* of the Soviet Embassy was used as a news source. We have reviewed Respondent's Exhibits [i.e. C. P. Exs.] 70-75, incl., but we do not credit them for the purpose offered in view of the testimony of Petitioner's witness Budenz concerning them, which we accept. (J.A. 1169-1175, 1192).

[2] This is discussed fully hereinbefore.

The petition alleges inter alia:

> "The Communist Party regularly reports and has reported to the government and Communist Party of the Soviet Union and to the Communist International and the Communist Information Bureau, and has sent members and representatives to the Soviet Union and other foreign countries for instruction and training in the principles, policies, strategy, and tactics of the world Communist movement * * *."

Respondent denies the foregoing allegations of the petition, but states in its amended answer that during the period of its affiliation with the Communist International, members and representatives of Respondent attended and participated in Communist International Congresses and certain of its committees; that members of Respondent have from time to time visited foreign countries, including the Soviet Union; and that, in the past, certain members of Respondent studied in the Soviet Union (amended Answer, J.A. 163).

In its amended answer and again in its exceptions, Respondent denies the relevancy of any of these conceded facts to any issue in this proceeding. Upon consideration of the record, we do not agree with this contention.

The evidence pertaining to "training" and "reporting" is somewhat interwoven and we have, therefore, consolidated these subjects in this section of our report.

Since Respondent admits that its members have studied in the Soviet Union, that it has participated in meetings of the Communist International, and that it has sent representatives to the Soviet Union, it is unnecessary to set forth in this part of our report the considerable amount of detailed evidence establishing these points, except to the extent it may be necessary for an understanding of the findings under these criteria.

An elaborate world-embracing school system was established in Moscow for training Communists and preparing them for leadership roles in the world Communist movement. The Western University taught trainees from the

semi-agrarian areas, such as the Balkan and Baltic countries; the Eastern University schooled trainees from the Asiatic countries, such as China, Siam, and Korea; the Academy of Red Professors was a training school for theoreticians for the world Communist movement; a special section of the Fronze Military Academy was devoted to training students sent from foreign countries; and the Lenin School took in trainees from the "more advanced" countries, such as Germany, France, England and the United States (J.A. 304-306). Petitioner's witness Honig was an American instructor at the Lenin School in 1934-35 where he taught labor subjects to a select group of Respondent's members. In the main, however, the school's instructors were Russians (J.A. 482-484).

To qualify for training in Moscow a CPUSA member had to be recommended by Respondent and approved by the Communist International, which had established as qualifications for selection that the student be less than 36 years of age, have 5 years of active Party work, and be above average in ability (J.A. 301-302).

Petitioner's witness Crouch, during the period 1928-1930, studied material at the Fronze Academy pertaining to civil war, guerrilla tactics, and sabotage (J.A. 404-405).

From 1928 to 1936, many of Respondent's outstanding members were sent to the Lenin School for varying periods where they received training and instructions in the strategy and tactics of the world Communist movement (J.A. 657-658; Exs. 78, 87). Among them were Hall,[1] (J.A. 787) Steve Nelson (J.A. 658), Irving Potash[1] (J.A. 366-368), Charles Krumbein (J.A. 1339), Joseph Kornfeder (J.A. 301-304), George Siskind (J.A. 815), Morris Childs (J.A. 693), Ray Hansborough (J.A. 693), Roddie Lester (J.A. 814), Admiral Kilpatrick (J.A. 787), Abraham Lewis (J.A. 787, 814), Margaret Unjus, Rudolph Baker (J.A. 1399), Sclar (J.A. 1399), Harry Haywood (J.A. 658), Odel Nowell (J.A. 658), Charles White (J.A. 658), Leonard Patterson (J.A. 658), Timothy Holmes

[1] Convicted in 1949 of conspiring to teach and advocate the overthrow of the United States Government

(J.A. 658), William Patterson (J.A. 658), Hutch Hutchinson (J.A. 658), George Hewitt (J.A. 367), Sam Nessin (J.A. 367), Beatrice Siskin (J.A. 367-368), Philip Raymond (J.A. 367), John Marr (J.A. 367), William Brown (J.A. 367), Claude Lightfoot (J.A. 340), William Taylor (J.A. 746), Bill Kruse (J.A. 253) and Bell (Ex. 72, J.A. 1377). Many of the aforementioned persons held high positions in Respondent,[1] including Nowell and Kornfeder who testified for Petitioner in this proceeding.

The evidence establishes that in the early 1930's Respondent's students in the Lenin School were taught such subjects as Marxism, Leninism, the history of the labor movement, trade union and strike strategy, history of the Communist Party of the Soviet Union, history and organizational structure of the Communist International, the national and colonial problem, including the concept of a Negro nation in the "black belt" of the United States;[2] the history of the CPUSA, international propaganda, the theory and practice of Soviet economy, revolutionary tactics and the science of civil warfare. These subjects at the school were adapted to the peculiar conditions in the countries of the students, including the United States. For instance, the course given Respondent's members on civil warfare included political and economic conditions in the United States, the culture of the people, the terrain, the histories of the United States and the CPUSA, and the degree of political maturity in the United States. Students in the course were taught also how to convert economic strikes into political strikes, and then into general strikes that might precipitate revolution. They also were taught how to disassemble and reassemble the guns and small arms of the major nations.

For the actual carrying out of the revolution, Red Army officers taught military details in both legal and guerrilla warfare, how to erect barricades, snipe, throw grenades,

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[1] Gus Hall signed Respondent's amended answer in this proceeding as National Secretary of the CPUSA. Claude Lightfoot was an alternate member of Respondent's National Committee in 1950 (J.A. 1719, Ex. 376).

[2] See pp. 138-142, *supra*, for a full discussion of this subject.

use gas masks, sabotage, take over the system of transportation, seize food supplies and persuade army units to fight with the insurgents and guerrillas. They were taught how to capture and hold hostages, capture arsenals, arm Communist supporters, utilize and destroy food and water supplies, and, in general, how to carry on a total revolution for the seizure of power. All this was taught with the object of destroying the economic system in the United States, and establishing a dictatorship of the proletariat here (J.A. 369-373, 387-389, 482-484).

Concerning strategy and tactics, students at the Lenin School were taught, among other things, that "partial demands", i.e., demands within the framework of democratic procedure dealing with limited grievances on everyday problems, served as a tactical means, "a cutting edge", for the Party in mobilizing for the long range objective of the general strategy, this being the overthrow of capitalist governments everywhere through proletarian revolution (J.A. 387-389). This tactic has been utilized constantly by Respondent in this country.

On the subject of "just" and "unjust" wars, the students were taught that any war in which the Soviet Union becomes involved is a "just" war for the Soviet Union, regardless of whether the Soviet Union is the aggressor or defender; that any war between a colony and its mother country is a "just" war for the colony; and conversely, any war against the Soviet Union, regardless of who is the aggressor, is "unjust" for the Soviet Union's adversary. In the event of war between two "imperialist powers" the students were taught to work for the destruction of both and thus leave to the Soviet Union a clear field for future conquest[1] (J.A. 389-390).

Concerning the ultimate aim of the Party regarding capitalist-imperialist nations, students were taught that the class struggle prevailed throughout the capitalist world; that internal contradictions within these states were be-

[1] An illustration of adherence by the Soviet Union and Respondent to this principle is found in the portion of this report dealing with their policies regarding World War II (see pp. 151-153, *supra*).

coming sharper; and that their international imperialist policies toward colonial peoples were becoming more oppressive. They were further taught that, in view of these political and economic conditions, it was the duty of the CPUSA, as a part of world Communism, to cultivate revolutionary movements in colonial countries; and, in striving for world socialism, to work for the overthrow and complete abolition of capitalist states and imperialism (J.A. 385-386).

In conformance with the foregoing, students from the United States were taught that the proletarian revolution was necessary and that it was their major duty to work under the leadership of the Communist International and Respondent for the overthrow of the United States Government (J.A. 384-387).

The texts used by Respondent's members at the Lenin School included Lenin's *State and Revolution* (Ex. 139); *Left Wing Communism; Military Revolution; Imperialistic War; What Is To Be Done* (Ex. 417); *How It Is To Be Done; Imperialism* (Ex. 140; J.A. 1518); *Infantile Leftism* (J.A. 484); a modern treatment of Lenin's works by Leontov entitled *Leninism* by Leontov; Stalin's *Foundations of Leninism* (Ex. 121; J.A. 1427-1443); and *Problems of Leninism* (Ex. 138; J.A. 1500-1517); Marx's *Capital;* the *Communist Manifesto* (Ex. 31; J.A. 1339-1342); *Engel's Scientific Socialism;* the *Programme of The Communist International* (Ex. 125; J.A. 1446-1472); the *Theses and Statutes of the Third (Communist) International,* including the 21 conditions for membership therein (Ex. 8; J.A. 1318-1332); a number of writings by Soviet authors concerning political policies and the economy of the Soviet Union; and other works (J.A. 384-387, 389).

The purpose of Lenin School instruction as explained by Earl Browder, then leader of Respondent, was to develop Party leaders and through them to raise the political and ideological level of the Party membership as required by the development and intensification of revolutionary situ-

ations developing in countries throughout the world, including the United States (J.A. 365-366).

In addition to the formal institutionalized schooling in the Soviet Union, many of Respondent's highest functionaries have received training through serving abroad in various positions of the international Communist organization. Honig, while functioning as CPUSA representative to the Red International of Labor Unions, was sent to various places in the Soviet Union to study Soviet operations and the activities of Soviet trade unions (J.A. 472-473). William Z. Foster,[1] Earl Browder,[2] Gilbert Greene,[3] Charles Ruthenberg, and Alexander Bittelman, functioned for various periods during the 1920's and early 1930's in Moscow as members of the Soviet-controlled Executive Committee of the Communist International. In addition to the aforementioned position, Foster also served on the Presidium of the Communist International and Green was a member of its Young Communist League Secretariat (Gitlow, J.A. 227-228; Johnson, J.A. 659; Kornfeder, J.A. 338-340). William F. Dunne served as an alternate member of the Executive Committee of the Communist International in the 1920's (Ex. 32, J.A. 1342). Bosse functioned in the Information Department of the Communist International in 1926 and 1927 (Ex. 72; J.A. 1377). In the early 1930's, Clarence Hathaway functioned as representative of Respondent to the Communist International and also served as a member of the Anglo-American Secretariat of the Communist International in Moscow (J.A. 377). Robert Minor succeeded Hathaway as Respondent's representative to the Communist International (J.A. 378). Other members who served as the Party's representatives in Moscow include Louis Farina, John Reed, Nicholas Horawich, Israel Amter, Louis Engdahl, Max Bedacht, Harrison George and H. M. Wicks (J.A. 271-272; Ex. 72, 98). Morris Childs was a member of the Lander Secretariat of the Comintern (J.A.

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[1] Presently leader of Respondent.

[2] Leader of Respondent 1929-45.

[3] Recently convicted of conspiring to teach and advocate the overthrow of the United States Government.

377). Harry Heywood served on the International Negro Bureau of the Communist International (J.A. 360).

The record establishes that following their return to the United States, members of Respondent who had been trained and indoctrinated in the Soviet Union taught in Respondent's schools, and put into practice, where circumstances permitted, that which they had learned in the Soviet Union (Kornfeder, J.A. 349, 351-352; Nowell, J.A. 371, 389; Crouch, J.A. 439-440).

There is no substantial evidence of record showing training of Respondent's members in the Soviet Union subsequent to the outbreak of World War II. However, it is established that the extensive foreign training set forth above is still being effectuated in this country by Respondent. This training was clearly a program initiated by the Soviet Union to indoctrinate while there outstanding workers and leaders of Respondent so as to have a cadre for imparting such training to Respondent's membership in the United States.

It is apparent that World War II, and what Respondent has termed the "political situation" in this country subsequent to the war, have made travel to Moscow to obtain such training inexpedient or impossible. It is reasonable to conclude that this foreign training is no longer imperative to the functioning of Respondent as a Marxist-Leninist Party because its outstanding members and leaders, having received Soviet indoctrination, are able to educate, similarly, students at Party schools in this country and to dispense their previous training through Respondent's publications and activities.

We find that Respondent has sent its members and representatives to the Soviet Union, at the latter's insistence and with its financial assistance,[1] for instruction and training in the principles, policies, strategy and tactics of the world Communist movement, as determined by the Soviet Union, for the purpose of adopting and effectuating such principles, policies, strategy and tactics in the United States, which it does.

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[1] See findings under "Financial Aid", p. 163, *supra*.

There is considerable evidence of record that Respondent reports to the leadership of the world Communist movement, as we now establish.

In 1926 William Z. Foster and Alexander Bittelman were in Moscow and made a written report to the Communist International covering Respondent's activities during the year 1925 with reference to the economic and political situation in the United States, trade unions, Socialist Parties, Bolshevization of Respondent, Leninist education, United Front campaigns, Negroes, farmers, women, anti-imperialism and internal Party developments[1] (J.A. 243; Ex. 39, J.A. 1343-1350). The witness Gitlow went to Moscow in 1927, 1928 and 1929 to discuss similar matters with the Comintern officials (J.A. 216-217, 221-223). In 1929, Gitlow and other members of Respondent traveled to the Soviet Union to participate in a hearing held in Moscow by the Communist International to resolve the factional dispute then raging within Respondent. (The details of the settlement of this factional dispute are discussed *infra*, p. 187, *supra*, pp. 25-26).

Respondent's youth organization, the Young Workers League, was in continuous communication with the Young Communist International (J.A. 247-248). The witness Crouch visited Moscow in 1928, where he met with general staff officers of the Red Army and reported to them concerning activities designed to increase Communist infiltration in the American armed forces. He presented a tentative draft for future work, posed questions, and received answers and detailed directives (J.A. 400-405, 411-412; Ex. 147, J.A. 1543). Reports of Respondent's work on the Negro question, including the work of the Party-controlled American Negro Labor Congress, were sent in the 1920's to the Eastern Department of the Communist International, which then had jurisdiction over this phase of Respond-

[1] Their report also contains various statements as to Respondent's activities in carrying out "decisions" and "main lines of policy" dictated by the Communist International and, therefore, constitutes additional evidence to that reviewed in support of our finding and conclusion that Respondent acts pursuant to directives and to effectuate policies of the Soviet Union as covered *supra* at pp. 144 to 147.

ent's activities (J.A. 250; Ex. 69, J.A. 1370). The witness Nowell reported on behalf of Respondent in Moscow in 1930, on matters concerning the Trade Union Unity League (TUUL) in the United States (J.A. 354). During his stay in Moscow, Nowell received instructions in various aspects of the world Communist movement including the Negro question in the United States (J.A. 361-364).

The witness Honig went to Moscow in June 1934, and remained there until November 1935 as "referent" and official representative of the Trade Union Unity League and Respondent to the Red International of Labor Unions, a creature of the Communist International. Honig, representing Respondent, attended meetings of representatives from various Communist parties throughout the world that were held in Moscow not less than once a week. At these meetings, the representatives reported on the activities in which their parties were engaged among trade unions in their respective countries, and discussions based on their reports followed. Leaders of the Comintern were always present at these meetings and registered approval or disapproval of the work being carried out in the various countries; they also determined whether such work was being carried out according to the instructions of the Comintern and gave directions as to how it should be conducted (J.A. 466-473). Honig, while functioning in the Communist International's labor organization (RILU) in Moscow, received reports from Jack Stachel,[1] then acting head of the Trade Union Unity League, and Earl Browder, then head of Respondent, concerning the failure of the San Francisco general strike of 1934 (J.A. 506-507). Reports which Honig received at the Red International of Labor Unions were generally mimeographed or typed when not of a confidential nature and were sometimes sent through the mails. Confidential reports were taken to Moscow by American Party leaders and by Respondent's students going to the Soviet Union for training (J.A. 469-470, 474).

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[1] Convicted in 1949 of conspiring to teach and advocate the overthrow of the United States Government.

Minutes of meetings of Respondent's Central Executive Committee and its Political Committee were sent to Moscow during the 1920's and 1930's. Reports also were sent by various departments of Respondent's national headquarters and by individual CPUSA leaders. As positions of leadership in Respondent could not be held without the approval of the Soviet Union, advancement in the Party depended in part upon the reflection of a member's work in these minutes and reports (J A. 232, 647-648, 658-659). In addition to the foregoing, the minutes of Respondent's Political Committee covering official actions of Respondent during the years 1925 to 1928 reflect many instances of reporting to the Communist International through representatives sent to Moscow and through other channels of communication (Exs. 58, 59, 60, 63, 65, 71, 72, 73, 75, 80, 84, 85, 86, 87, 89, 95, 97, 98).

The Information Department of the Communist International collected and digested for the Comintern's Executive Committee, all information sent from the American Party (Ex. 89, J.A. 1403). The Anglo American Secretariat of the Communist International received reports from the English speaking Communist Parties, including Respondent; and during witness Kornfeder's membership on this Secretariat in the period 1927 to 1930, he received reports and recommendations from Respondent concerning the situation then existing in the United Mine Workers Union (J.A. 308 310-313; see also: J.A. 256).

In 1932, Earl Browder reported to the Communist International on behalf of Respondent's Central Committee concerning economic developments in the United States as they related to the world situation at that time (J.A. 379-381, 1488-1489; Ex. 135).

It is reasonable to conclude that Respondent has reported more recently to the Soviet Union through representatives of the World Communist movement from evidence furnished by the witness Matusow. While he was state literature director of the New York State Labor Youth League, Matusow attended a meeting in the Fall of 1949 at which Lou Diskin (a member of the CPUSA) gave a re-

port on a recent trip that he (Diskin) had taken to Budapest, Hungary, where he met with J. Peters[1] at a World Youth Festival. Diskin remained to report on and discuss the American youth movement of Respondent, and the American Communist Party movement generally, with officials of the World Federation of Democratic Youth, and with representatives of the Communist Information Bureau (Cominform) (J.A. 1031-1033). Elizabeth Gurley Flynn a member of Respondent's highest governing body and a witness for Respondent herein, visited France in 1945, 1949, and again in 1950, where she met with Communist Party leaders of other countries, including, in 1945, the Soviet Union. At the 1949 meeting, there was discussed the question of the "imperialist war" which the conferees claimed was being fomented by the United States, and they considered the steps to be taken and the role of Respondent with reference to this question (J.A. 1037-1038, 1277-1278, 1297, 1298).

The record discloses an instance where, by means unknown, the contents of an important letter written by William Z. Foster concerning Respondent's affairs were communicated to Jacques Duclos, General Secretary of the Communist Party of France and a former member of the Executive Committee of the Communist International (J.A. 1138-1139, 1302-1303, Ex. 208, pp. 660-661). The letter in question played a decisive part in Respondent's reconstitution in 1945, as elsewhere herein covered.[2] The record further shows that Respondent has reported its program and activities to the Soviet Union through representatives of the Communist International and other agents of the Soviet Union in the United States,[3] who exerted influence and control over the leadership and programs of Respondent.

In addition to Respondent's reporting in the aforementioned ways, the record establishes the existence of an-

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[1] See p. 112, *supra* re Peters.

[2] See pp. 28-31, *supra*.

[3] See pp. 109 to 112, *supra*, re activities of these representatives in this country.

other form of reporting through the issuance and exchange of significant, detailed and timely information in the form of "greetings," which are generally reprinted in Communist publications.

This exchange of messages contained in "greetings" commenced early in Respondent's history. We will cite typical examples of the numerous "greetings" so exchanged. The following "resolutions were adopted at Respondent's convention in 1921 and sent to the Soviet Union:

"* * *

"2. Greetings to the Third World Congress of the Communist International.

"The delegates of the Communist Party of America and the United Communist Party of America, in joint Unity Convention, send fraternal greetings to the Third World Congress of the Communist International. In the name of the revolutionary proletariat of America, we affirm our determination to fight under the banner of the Communist International for the overthrow of the American imperialism and for the establishment of the proletarian dictatorship. Hail to the International Soviet Republic! Long live the Communist International!" (Ex. 13(a), J.A. 1335).

"3. Greetings to the Soviet Republic.

"* * *

"The unified party, the Communist Party of America, declares that it will render all possible assistance to the Russian Soviet Republic in its struggle against the counter-revolutionary bands of the world imperialism. The Communist Party of America declares that only by the overthrow of world imperialism will the safety and mastery of the Soviet Republic over its enemies be definitely assured. The Communist Party of America pledges itself to rally the revolutionary proletariat of America for the annihilation of the most formidable stronghold of world imperialism: the American capitalist state, and to struggle for the establishment of the proletarian dictatorship. Down with world imperialism! Hail to the universal Soviet Republic! Long live the international solidarity of the workers!" (Ex. 13(a)).

"4. To the Third World Congress of the Communist International.

"The Unity Convention of the Communist (sic) of America and the United Communist Party of America fully upholds and endorses the firm and uncompromising stand of the Executive Committee of the Communist International against the opportunistic and centrist elements in various countries—in Italy (Serrati), and in Germany (Levi). The convention instructs its delegates to the third world congress to uphold and defend the stand of the Executive Committee of the Communist International. * * * " (Ex. 13(a), J.A. 1336).

In September 1927, on the occasion of its Fifth Convention, Respondent received "greetings" from the Comintern that were read to the Convention by acting chairman Gitlow, after which the governing body of Respondent was instructed to draw up a reply. The Comintern "greetings", in part, follow:

"* * *

"In the country of the most powerful imperialism and a most brutal capitalist class the Communist Party can fulfill its duty and can become the leader of the working class against imperialism and capitalist aggression only if it is united and if it is not torn to pieces by factional struggle.

"The Comintern considers as one of the central tasks of the Party the *extermination of all factionalism* and the *unification* organizationally as well as ideologically. It will be the duty of the newly elected Central Executive Committee to lead the Party in a non-factional spirit and it will be the duty of the whole Party membership to rally around the Central Executive Committee which it itself shall have chosen. * * * " (Underscoring supplied) (Ex. 23, J.A. 1337).

This "greeting" elicited a response which Respondent openly declared to be a "reply" and in which it gave assurances to the Communist International that it would comply with what were, in effect, the directions contained in the Comintern "greeting". This reply is as follows:

"The Fifth Convention of the Workers (Communist) Party greets the International leader of the working class, the Communist International. Under its leadership and with our own firm and unanimous determination to unify our Party, we will overcome the tremendous difficulties in the path of building a mass Communist Party in America. The Convention recognizes fully as Party's task the winning of the American proletariat for the revolutionary struggle against American imperialism.

"In the execution of this task we are inspired and guided by the principles of Marxism and Leninism, by the experiences of the victorious struggles of the Russian proletariat and the heroic battles of the exploited and oppressed masses of Europe and Asia. The Convention and the incoming Central Executive Committee pledge themselves speedily *to eliminate all remnants of factionalism* and to unify the Party as a prerequisite for the further success of our work. (Underscoring supplied)

"We pledge *the unification of our Party* and to fight more effectively for the defense of the Soviet Union and the Chinese revolution and against the war danger as well as to resist more effectively the offensive of the capitalist reaction and the reactionary trade union bureaucracy against our Party and the militant section of the American working class. (Underscoring supplied)

"The Convention is spurred by a full consciousness of its duty to recruit the toiling masses of America for relentless struggle against American imperialism.

"Long Live the Soviet Union!

"Long Live the Communist International!

"Fifth National Convention.
"Workers (Communist) Party."
(Ex. 24; J.A. 1338).

On the occasion of the Sixth Convention of Respondent, in 1929, a "greeting" was sent to the Communist International in Moscow which contained the following:

"'We greet our Communist International leadership and pledge our Convention and our Party to prepare itself, to strengthen itself, to clarify itself, for its share of this task. It will close its ranks, it will cleanse its

ideology from the poison of opportunism, it will defeat Trotskyism, it will mobilize against and lead the American proletariat for the struggle against the imperialist war; *it will mobilize the American workers for the defense of our Soviet Union and for the final defeat of American imperialism by the revolutionary overthrow of American capitalist rule.* (Emphasis supplied)

"Long Live Leninism!

"Long Live the Communist International!" (Ex. 28, J.A. 1339).

On December 21, 1949, the *Daily Worker* reprinted a telegram "greeting" sent by Respondent to Joseph Stalin on his 70th birthday which states, among other things:

"Like the Communists and other true partisans of peace, democracy and progress in all lands, we hail your more than 50 years of sterling leadership in the interest of the international working class and humanity.

* * *

"Under a Hitler-like anti-Soviet and anti-Communist smokescreen, the American imperialists launched their predatory and aggressive Truman Doctrine, Marshall Plan and North Atlantic Pact.

* * *

"Undaunted by the threats of the war instigators, the USSR steadfastly pursues its Stalinist peace policy and promotes cooperation with all who strive for peace. And the mighty world camp of peace, democracy and socialism headed by the Soviet Union, daily becomes more powerful and is destined to triumph.

* * *

"In our country, too, the organized peace forces, among the workers, the Negro people, men and women of science and culture, are growing and will continue to grow in unison with the peace forces of the world" (Ex. 375, J.A. 1706-1707).

After stating that the American people "favor acceptance" of Stalin's proposals for a "Pact of Peace, for demilitarization and democraticizing Germany and Japan, * * * outlawing the atom bomb", the telegram declares that the

American people envy and admire the Soviet Union's peaceful harnessing of atomic energy and that they rejoice at the victory of the Chinese Communists and their bond with the Soviet Union. The so-called telegram "greeting" closes by saying:

> "With full confidence in the American working class and people, the Communist Party of the USA exerts every effort to assure that by their united action they will check and help defeat the fascist-minded monopolists and warmongers. As this united action grows in influence and scope, it will bring its full weight to bear for the achievement of an American-Soviet pact of peace and friendship—the cornerstone for world peace.
>
> "Long life to you, Comrade Stalin, and to your great and enduring contributions to world peace, democracy and Socialism." (Ex. 375; see also: J.A. 1707).

Petitioner's witness Lautner establishes that the primary significance of this "greeting" lies in Respondent's reaffirmation of loyalty to Stalin as the aeknowledged leader of the world Communist movement (J.A. 976).

That such "greetings" actually convey significant messages between members of the world Communist movement when the wording appears comparatively innocuous to the uninitiated is made clear by both testimonial and documentary evidence of record. The following quotation from the August 1, 1948 issue of *For a Lasting Peace, for a People's Democracy* (Ex. 264), official organ of the Communist Information Bureau, demonstrates the significance given to a simple statement of solicitude by Stalin:

> "Comrade Stalin's telegram to the Central Committee of the Communist Party of Italy said: 'The Central Committees of the Communist Party of the Soviet Union (Bolsheviks) is grieved that Comrade Togliatti's friends failed to protect him from this foul and cowardly attack'.
>
> "The reply sent by the Central Committee of the Italian Communist Party to Comrade Stalin is worthy of this well-tested Party. *In their answer the Italian comrades assure Comrade Stalin that the solidarity of the heroic Soviet people and Stalin's warning about vigilance will be for the Italian Communists 'a spur*

*to strengthen and develop the struggle of the united international front of peace, democracy and socialism'.*

"*All* the Communist Parties took Comrade Stalin's *message to* the Italian Communist Party *as the expression of his great solicitude for the international working class movement and its leaders.*

"*Increased struggle against remnants and revivals of fascism, the welding of all supporters of democracy and progress into a single socialist camp will be the best answer of the Communists of all countries to Comrade Stalin's solicitude.*" (Emphasis supplied) Ex. 264, J.A. 1594-1595).

To show further the significance attached by the initiated to these "greetings", Lautner explains in this light the import of "greetings" received by Respondent at its 15th Convention in December 1950 from the Communist Party of the Soviet Union (CPSU), which follows:

"The Central Committee of the Communist Party of the Soviet Union extends fraternal greetings to the 15th Convention of the Communist Party of the U.S.A. We wish the Communist Party of the U.S.A. successes in its *struggle against reaction*, for the vital interests and rights of the working class and all toilers of the United States of America, for the *ideological strengthening of the Party ranks*, for lasting peace between the peoples.

"May the international solidarity of the toilers in the *struggle for peace, democracy and Socialism* gather strength. (Emphasis supplied)

"Long live the friendship between the peoples of the United States and of the Soviet Union!

"Long live the Communist Party of the United States!

"CENTRAL COMMITTEE
"Communist Party of the Soviet Union"
(Ex. 376, p. 229, J.A. 1714).

Lautner, from his experience as a former high official of Respondent (until January 1950) and as a student of Marxism-Leninism, establishes that this greeting from the CPSU was a political document of the highest importance to Party members since in a concise way it raised all the

key problems confronting Respondent. Specifically he interpreted some of the various terms used by the CPSU as follows: "struggle against reaction" as basic Marxist-Leninist opposition to imperialism and monopoly capitalism, i.e., the basic line of the Party; "struggle for peace, democracy and socialism" as the new tactical approach since the end of World War II on which a new tactical united front is to be built; "ideological strengthening of the Party ranks" as a reference which the Soviet Party used to call the attention of the rank and file Party members to the "Browderite" disaffection and other opportunist deviations (J.A. 994-995).

It is reasonable to conclude, and we do so, that the language used by Respondent in its "greetings" to the Soviet Union is likewise possessed of veiled content through which Respondent reports in this manner to the Soviet Union.

Respondent's witnesses deny categorically that Respondent reports or has reported to the Soviet Union or its representatives (J.A. 1215-1216, 1250-1252, 1289-1291). The clear weight of the evidence is to the contrary.

Upon the basis of the foregoing and the entire record, we conclude and find that Respondent reports to the Soviet Union and its representatives.

**F. Disciplinary Power**

Section 13(e)(6) of the Act provides that the Board shall take into consideration:

> "the extent to which its [Respondent's] principal leaders or a substantial number of its [Respondent's] members are subject to or recognize the disciplinary power of such foreign government or foreign organization or its representatives;"

The petition alleges:

> "From the inception of the organization to the date of the filing of this petition, the principal leaders of the Communist Party have been and are subject to and recognize the disciplinary power of the Soviet Government, the Communist Party of the Soviet Union, the Communist International and the Communist In-

formation Bureau and other spokesmen of the world Communist movement. This power has been exercised principally through the Communist doctrine of 'democratic centralism' which binds all Communists to execute the decisions of the leaders of the world Communist movement.''

Respondent's witness Gates says the leaders of the Party do not recognize and do not consider themselves subject to the disciplinary power of the Soviet government, the CPSU, the Comintern, the Cominform or any agencies of these organizations. He stresses that Respondent's leaders are subject only to the discipline of the Party (J.A. 1223-1224). He maintains the leaders of Respondent do not recognize any disciplinary power over them by the Soviet Union any more than the fact that he loves his wife indicates that she has disciplinary power over him (J.A. 1255-1257).

On the other hand, the record shows that under the rules and conditions governing the world Communist movement as promulgated by the Soviet Union and accepted and followed by Respondent there is prescribed a party of iron discipline on an international as well as a national scale.[1] This "iron discipline" borders on "military discipline" and implies "the establishment of authority, the transformation of the power of ideas into the power of authority, the subordination of lower Party bodies to higher Party bodies" (Ex. 121, pp. 113 and 114, 120; J.A. 1427-1443).

The requirements of discipline in the world Communist movement as formulated by the Soviet Union are, as previously noted, two-fold. First, on an international scale the decisions of the leadership of the movement—the Soviet Union—are made binding and obligatory upon the various Communist Parties and their members through the concept of democratic centralism and through policies and rules issued by organizational instrumentalities such as the Communist International, and the various Parties as well as their members are prohibited from any deviation from the

[1] See the section of this report under the heading "Marxism-Leninism" and the sections covering the Communist International and the Communist Information Bureau.

line laid down by the Soviet Union. Secondly, the individual parties are required to maintain similar discipline within their own organizations and to guard against factionalism or division of authority in the Party—to purge themselves of dissident elements.[1]

The record shows that the principle of strict international discipline in the world Communist movement is basic and has for its purpose unity in the struggle against imperialism, in order that the "revolutionary work and revolutionary action may be coordinated" and "guided most successfully" (Ex. 125, p. 84, J.A. 1446-1472). In other words, it is a fundamental of the world Communist movement that in order to accomplish the establishment of dictatorships of the proletariat and the defense of the Soviet Union there must exist in every country a "compact Communist Party, hardened in the struggle, disciplined, centralized, and closely linked up with the masses." (Ex. 125, p. 75; J.A. 1446-1472).[2]

We proceed, in the light of the foregoing, to examine the evidence concerning Respondent's recognition and acceptance of the disciplinary requirements of the world Communist movemnt as laid down by the Soviet Union.

One of Respondent's present top leaders, Bittelman, in his pamphlet "The Communist Party In Action," published in 1932, says:

> "* * * But our World Communist movement always presented an iron front against any such weakening of international discipline, fighting for the Leninist principle that the Communist Party is a monolithic and homogeneous body of revolutionary workers functioning as the vanguard of the working class." (Ex. 144, pp. 34-35; J.A. 1530)

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[1] See, for example, Exs. 8 and 125; J.A. 1318-1332, 1446-1472.

[2] This principle was a requirement of the Communist International and is also stated in *Strategy and Tactics of the Proletarian Revolution* (Ex. 343, p. 62; J.A. 1647-1659) which was used and referred to many times by Respondent during the seven years ending in 1949 that Petitioner's witness Philbrick was a member and held official position in Respondent.

Speaking of deviations from theory and policy as well as in the daily practical work, the article observes:

> "* * * We observe, however, among certain Party members, a tendency to be easy-going, tolerant and conciliatory towards opportunist deviations. This is a dangerous attitude which is very harmful to the interests of the working class and to the growth of our Party. It is this attitude that Comrade Stalin attacked so sharply, branding it as 'rotten liberalism' and calling upon every communist to demonstrate in practice in his everyday revolutionary work true Bolshevik intolerance of an irreconcilability with all opportunist deviations from the Leninist line." (*ibid.* p. 48, J.A. 1533).

In 1934, Respondent defined the executive committee of the Communist International as "the general staff of the world revolutionary movement giving unity and leadership to the Communist Parties of the world." (Ex. 136, p. 18, J.A. 1490). Respondent's *Manual on Organization*, issued in 1935, notes that Communists attach "so much importance" to discipline because "without discipline there is no unity of will, no unity of action." (Ex. 145, p. 28, J.A. 1537). Henry Winston, a present top leader of Respondent, told the 14th National Convention of the Party in 1948 that:

> "* * * We do not shrink from the hammer blows of reaction. Under them we will steel our Party in Communist discipline, loyalty and unity, develop its Marxist-Leninist understanding, and temper our cadres and leadership * * * " (Ex. 418, p. 856, J.A. 1742-1743).

The foregoing is indicative of a continued recognition and acceptance by Respondent of iron discipline in the world Communist movement, particularly when viewed in the light of the facts set forth in the section of this report covering Respondent's operation pursuant to directives of the Soviet Union and to effectuate the policies of the Soviet Union and to effectuate the policies of the Soviet Union in the world Communist movement.

Particularly significant of the operation and enforcement of discipline by the Soviet Union in the world Communist

movement and of Respondent's recognition of this discipline and subjection to it, is the evidence concerning the requirement that the Communist Parties and their members "follow the line" laid down by the Soviet Union. Those who do not follow the line are branded as "opportunists", "revisionists", "factionalists", "renegades", "stool-pigeons", etc., and are purged from the Party.

We have previously herein noted Respondent's present use of such Marxist-Leninist material as the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, J.A. 1613-1632) and a pamphlet entitled: "Resolutions—Seventh Congress of the Communist International[1] —Including The Closing Speech of G. Dimitroff" (Ex. 137, J.A. 1943-1948). The following excerpts from these documents show what Respondent is teaching its members and is practicing as well, concerning the necessity to "follow the line."

In the *History* it is stated:

> "The History of the Party further teaches us that unless the Party of the working class wages an uncompromising struggle against the opportunists within its own ranks, unless it smashes the capitulators in its own midst, it cannot preserve unity and discipline within its ranks, it cannot perform its role of organizer and leader of the proletarian revolution, nor its role as the builder of the new, Socialist Society." (Ex. 330, p. 359, J.A. 1631-1632)

And Dimitroff's speech as contained in the aforementioned document says in part (J.A. 1494-1495):

> "Championing, as we do, working class unity, we shall with so much the more energy and irreconcilability fight for *unity within our Parties.* There can be no room in our Parties for factions, or for attempts at factionalism. Whoever will try to break up the iron unity of our ranks by any kind of factionalism will get to feel what is meant by the Bolshevik discipline that Lenin and Stalin have always taught us. (*Ap-*

[1] William Foster and others were present and represented Respondent at the 7th Congress of the Comintern, See *supra*, p. 37 of this report.

*plause.*) Let this be a warning to those few elements in individual Parties who think that they can take advantage of the difficulties of their Party, the wounds of defeat or the blows of the raging enemy, to carry out their factional plans, to further their own group interests. (*Applause.*) *The Party is above every thing else! (Loud applause). To guard against the Bolshevik unity of the Party as the apple of one's eye is the first and highest law of Bolshevism!*" (Emphasized in text. Ex. 137, p. 13).

Respondent's *Manual On Organization*, to which we have referred in various places in this report, points out that basic principles and decisions, such as the necessity for the proletarian dictatorship, the correctness of the line "laid down" by Marx, Engels, Lenin and Stalin, and, the necessity for the forceful overthrow of capitalism, cannot be questioned (Ex. 145, p. 26, J.A. 1537). Respondent's publication *The Way Out* covering its 8th Convention held in 1934, says "Renegades are those who were formerly members of the Communist Party but were expelled from it for failure to follow the correct revolutionary line and who now fight against the revolutionary movement and against the Soviet Union" (Ex. 136, p. 17, J.A. 1490). John Gates, one of Respondent's present leaders and a witness for Respondent in this proceeding, told the 15th Convention held in 1950 that the struggle of "the renegades from Marxism against the Communist Party inevitably and logically leads to struggle against the Soviet Union and to becoming outright agents of the imperialist bourgeoisie", and that the Party needs "to be alert to the danger of factionalism" (Ex. 376, pp. 79 and 86, J.A. 1710). Also pertinent are Respondent's *Discussion Outline for Lenin Campaign*, issued in 1929 (Ex. 108, J.A. 1422), of which a considerable portion is devoted to discipline; and Respondent's publication *Why Every Worker Should Join The Communist Party*, issued in the mid-1930's (Ex. 143, J.A. 1523-1525).

We treat now with specific incidents of record related to the purging of those who have not "followed the line". The record shows that from the beginning of Respondent's

existence in the United States, the Soviet Union has exercised disciplinary power to enforce adherence to the revolutionary line. We have hereinbefore noted the foreign direction concerning the settlement of the factional dispute in Respondent in 1929 whereby, under Comintern "authority and wisdom",[1] the Party was purged of factional elements and opportunists pursuant to Stalin's solution, in which he said:

> "* * * And when a revolutionary crisis develops in America, that will be the beginning of the end of world capitalism as a whole * * * For that end the American Communist Party must be improved and bolshevized. For that end we must work for the complete liquidation of factionalism and deviations in the Party * * *"[2]

Stalin's speeches before the Comintern on the settlement of the aforementioned factional dispute, which speeches were subsequently published in Respondent's official organ,[3] refer to the conduct of Respondent's members who questioned the decisions of the Executive Committee of the Communist International as "insubordination" and apply the term "enemies of the working class" to the factional group. We find on the record that this expression covers so-called renegades, revisionists, reformers, opportunists, etc., and that the expression and words it covers are current in Communist use to denote one who deviates or does not follow the correct revolutionary line.

The record shows that Trotsky who was expelled from the Communist Party of the Soviet Union and Lovestone who was expelled from the CPUSA[4] became descriptive of

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[1] Ex. 126, p. 246, J.A. 1437-1483.

[2] Ibid.

[3] Ex. 109, J.A. 1424-1425.

[4] Respondent's official declaration on the expulsion of Lovestone, Gitlow and others who had refused to be bound by certain demands of the Comintern in 1929 calls their conduct "unprecedented warfare against the Party", and states that "any association with the expelled, any support given them is incompatible with the duties of membership in the Party." (Ex. 117, p. 2, J.A. 1425-1427).

"enemies of the working class" who must be purged. We consider it significant, therefore, that Respondent's constitution as amended in 1942 provided[1] (J.A. 1611):

> "No Party member shall have personal or political relationship with confirmed Trotskyites, Lovestoneites, or other known enemies of the Party and of the working class" (Ex. 328).

And that the present constitution provides (J.A. 1705):

> "Personal or political relations with enemies of the working class and nation are incompatible with membership in the Communist Party" (Ex. 374).

We have noted in other sections of this report that Paul Crouch, an early official of Respondent, was denied election in 1929 to the position of national secretary of the Young Communist League because of his previous support of Lovestone and upon instructions from Moscow. We have also noted that Nowell, while a student from Respondent to the Lenin School in Moscow, was disciplined by the Communist International for disagreeing with the policy on the "Negro question" (R. 4450), and that Kornfeder was expelled in 1934 for failure to heed the instructions of a Soviet Union representative in the United States (J.A. 322-325). Petitioner's witness Johnson was expelled by Respondent in 1940 for having exhibited opportunistic tendencies, and all members were warned not to have anything to do with him (J.A. 668-669, 1601; Ex. 294).

In many respects the reconstitution of Respondent under the name Communist Party in 1945, after having existed for about 13 months as the Communist Political Association, is similar to the 1929 settlement of the factional dispute which existed at that time. We have previously herein noted the foreign participation in the 1945 reconstitution and in the 1929 factional settlement. With respect to the 1945 episode, William Foster reported to the convention

[1] We note that although Respondent had previously announced "disaffiliation" from the Comintern, its constitution as amended in 1942 included the Comintern, together with Marx, Engels, Lenin, and Stalin as the enunciators of the principles according to which Respondent seeks to establish "socialism".

that the only way he could have gotten his letter to the membership, which letter opposed the formation of Respondent under the name Communist Political Association, was by facing expulsion, and that since his letter would have caused disunity, anyone who attempted to discuss it would have been denounced as a Trotskyite by Browder (Ex. 378). Following the reconstitution in 1945, Earl Browder was expelled as a "revisionist" for seeking to abandon basic Marxism-Leninism principles and for opposing the re-emphasis thereof which was part of the 1945 reconstitution following the Duclos and Manuilsky pronouncements (J.A. 1136-1151; Ex. 208, J.A. 1574-1575; Ex. 372, J.A. 1692-1694).

In 1950, Lautner, without advance warning, was subjected to a severe inquisition by officials of Respondent and forced to sign a statement that he was a spy and agent in the ranks of the Communist Party and had received a fair hearing. He was not, and had not been, a spy or agent. His efforts to get a hearing or review by Respondent's National Review Commission were ignored. His only notice or information about his expulsion came from an article in the *Daily Worker* stating that he was expelled as a "traitor and enemy of the working class" (J.A. 882-888; Ex. 361, J.A. 1671-1672). Indicative of the disciplinary program in the world Communist movement is the fact that the notice of Lautner's expulsion from the CPUSA was printed in the Cominform journal *For a Lasting Peace, for a People's Democracy*, and that the same issue contained a similar notice as to the expulsion of a member from the Communist Party of Italy, both under the heading "Rooting Out Traitors from the Ranks of the Communist Part s" (Ex. 362, J.A. 1672-1673). Also in this connection, the record shows that in 1948 the Communist Information Bureau adopted a resolution that the leaders of the Communist Party of Yugoslavia were pursuing an unfriendly policy toward the Soviet Union and the CPSU (B), that this anti-Soviet attitude was incompatible with Marxism-Leninism, and that the Yugoslavia Party had failed to accept the criticism and measures set forth by the Central Commit-

tee of the Communist Party of the Soviet Union. The resolution suggests the Yugoslavia Party leaders be replaced if they did not "recognize their mistakes" and rectify them. This resolution was printed in the August 1948 issue of *Political Affairs* (Ex. 344, J.A. 1659-1663) and was discussed in meetings of Respondent's groups. It was printed by Foster and Dennis (J.A. 778-780). In 1949, the Cominform adopted another resolution concerning Tito and other leaders of the Yugoslav Party which brands them as "enemies of the working class" for becoming agents of "Anglo-American imperialism", conducting a "campaign of slander and provocation against the Soviet Union," and being disloyal to the principles of Marxism-Leninism. This resolution states the struggle against the Tito clique is the international duty of all Communist [redacted] Workers' Parties (Ex. 258, J.A. 1592-1594).

Finally, with respect to specific instances of discipline, in 1951 one Warwick Thompkins was expelled by Respondent for trying to organize Communist members to support in the distribution of leaflets containing "slanderous" remarks about the Soviet Union (J.A. 1090-1091).

In addition to the foregoing, we have also taken into consideration in connection with Respondent's recognition of and subjection to the disciplinary power of the Soviet Union, the facts elsewhere herein set forth concerning Respondent's following of the concept of democratic-centralism, the nature of the *Daily Worker*, and the activities of foreign Communist representatives sent to supervise Respondent. Regarding this latter aspect, the record shows that some of the foreign representatives or agents sent to the United States have been members of the Soviet secret police who instructed Respondent on underground and espionage work (J.A. 236-238 240-241, 433-435). Petitioner's witnesses Gitlow, and later, Budenz, knew and dealt with Jacob Golos as a resident agent of the Soviet secret police (J.A. 263, 1163-1166). Elizabeth Bentley was designated by Golos as a trusted go-between in his relations with Budenz (J.A. 1165-1166).

Further, the record shows that Communists who took the three-year training course in Moscow, and were considered qualified, were sent as representatives or instructors into other countries. Petitioner's witness Kornfeder after completing training in Moscow as a member of Respondent was sent in 1930 to South America to reorganize the badly functioning Party in Colombia and to organize an underground Party in Venezuela (J.A. 308-311). Kornfeder identifies Charles Crumbein and Rudolph Baker as other United States Communists who were sent as representatives outside of the United States. While in Moscow before going to South America, Kornfeder had daily meetings with Palmiro Togliatti[1] who briefed him on South American policies (J.A. 309-310).

Earl Browder, high official of Respondent until his purge following Respondent's reconstitution in 1945 as above noted, came back to the United States as an official of Respondent in 1929 as part of the settlement of the factional dispute. He was first summoned to Moscow from a position as Soviet representative in Shanghai, China, and after being instructed as to what was required of him, was assigned as General Secretary of Respondent (J.A. 311-314). Other members of Respondent are identified in the record as receiving foreign assignments on instructions of the Communist International (e.g., J.A. 314-315).

Summarizing, we find that the Soviet Union has established a requirement of iron discipline throughout the world Communist movement which imposes upon the Communist Parties and their members in the various countries the duty of following with unquestioned devotion the line laid down by the Soviet Union; that Respondent herein has recognized and accepted the requirement of iron discipline, has not repudiated it and has acted in accordance therewith; that officers and members of Respondent have been expelled by Respondent upon instructions from the Soviet Union; that

[1] Presently leader of the Italian Communist Party and at the time he instructed Kornfeder, head of the Latin American Secretariat of the Communist International.

Respondent has subjected itself to Soviet discipline by expelling officers and members for failure to follow the line laid down by the Soviet Union, or for conduct of the type prescribed by the Soviet Union such as so-called revisionism and opportunism; and that Respondent has followed policies and activities designed to carry out the disciplinary policies of the Soviet Union.

Upon consideration of the foregoing and of the entire record, we find and conclude that Respondent's principal leaders and a substantial number of its members are subject to and recognize the disciplinary power of the Soviet Union and its representatives, and that by its recognition and subjection to the disciplinary power of the Soviet Union, Respondent seeks to advance the objectives of the world Communist movement.

### G. Secret Practices

Section 13(e)(7) of the Act provides that the Board shall take into consideration:

> "the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it [Respondent] fails to disclose or resists efforts to obtain information as to, its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method); (ii) its [Respondent's] members refuse to acknowledge membership therein; (iii) it [Respondent] fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its [Respondent's] meetings are secret; and (v) it [Respondent] otherwise operates on a secret basis;"

The petition alleges:

> "For the purpose of expediting and promoting its objectives and concealing its foreign direction, domination and control, the Communist Party from its inception has adopted a multitude of clandestine practices. While the degree of secrecy has varied from time to time, there has been a strict adherence to the practice of secrecy during the period from July 1945, to the time of the filing of this petition. * * *"

The petition further sets out 12 specific types of such practices allegedly engaged in by Respondent. For convenience, the evidence relating to these and other activities is set forth in this section under appropriate head notes which in the main correspond to the aforementioned alleged practices. Evidence relating specifically to the purpose for which the subject activities were undertaken, aside from that of the nature and character of the acts and practices themselves, is summarized under the heading *Purpose of Secret Practices* at the end of this section.

### 1. Secret and Open Members

It is conceded by Respondent (Gates, J.A. 1254-1255) and the evidence establishes that some portion of its membership was and is concealed. Party members active as labor union leaders, mass organization leaders, members of professions, and others have concealed their party membership from the general public or from the organizations in which they worked or in which they were members. The degree of concealment varies with Respondent's current policy regarding its activities (Honig, J.A. 493-495; Meyer, J.A. 694-700; Blanc, J.A. 787-791; Cummings, J.A. 815-817; Philbrick, J.A. 762-764; Lautner, J.A. 900-905; Budenz, J.A. 1115-1117).

A higher degree of secrecy generally applied to members of the Respondent who were important civil servants, members of the armed forces, teachers and those individuals engaged in espionage and other illegal and confidential activities for the CPUSA or the Soviet Union. Such members were known only to the leading officials of Respondent or to a limited number of the members thereof (J.A. 220-221, 245-246, 273-276, 416-417, 434-435, 493-495, 694-695, 770-771, 790-791, 815-817, 963-965, 1079-1080, 1108-1110, Exs. 340, 341).

Open members of the CPUSA have been those who by reason of their position in the Party or because of the type of their operations need not be concealed. For the most part, these were the national, state and district officials of the CPUSA or candidates for public office on the Communist Party ballot (J.A. 695, 790-791 815-818).

New members upon entering tl. CPUSA were instructed generally not to reveal their Party membership. In 1928, members of the staff of the *Daily Worker* were instructed to deny their CPUSA membership in the event of a police raid. Similar instructions were given to Party members attending CPUSA schools in 1932. Party members in trade unions were ordered in 1948 not to reveal their CPUSA membership (J.A. 491-497, 661-662, 791-792, 818-819).

It is thus that Respondent engages in the practice of maintaining a membership of both concealed and open members.

**2. Refusal to Reveal Information**

Respondent's organ, the *Daily Worker* for February 17, 1930, stated:

> "It is the duty of Communists to throw every possible obstacle in the way of conviction of their fellow Party members in the courts, to defend these members by all possible means, and absolutely to refuse to give testimony for the state in any form. Testimony of Communists can only be given for the defense of Communists, not for the state, and then it must be based upon uncompromising defense of the Party and its program. And any one who trades his testimony to the State for personal immunity from prosecution, should be unhesitatingly kicked out of the movement" (Ex. 496, J.A. 1798).

CPUSA members were taught in Respondent's schools and at meetings during the late 1930's and early 1940's that the moral basis of all acts by a Communist is the determination of whether such acts do or do not help in the achievement of the victory of the classless society; that no oath, or statement in court, or consideration of any kind can take precedence over the question of whether or not his act helps or harms the CPUSA (J.A. 701-702). The record discloses a number of other instances, wherein CPUSA members, several of whom testified for Petitioner in this proceeding, were instructed while members to deny their Party membership in the courts and to government agencies, e.g., to

the Federal Bureau of Investigation in connection with the Loyalty Program of the Federal Government (J.A. 495-496, 662, 667-668, 695, 739-740, 755, 793-796, 818-819). Respondent has instructed its members to refuse to talk to FBI agents (J.A. 1087-1088). In answer to a question in this proceeding as to the whereabouts of certain members of the CPUSA National Committee, who are fugitives from justice, the Respondent's witness Gates stated, "if I knew, I wouldn't tell you in a million years" (J.A. 1246).

The CPUSA, in the early 1940's, caused documents to be filed with the Department of State which stated that the Intercontinent News Agency was an independent agent, when, in fact, it was formed by the Respondent for the purpose of circumventing the Foreign Agents Registration Act of 1938 (J.A. 1193-1196; CP Exs. 70 through 75).

Plans were discussed by Party leaders together with agents of the Soviet Secret Police in 1928, whereby blank American passports might in some manner be obtained illegally from the Department of State (J.A. 434-435). CPUSA members (Kornfeder, Honig and Arbona) have used detached visas which were issued by Soviet Union sources here and abroad in 1927 and 1934, as a device to conceal from agencies of the United States Government visits to the Soviet Union (J.A. 302-303, 467-468). In 1937, Respondent's witness Gates did not list Spain as one of the countries to be visited when he applied for an American passport, since the United States Government did not issue passports for travel to Spain at that time; actually, it was his purpose to go to Spain and he did so (Gates, J.A. 1200). In 1949, Eugene Cubues Arbona, head of the Communist Party youth movement of Puerto Rico, in collaboration with members of Respondent, submitted to the Department of State an application for a passport which falsified the answers to questions concerning the countries to be visited abroad, and other matters. At that time, CPUSA members assisted this official in making arrangements to obtain a detached visa in France in order to visit Hungary, thereby concealing knowledge of the Hungarian destination from the United States Government (J.A. 1051-1053).

Hence it is clear that members of Respondent are trained to and do refuse to reveal information to proper governmental agencies and tribunals concerning Respondent and its membership as a matter of basic Party policy.

### 3. Destruction and Secretion of Records

In periods of strict secrecy, the Party has issued directives to destroy records and such literature as would identify members with Respondent. Such orders were issued throughout the period of the Hitler-Stalin Pact from 1939-1941 and also during the period from 1946-1951. During the latter period, records in CPUSA headquarters were burned by Party leaders while the individual members were instructed to burn Party lists and literature kept in their homes (J.A. 741, 763, 1019-1020, 1026-1027, 1069-1071). During the 1946 Congressional campaign, a CPUSA member, Herbert A. Philbrick, was instructed to destroy his Party membership card for security reasons while participating in the campaign of a non-Communist candidate for public office (J.A. 763). Pursuant to the orders of CPUSA officials, Party membership books were destroyed in 1947 and membership cards were destroyed in 1948 (J.A. 798-802, 823-828). In 1949, a system was established at New York county headquarters of Respondent whereby all messages containing names, addresses and phone numbers were to be burned as soon as read. This system was still in effect in January 1951 (J.A. 1026-1027).

In addition to the steps taken to destroy records and other material during the aforementioned periods, Respondent adopted the practice of keeping no records which would divulge information concerning its members and activities. In situations where it was thought absolutely necessary to keep records, however, secret devices such as charts and code systems have been used. Records have been kept at a minimum by such varied practices as engaging in cash financial transactions, issuing oral directives without ever reducing them to writing, and requiring club leaders of Respondent to memorize the names of members of their respective clubs (J.A. 696-698, 736-737, 799-800,

890-891, 1011-1012, 1016-1017, 1068-1070). In 1949, instructions were given to a club official of Respondent, which he followed, that dues and "sustainers" were not to be collected from any member in the presence of other members (J.A. 1067-1068).

CPUSA membership cards are not issued when the Party operates under conditions of strict secrecy. In this connection, no membership cards were issued to members for one of the years during the Hitler-Stalin Pact period from 1939-1941 because Respondent believed it would have to go underground, i.e., operate completely clandestinely. Membership cards have not been issued for the years 1949 to date as a security measure to conceal the identity of CPUSA members (J.A. 697-698, 740-741, 1000, 1069-1071, 1086-1087).

Records of the CPUSA pertaining to its membership and other affairs have been maintained secretly (J.A. 699, 800). The Party has selected carefully concealed places in which to hide its records. Such hiding places have consisted of homes and business offices of secret or concealed members of the Party or of other persons who would be least suspected of being identified with the CPUSA (J.A. 661-662, 820-822, 1000-1001, 1010-1011, 1019-1020, 1024-1027).

Thus, during periods of strict secrecy Respondent has engaged in the practice of destroying or secreting records, and of not maintaining membership records, or of maintaining them in code.

#### 4. Deceptive Language in Party Writings

The CPUSA, as recommended by Lenin, has used deceptive language in its Constitution (Pet. Exs. 328, 329, 374) and other writings to conceal the real aims, purposes and objectives of the Party. A decisive clause in the preamble to the CPUSA Constitution of 1942, viz., "* * * by the establishment of socialism, according to the scientific principles enunciated by the greatest teachers of mankind, Marx, Engels, Lenin, and Stalin, embodied in the Com-

munist International * * *" was taught in Party schools as equivalent to the statement, "in accordance with the principles of Marxism-Leninism," as defined hereinbefore. Notwithstanding any other language to be found in other sections of the preamble, this clause controls the interpretation which CPUSA members place upon the Constitution (Ex. 328; J.A. 729, 730-733). Similarly, statements in the preambles of the 1945 and 1948 Constitutions of the CPUSA to the effect that Respondent's functions are founded "upon the principles of scientific socialism, Marxism-Leninism" cannot be reconciled with subsequent statements which refer to the Constitution of the United States. These direct and implied references to Marxism-Leninism control the interpretation which Communists must place upon the subject matter found in the Party Constitution. Such reference to Marxism-Leninism is intended to override any other matter contained therein which may be conflicting in any manner. Marxism-Leninism is defined fully elsewhere in this report[1] (J.A. 975-976, 979, 1053-1055,1152-1155; Ex. 374, J.A. 1695-1706).

Deceptive language has been used in other statements and documents of Respondent for the purpose of concealing its true aims purposes and objectives (R. 14266-14362). Lenin explained the necessity for the use of such language in *Imperialism, the Highest Stage of Capitalism* (Ex. 140; J.A. 1518-1520). During the period 1935-1945 the witness Budenz used such language in his writings as a staff member of the *Midwest Daily Record* and of the *Daily Worker* (R. 14325-14327).

That Respondent uses deceptive language, even in the most basic Party documents, such as Constitutions, to conceal its real objectives is established in the record.

### 5. Use of Party Names, Aliases, etc.

By direction of Respondent, Party names or aliases were used by its members in 1927 and 1934 on American passports, which had been obtained illegally in order to conceal

[1] See pp. 38 to 81, *supra*.

from the United States governmental agencies the knowledge that trips were being or had been made to the Soviet Union (J.A. 220-222, 302-303). By similar direction, CPUSA leaders have at other times, for the same reason, used false names in connection with their trips to the Soviet Union as have Respondent's students en route to the Lenin School at Moscow. Pursuant to instructions from CPUSA leaders, the students were not to use their real names while on board ship but were to conceal their identity and destination (J.A. 367-368, 491-492). Also, Respondent's leaders and members, acting on instructions, have used Party names or aliases to conceal their activities on behalf of the CPUSA in labor circles and in other organizations, as well as in the conduct of strikes and labor disputes (J.A. 493-496). Concealment of Party membership from law enforcement agencies, by the use of Party names, has been practiced by Respondent's members throughout the existence of the Party (J.A. 783-784, 801-802, 828-829, 1254-1255). False or Party names have been used on CPUSA membership cards at various times. In the 1930's, Respondent's leaders were instructed to use Party names in order to conceal their identity in the event of police raids (J.A. 662-663). In the years immediately following the conclusion of World War II, membership books were issued in blank. Party members were directed to enter a false name or, in some instances, were given the option of entering a false name, of entering only their first name, or of entering no name at all on the books (J.A. 740-741, 762-763, 869).

The rigidity of the concealment measures which commenced in the late 1940's, is indicated by the employment of certain practices in the Party whereby the names of Party members were not disclosed to each other, even at conventions and meetings, Party names or aliases being used by members as a substitute (J.A. 795-805, 834, 867-870; Ex. 348, 349).

During the present period, the payment of dues and other contributions to the Party is recorded by the use of a system whereby the members are designated by number at the club level (J.A. 797; Ex. 347-A, 347; J.A. 830-831; Ex.

353; J.A. 1012; Ex. 389; J.A. 1093-1094). Also, numbers and symbols have been used by the Party in order to identify its members on mailing lists (J.A. 869-870). Students at Respondent's Marxist-Leninist Institute in Oakland, California, during the period 1949-1950 were enrolled by numbers instead of names, and students at the former were directed to refer to each other by their enrollment numbers rather than by their correct or Party names (J.A. 1060-1061, 1105).

The use of Party names or aliases for the purpose of concealing membership and activities in the CPUSA has been a widespread and continuous practice by the CPUSA leaders and the rank and file members throughout the existence of the Party. The record is replete with instances of such practices.

### 6. Use of Codes, Couriers, etc.

In the early history of the CPUSA, its leaders received training in the secret department of the Communist International in the use of codes for the transmittal of Party messages, as well as training in the operation of short wave communication (J.A. 310). In the "Arcos" raids which took place in Great Britain during 1927, British authorities seized codes, documents, letters, and files which revealed the identity of certain CPUSA leaders who had received confidential letters, reports, cables, and sums of money in the United States from the Soviet Union. As a result, new codes for the CPUSA were delivered in Moscow by a Comintern official to a leader of Respondent who in turn brought them into the United States (J.A. 253-254).

During the 1930's, the CPUSA established and used various code systems in transmitting confidential messages between its units and its leaders in the United States (J.A. 430-433, 876-877). Instructions were received by Respondent in code from the Comintern in connection with the 1934 general strike in San Francisco (J.A. 477-480).

In the summer of 1949, instructions were given and steps were taken by Respondent's leaders to establish a national system of radio communication for use by the Party on a

stand-by basis. The establishment of this system involved the acquisition of radio receivers, familiarization with the use of radio equipment, plans for the location of mobile transmitters and receiving equipment, and a search to find amateur radio operators among CPUSA members. In addition, leaders of Respondent sought to establish this system in such a manner as to avoid detection by the Federal Communications Commission of illegal transmissions (J.A. 932-936).

At a secret meeting of the CPUSA held in Toledo, Ohio, in July 1947, Respondent's witness Elizabeth Gurley Flynn, then Chairman of the Women's Commission of the CPUSA, told Party members pursuant to instructions of the CPUSA National Committee that Party leaders should not use the telephone for communicating with Party members; further, that Communist documents and directives should not be sent through the mails, that names of Communists should not be used over the telephone, and that lists of names of Communists should not be carried on one's person. The record shows that these instructions were carried out in general by Party members (J.A. 800-801, 806-807, 823-826, 849-850).

Secret devices for concealing the transfer of members from one Party unit to another have been used within the CPUSA, notably during the periods of strict secrecy, which includes the present (J.A. 432-433, 741-742, 1034-1035). After the reconstitution of the CPUSA in 1945, transfer cards in certain units of the Party were sent to destination points by couriers instead of being forwarded through the mails as theretofore (J.A. 741-742).

Prearranged code words or phrases have been used by CPUSA members in communicating with each other, particularly with respect to underground activities since 1947 (J.A. 1072, 1109-1110). A telephone code was devised in 1949 and used through 1950 to transmit information about meetings and other Party affairs in California (J.A. 1069-1070).

Extensive use has been made of confidential mailing addresses by the CPUSA and its members through 1949. Such

addresses have included those of members least suspected of being affiliated with the Party (Ex. 105, J.A. 1421; Ex. 151, J.A. 1550-1551; J.A. 701, 876-877, 901-903).

Couriers have been used extensively by Respondent as a concealment measure in the transmission of documents and other material over a period of many years. Until 1940, CPUSA members served as couriers for the transmission of documents between the United States and the Soviet Union and also on behalf of the Communist International in Moscow for the purpose of transferring funds and documents between the Soviet Union and other foreign countries (J.A. 432-433, 443, 735, 741, 770-777, 806-807, 834-836, 846-847). Communist International representatives to the CPUSA have acted as couriers in exchanging documents between the United States and the Soviet Union (J.A.. 469-477). One objective of the Red International of Labor Unions in carrying on Communist activities in the maritime industry was to create an unlimited courier service throughout the world (J.A. 409-410).

In February 1952, a CPUSA member who testified in this proceeding for Petitioner was told by a Party official that the former was to receive instructions as to the performance of the Party's underground activities; and, further, that this member would act largely as a courier between certain Party units (J.A. 1107-1110).

It is thus clearly shown that Respondent uses codes, courier , confidential mailing addresses, and other secret devices to conceal its membership and activities.

### 7. False Swearing

On instructions from Respondent, a Party Leader, Joseph Kornfeder, swore falsely when he applied to the Department of State in 1927 for a passport (J.A. 351).

Jack Stachel, a member of the CPUSA National Committee, instructed a member in the 1930's to testify falsely in an injunction suit brought against the Shoe and Leather Industrial Union, concerning the issue of whether this union was Communist-controlled (J.A. 495-498).

A Party member, in early 1948, falsely denied his membership in the Party before a court in Virginia. At a meeting of a Party Committee held in Washington, D. C., following that occasion, his resignation from Respondent was so dated as to enable him to say that he was not a CPUSA member on the date that he denied such membership (J.A. 739-740).

In order to circumvent the non-Communist affidavit provisions of the Taft-Hartley Act, CPUSA members holding positions in labor unions were instructed by Respondent's officials in 1948 and 1949, to "resign" formally from the CPUSA, but nevertheless to continue functioning as members of the Party. In this connection, Gus Hall, a CPUSA official thereafter convicted under the provisions of the Smith Act, instructed a member in 1948, to sign a letter of resignation back-dated to a time prior to the effective date of the Taft-Hartley Act in order to protect the member from prosecution under the Provisions of that Act. In 1949, a member was given Party instructions that a formal "resignation" from Respondent, but an actual continuation of his functions as a Communist, was the procedure to follow if he must sign a non-Communist affidavit as required under the Taft-Hartley Act (J.A. 807-808, 813; Ex. 350; J.A. 1042-1044).

Party members are impressed by Respondent with the necessity and desirability of making false statements to conceal Party information and to forward Party objectives.

### 8. Secret Meetings of Trusted Members

Throughout its history Respondent's meetings generally have been restricted to Party members, although on occasions authorized "public" meetings have been held. Election rallies held when Respondent supported candidates for public office have been open to the public, as have expressly authorized meetings of certain Party street units (J.A. 498-499, 667). At various periods important meetings of Party Committees have been held secretly in private homes instead of in Party offices (J.A. 701). During periods of

strict secrecy all Party meetings generally are held on a secret basis (J.A. 848-850).

Meetings of national, state and regional committees and commissions of Respondent, as well as other trusted Party units, such as the highly concealed professional clubs, have been held on a clandestine basis (J.A. 429-430, 495, 694-695, 768-772, 824-825, 846-847). Members of the Ohio State Committee were criticized in July 1947 by Gus Hall, a high Party official, for having violated rules promulgated by the National Committee pertaining to concealment in attending meetings (J.A. 824-825). A CPUSA leader attended secret Party meetings held in Cleveland, Ohio, during 1948 and 1949. He was notified of the meetings by courier in Toledo, and upon arrival at Party headquarters in Cleveland he received final instructions as to the locations of the meetings (J.A. 846-849). A district committee met in Baltimore in March of 1949 under conditions of extreme concealment (J.A. 739-744). During 1949 and 1950, meetings of Party Commissions were held in places acquired in the names of non-existent groups, in order to conceal and mislead as to the identity of the parties meeting therein (J.A. 1024-1026).

Extraordinary care has been exercised during certain periods to conceal the actual meeting place and to restrict attendance at plenary sessions and executive board meetings of the CPUSA National Committee to only those selected members who had been given proper identification and credentials (J.A. 896-898, 974-975).

Respondent's schools have been conducted under varying degrees of secrecy. During periods of strict secrecy within the Party, including the periods of 1939 to 1941, and from 1948 to 1950, extraordinary precautions were taken to conceal the existence of these schools and the names of the trusted Party members selected to attend them. Students at Party schools have carried out instructions to observe stringent concealment regulations in order to preserve the secrecy shrouding the operation of these schools. As an example, both the Marxist Institute in Los Angeles, California, and the Marxist-Leninist Institute in Oakland, California, were so conducted in the summer of 1950 as to

conceal their existence and purpose. Students at the former school attended classes secretly at a changed location after the Korean hostilities had begun. The nature of the curriculum of these schools (see pp. 75-80, *supra*) clearly shows the illegal purpose behind the extensive measures adopted to conceal their existence (J.A. 685-688, 787-790, 847, 880, 1060-1061, 1063-1064).

Stringent concealment measures have accompanied the holding of conventions by the Respondent during periods of strict secrecy. Only the most trusted members of the Party have been permitted to attend such conventions. At the Massachusetts State Convention of the Communist Political Association held at Boston, Massachusetts, in 1945, and at the National Convention of the CPUSA at New York City in 1948, only those persons were admitted who could present proper credentials and, after elaborate security procedures, could establish their identity (J.A. 756-757, 893-896).

The location of the Ohio State Convention, held in December 1950, was not disclosed to the delegates for concealment reasons until shortly before the convention was held. Extensive precautions were taken to conceal the holding of a local convention in 1948 in Los Angeles. Like efforts surrounded the holding of the West Oakland (California) Section Convention in December 1950. Similar precautions surrounded a State Regional Convention of the CPUSA in California in January 1951. As at the other conventions held in California specified above, delegates to this January 1951 convention arrived at the convention hall in small groups after having been led there by a member who had been entrusted with knowledge of its location. The delegates remained at the hall during the entire session before being allowed to make their departure in small groups at intervals. Prior to departure the delegates were directed not to take a direct route home. On the following day, the second session of the convention was held at a different location under similar circumstances of secrecy (J.A. 1020-1021, 1065-1067, 1099-1104).

Thus, it is clear that throughout its history, Respondent,

for purposes of concealment and to promote its objectives, has held secret meetings restricted to trusted members.

### 9. Reduction of Committee Membership for Security

During the period of the Hitler-Stalin Pact, a period of strict secrecy, Respondent reduced the membership of its National Committee, state committees, and section committees for concealment purposes (J.A. 442-443, 702-704).

In 1948, the National Committee of Respondent issued a directive pursuant to which the size of all committees within the Party was reduced. In announcing this directive, Gus Hall, then Chairman of the Ohio Party, stated that the reduction of the State Committee of Ohio from approximately 50 odd members to about 11 members was being effected for "security" purposes (J.A. 810-811, 847-849). At the same time, the National Committee was reduced in number from about 55 to approximately a dozen members (J.A. 811, 1203-1204). At the National Convention of the CPUSA held in December 1950, the size of the National Committee was fixed at 13 members (Ex. 376, J.A. 1719).

Respondent thus strives to conceal its activities through limiting the number of persons having access to vital information by reducing the size of its leading committees during the periods of strict secrecy.

### 10. Assignment of Members in Small Groups

During the mid-1930's, when less extensive concealment measures were in force within the Party, its clubs had memberships which generally averaged from 12 to 20 members. A number of these clubs joined together in neighborhood or industry branches, to form units of from 50 to 100 members (J.A. 702-704). After the signing of the Hitler-Stalin Pact in 1939, Peters and Stachel, the former a Communist International representative and the latter a CPUSA leader, directed that a number of concealment measures be instituted, including the division of large branches of the Party into groups and the readying of the group system for functioning. Peters issued instruc-

tions to set up units of not more than five men with one man in charge, in preparation for the Party's going underground, and these instructions were substantially carried out (J.A. 428, 442-443, 702-704, 1155-1160). Units within the Party were enlarged after Hitler's attack on the Soviet Union in June 1941, in accord with the change which occurred on the political scene (J.A. 703).

Begining in 1948, the CPUSA operated under conditions of strict secrecy, dividing the membership in its basic clubs throughout the United States, including those of professional people, into groups of about five members. Greater precautions were taken to conceal the meetings of the professional groups than theretofore. Instructions were issued to all groups that members should not communicate with others outside their own particular group. Names of members in other groups were never to be mentioned at group meetings. Communication between the groups and other CPUSA units were to be made through group captains directly to section leaders (J.A. 738, 771-772, 797, 849, 871-872, 891, 899-920, 1027, 1067-1069, 1095). However, members have met in somewhat larger bodies on a few occasions since the establishment of the group system beginning in 1948, e.g., in connection with conventions within the Party, even though these conventions were themselves held under circumstances of great secrecy as discussed heretofore. A tightening up of the concealment system, including a more efficient operation of the group system, was announced at the West Oakland Section Convention in California during December 1950. The record shows clearly that the group system continued to function after this date in connection with the strict concealment measures which have been employed by Respondent (J.A. 1096-1099; See also: J.A. 1103-1104). Respondent has thus formed members of its organization into smaller groups during periods of intense secrecy to conceal more effectively their identity and activities.

### 11. Underground Plans and Operation

Respondent has at all times maintained an underground or secret apparatus, even when the Party was operated on a comparatively open basis. The underground apparatus has been kept in readiness to assume leadership and to direct the functions of the Party during the periods when its leaders determine that underground operations are necessary in order to carry out Party activities. Extensive plans have been devised and great quantities of materials have been gathered in preparation for underground operations. Reserve sums of money have been set aside. Hideouts and secret storage space have been acquired. Mimeograph and printing equipment and materials have been assembled in secret hiding places. Reserve officials have been designated to perform, if the situation so demands, as leading functionaries of the Party. As related above, the membership of Respondent at various times has been divided into groups of five or even fewer persons, and confidential mailing addresses, couriers, and other secret devices have been employed in connection with the preparations for underground activities. During periods when Respondent's activities have been conducted with greater secrecy, preparations for underground operations have been intensified correspondingly, along with a like increase in the employment of many of the secret practices described herein (J.A. 425-432, 661-665, 919-930, 1164-1168).

Respondent went underground for several years in the early 1920's maintaining a secret headquarters, holding secret meetings, and otherwise conducting its affairs on a secret basis. As its "legal" expression, it organized and dominated the Workers Party, an "open" organization consisting of both Party and non-Party members. The underground party was referred to as the No. 1 party while the "open" party, which the former controlled and dominated, was known as the No. 2 party. Pursuant to instructions received from the Communist International, the underground party was liquidated as such but the underground apparatus still remained. The "open" party, or Workers

Party, was merged with the underground party and thereafter adopted the name Communist Party of the United States of America (J.A. 217-220, 334-335).

During the remainder of the 1920's as well as in the 1930's, various steps were taken to maintain and to extend the underground apparatus, including the establishment of code systems. J. Peters, a Comintern representative, directed the underground apparatus in the United States during much of this period. At a secret CPUSA school in 1932, Peters instructed the underground members on the subject of illegal apparatus and its operation. His lectures were based upon a document in which the author, Lazar Kaganovich,[1] made suggestions based upon the experiences of the Bolsheviks under the Czarist regime in Russia. Peters returned to Hungary in 1949 by agreement with the Federal Immigration Authorities after a prolonged hearing following his arrest on a deportation warrant (J.A. 425-433, 456-458, 648-649, 664-665; see also: J.A. 872, 960-961, 989-991).

When the Party entered a period of strict secrecy after the signing of the Hitler-Stalin Pact in 1939, which continued until the invasion of the Soviet Union by Germany in June 1941, it undertook to strengthen the underground apparatus in preparation for taking the entire Party underground (J.A. 442-443, 702-704). Eugene Dennis, a high Party official, declared at a meeting of Party functionaries in late 1939 or early 1940, while the Soviet Union was an ally of Germany, that the secret measures then being placed into effect must be completely established and adhered to so that, if the United States joined Great Britain in the war against Hitler, the Party would be prepared to turn such an "imperialist" war into a civil war, as Lenin advocated. These measures were intended to place the Party on a complete war basis when put into effect. Various degrees of secrecy prevailed, some national leaders going partially underground (J.A. 1155-1160). After the attack by Germany on the Soviet Union, many of these measures were relaxed (J.A. 702-704).

[1] Now a Deputy Premier of the Soviet Union.

During the 1930's, the World Travel Agency, of which Jacob Golos was for a period purportedly the head, arranged for visits of CPUSA members to the Soviet Union. Golos procured the tickets and expense money for such trips. In addition, Golos and the World Travel Agency were connected with a Soviet espionage agency during the period of 1936-1943. He acted as the liaison for communication between Respondent's members and the Soviet Secret Police agents operating in this country (J.A. 466-469, 1164-1166).

Extensive preparations for taking the Party underground were commenced in 1948 and are being carried out. Various measures were taken by the Party to strengthen its underground apparatus. By January 1950, Respondent had placed in effect throughout New York State a plan for the integration of about 10 percent, or about 3,000, of its members into a seven-level, vertical underground organization, known in the Party as "a system of threes" and patterned after the three-system of organization in effect in most of the countries in Europe when Communist parties there were underground. Thompson, a high Party official who has been convicted under the Smith Act, stated that this organizational setup was intended to function even if the Party as such should be declared illegal. In addition, portions of the New York State Party budgets for 1948 and 1949 were assigned to underground work (J.A. 898-900, 904-908, 929-932, 936).

Since 1948 and continuing on into early 1952, a large number of Party members have been severed from regular Party units and were either transferred to underground organizations, in order to assist in underground planning and to receive instructions in underground activities, or placed in a reserve leadership status (J.A. 1005-1011, 1015-1016, 1071-1086).

Hence the record shows that throughout Respondent's existence it has undertaken elaborate measures to maintain an underground apparatus which makes and executes plans and assembles materials for underground work as a means of effectuating Respondent's objectives.

### 12. Infiltration of Other Organizations

Respondent has sent its members into various organizations in the United States for the purpose of gaining control of such organizations and influencing the policies of these organizations to support the CPUSA program. This policy has been employed by Respondent throughout its history. Pursuant to Respondent's directives its members have pursued this infiltration policy with respect to professional organizations, cultural organizations, fraternal organizations and trade and industrial unions.[1] Secret Communist factions were planned or formed in these organizations for the ultimate purpose of obtaining control and making the policies of the organization subservient to those of Respondent. Students at Respondent's schools were taught the importance of infiltrating mass organizations as a means of acquiring mass support for the Party program. Party members designated to carry out infiltration work in mass organizations were instructed to use care not to expose the Party in these organizations. Members in such organizations were instructed to, and did, conceal their Party membership while in these organizations. At a regional party convention held in California in January 1951, speakers emphasized the need for Party members to infiltrate other organizations through which the purposes of the Party could be carried out (J.A. 246; Ex. 51, J.A. 1358; J.A. 351, 392-397, 493-494, 498, 790-791, 815-817, 1021-1022, 1042-1044, 1101-1104).

### 13. Purpose of Secret Practices

Respondent in its amended answer and through its witnesses acknowledges that it engages in certain clandestine practices, but it contends that such activity is not for the purpose of concealing foreign direction, domination or control. Respondent's witness Gates testified that such practices have "nothing whatsoever to do with concealing the views or the program of the Communist Party" and further that they are the response to repressive measures

[1] See pp. 125-132, *supra* for more detailed discussion of trade union activity.

taken against the Party and its members and are intended merely to "protect the constitutional rights of members of the Communist Party." (Amended Answer, p. 3, 18-20, J.A. 1216-1223).

It is patent that these secret practices are not adopted by Respondent for the purpose which it asserts. This conclusion is inevitable when the secret practices are examined in the light of the whole record and all the surrounding circumstances under which they were and are performed. A short recapitulation of pertinent evidence will demonstrate this.

The underlying philosophy of the Communist movement is contained in the doctrine of Marxism-Leninism, the real nature of which is described in other portions of these findings. Implicit therein are secrecy and concealment to effectuate attainment of its objectives. It is the aim of Respondent to bring about the dictatorship of the proletariat by violent means if necessary and to help the Soviet Union in the event of a war between that country and the United States (See pp. 215-233, *infra*). Members were taught in Party Schools that "there is no moral law for a Communist Party member except the success of that to which he has dedicated himself, that is to say, the classless society * * *, no oath, no statement in court, no consideration of any kind can come before the question of whether it helps or hurts the Party * * * they were to testify or to make affidavit or whatever it may be in accordance with the needs of the Party at that time and irrespective of the actual truth" (J.A. 701-702). Instances are shown wherein certain of Respondent's members swore falsely in court (J.A. 495-497); false statements were made by CPUSA members in passport applications (J.A. 1200); and a high Communist official, J. Peters, was hidden by members of Respondent from Government authorities who were seeking him in a deportation case (J.A. 963-965). It was basic in the *Theses and Statutes of the Third (Communist) International*, to which Respondent has adhered, that both open and secret nuclei be formed to carry on the work of propaganda and education under the control and discipline of the Central

Committee of the Party; and that members were required to join in unlawful work and unlawful organizations if necessary for the Party's purposes (Ex. 8, J.A. 1318-1332; J.A. 240, 333-334). In addition, the conspiratorial nature of the Party must be considered. Stalin in the pamphlet, *Stalin's Speeches on the American Communist Party* (May 1929), in discussing the disruptive effect of factionalism states: "as a result of which the whole internal life of our Party is robbed of its *conspirative* protection in the face of the class enemy," (underlining supplied). (Ex. 109, p. 29, J.A. 1425). There is also evidence that in the 1939 to 1941 period "the whole organization was on a conspiratorial basis" and the schools were conducted "in accordance with the rules of conspiracy" (J.A. 686-687). It was taught by Respondent in 1939 that "the purpose of this secrecy was to prevent the law enforcement agencies" from getting information concerning the CPUSA "because it destroys the conspiratorial nature of the Party movement itself" (J.A. 667-668).

In 1940, in order to conceal its true status registration statements were filed by the *Daily Worker* under the Foreign Agents Registration Act which falsely made it appear that it did not come within the provisons of that Act (J.A. 1191-1193; C.P. Exs. 70-75).

Secrecy and concealment have been continuous and have not been limited to the period when Respondent felt it was under particular stress. There was, however, a fluctuation in the degree of secret activity. Thus, during the period of the Hitler-Stalin Pact, Eugene Dennis stressed the underground activity of the CPUSA and the necessity for attraining readiness for civil uprisings in the event the United States joined the Allies against Germany (R. 14463-14467). After 1945, there was an intensification of secret practices. In July 1950, members were told that the world situation had created considerable alarm in Respondent and that consequently the Party was adopting stricter "security" measures (J.A. 1095). Shortly afterward, a reorganization took place for that reason; Respondent's clubs were divided into small groups and its members were identified by num-

bers instead of names (J.A. 1095-1096). The Marxist Institute in Los Angeles, California, and the Marxist-Leninist Institute in Oakland, California, were conducted during late 1949 and part of 1950, with great secrecy (J.A. 1092-1106). A regional convention was held in January 1951 in California, under conditions of extreme secrecy (J.A. 1101-1102). At this convention there were speeches on the so-called peace campaign, on world conditions and on the necessity for stricter security measures (J.A. 219-239, 302-303, 334-335, 493-495, 694-698, 762-763, 790-791, 800-801, 815-817, 828-829, 900-901, 1077-1080, 1087-1088, 1093, 1103-1104, 1155-1156).

Viewed against this background, it is established that such practices as secret memberships, hidden meetings of small groups, the acquisition of easily transported mimeograph machines, cryptically wording constitutions, the use of couriers and the restricted use of the mails and telephone, are not undertaken for the innocent purpose which Respondent seeks to ascribe to them. Nor can the infiltration of organizations, such as labor unions, be regarded as having a bona fide purpose. The evidence shows that the reason for such infiltration is to dominate such organizations for the Respondent's purposes. That this is basic can be seen from a book by Lenin entitled *What Is To Be Done,* which Respondent's members read and studied (J.A. 1014; Ex. 370, 416-424; see J.A. 1681, 1733, 1734-1736, 1744, 1751). In this book, Lenin declares that Trade Unions are "a very useful auxiliary to the political, agitational and revolutionary organizations" and that they can be controlled by "a small compact core" of agents "connected by all the rules of strict secrecy with the organizations of revolutionists (Ex. 417, pp. 109-112).

We conclude that the secret practices undertaken by Respondent are for the purpose of concealing the true nature of the Pary and promoting its objectives. We cannot accept Respondent's contention that its secret practices are merely devices utilized to protect the rights and liberties of its members.

Upon the basis of the foregoing and on the whole record, we find that Respondent engages in extensive secret practices, within the meaning of the Act, for the purpose of promoting its objectives and thereby to advance those of the world Communist movement; and for concealing its direction, domination and control by the Soviet Union.

### H. ALLEGIANCE.

Section 13 (e)(8) of the Act requires that the Board consider:

> "the extent to which its [Respondent's] principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization."

The petition alleges:

> "From 1919 to the date of the filing of this petition, the leaders of the Communist Party and a substantial number of its members have considered the allegiance they owe the United States as being subordinate to their loyalty and obligations to the government of the Soviet Union." (p. 16)

The petition further contains six specific allegations [1] which, if true, would show that Respondent's principal leaders and members consider the allegiance they owe the Soviet Union to be paramount to that owed the United States. Since the evidence of record which pertains to allegiance is broader in scope than Petitioner's specific allegations, we will not confine our findings of fact to the form of these specific allegations.

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[1] These allegations are to the effect that the Soviet Union is the fatherland of the world Communist movement which all Communists are obligated to support and defend; the Red flag has been and is the flag to which Communists owe allegiance; all American Communists must support and defend the Soviet Union in war with any nation; in event of war between the United States and the Soviet Union, they must work for the defeat of the United States; some of Respondent's present leaders took an oath to Stalin at the Seventh World Congress of the Comintern; and, to leaders and members of Respondent, "patriotism" means solidarity with the Soviet Union.

The evidence shows that a basic aim of Marxism-Leninism is the establishment of dictatorships of the proletariat in all non-Socialist countries of the world, and that Respondent adheres to and works to attain this goal in the United States.[1] The Marxist-Leninist Classics define dictatorship of the proletariat and demonstrate that it must be established by the forceful overthrow of existing non-socialist governments.

Stalin in *Problem of Leninism* (Ex. 138, pp. 26-27, J. A. 1507-1508) defines the dictatorship of the proletariat according to its fundamentals:

> "Hence there are three fundamental aspects of the dictatorship of the proletariat.
>
> "(1) The utilisation (sic) of the power of the proletariat for the suppression of the exploiters, for the defense of the country, for the consolidation of the ties with the proletarians of other lands, and for the development and the victory of the revolution in all countries.
>
> "(2) The utilisation of the power of the proletariat in order to detach the toiling and exploited masses once and for all from the bourgeoisie, to consolidate the alliance of the proletariat with these masses, to enlist these masses in the work of socialist construction, and to assure the state leadership of these masses by the proletariat.
>
> "(3) The utilisation of the power of the proletariat for the organisation (sic) of socialism, for the abolition of classes, and for the transition to a society without classes, to a society without a state.
>
> "The dictatorship of the proletariat is a combination of all three aspects. None of these three aspects can be advanced as the *sole* characteristic feature of the dictatorship of the proletariat. On the other hand, it is sufficient for but one of these three characteristic features to be absent, for the dictatorship of the proletariat to cease being a dictatorship in a capitalist environment. * * *"

[1] See Marxism-Leninism, pp. 38-81, *supra*.

In the following quotation, Stalin, with Lenin's help, reveals that the dictatorship of the proletariat must be installed through use of force by Communist minorities, independently of the will of the majority of the population, and that attempting to utilize peaceful means to do so is not to be considered (J. A. 1504-1505):

> "To think that such a revolution can be carried out peacefully within the frame work of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution.
>
> "It is necessary to insist on this all the more strongly, all the more categorically, since we are dealing with the proletarian revolution which has for the time being triumphed in only one country, a country surrounded by hostile capitalist countries, a country the bourgeoisie of which cannot fail to receive the support of international capital.
>
> "That is why Lenin states that '. . . the liberation of the oppressed class is impossible not only without a violent revolution, *but also without the destruction* of the apparatus of state power, which was created by the ruling class. . . . (*Collected Works,* Vol. XXI, Book II, p. 155. Also *State and Revolution,* Little Lenin Library, p. 9)
>
> "'First let the majority of the population, while private property is still maintained, that is while the power and oppression of capital are maintained, declare itself for the party of the proletariat. Only then can it, and should it, take power. That is what is said by *petty-bourgeois democrats who call themselves "socialists" but are really the henchmen of the bourgeoisie.* [My italics.—J. S.]
>
> "'*But we say:* Let the revolutionary proletariat first overthrow the bourgeoisie, break the yoke of capital, break up the bourgeois state apparatus. Then the victorious proletariat will speedily gain the sympathy and support of the majority of the toiling non-proletarian masses by satisfying their wants at the expense of the exploiters. [My italics.—J. S.] (*Collected Work,* Vol. XXIV, p. 647, Russian edition.)
>
> "'In order to win the majority of the population to its side', Lenin continues, 'the proletariat must first

of all overthrow the bourgeoisie and seize state power and, secondly, it must introduce Soviet rule, smash to pieces the old state apparatus, and thus at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty-bourgeois compromisers in the ranks of the non-proletarian toiling masses. Thirdly, the proletariat must *completely and finally destroy* the influence of the bourgeoisie and of the petty-toiling masses by the *revolutionary* satisfaction of their economic needs *at the expense of the exploiters.*" (*ibid,* pp. 20-21).

Stalin also emphasizes that it is false for Communists to consider that such a thing as "peaceful evolution" from "bourgeois democracy" into a "proletarian democracy" is possible (J. A. 1432-1433):

"Marx's qualifying phrase about the Continent gave the opportunists and Mensheviks of all countries a protext for proclaiming that Marx had thus conceded the possibility of the peaceful evolution of bourgeois democracy into a proleterian democracy, at least in certain countries outside the European continent (England, America). Marx did in fact concede that possibility, and he had good grounds for conceding it in regard to England and America in the 'seventies of the last century, when monopoly capitalism and imperialism did not yet exist, and when these countries, owing to the special conditions of their development, had as yet no (sic) developed militarism and bureaucracy. That was the situation before the appearance of developed imperialism. But later, after a lapse of thirty or forty years, when the situation in these countries had radically changed, when imperialism had developed and had embraced all capitalist countries without exception, when militarism and bureaucracy had appeared in England and America also, when the special conditions for peaceful development in England and the United States had disappeared—then the qualification in regard to these countries necessarily could no longer hold good." (*Foundations of Leninism,* Ex. 121, p. 55).

The following quotation is a reaffirmation by Stalin of the necessity of overthrowing "bourgeois" governments by forcible means (J. A. 1434):

"Therefore, Lenin is right in saying:
'The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a *new one*. . . .'' (*Selected Works,* Vol. VII, p. 124)'' (*ibid;* at p. 56).

The foregoing is but an illustrative portion of the abundant utterances of the Classics relating to the nature and means of effectuation of the dictatorships of the proletariat throughout the world. They have not been taken out of context; they are embedded in the sense of these writings and mean what they say.

Although we have heretofore set forth under the heading "Marxism-Leninism" a review of the evidence and our finding that Respondent's adherence to Marxism-Lenism has implicit in its complete subservience to the fundamental principles thereof—that the Classics are binding upon Respondent in all fundamentals; it is desirable, because of the principles and policies of the Classics concerning allegiance to the Soviet Union, and particularly the necessity for the overthrow of existing "imperialist" governments, including, *inter alia,* the United States, to summarize here, by way of review, some of the evidence establishing Respondent's present adherence to the Classics.

In 1945, when Respondent reverted to the name Communist Party of the United States of America (maintaining the basic organizational form under which it presently operates), William Z. Foster announced to the membership, in substance, that the Classics assumed an even greater importance, and said that "as never before, we must train our Party in the fundamentals of Marxism-Leninism. (Ex. 372, p. 788). Alexander Trachtenberg in 1949 declared to a group of Respondent's members meeting in Washington, D. C., that Party leaders must know the Classics and be able to apply their principles to any current situation at any time (J. A. 689-691, 748-749). Petitioner's witness Matusow shows that in the Party the *Communist Manifesto,* though 100 years old, "is just as relevant today as it was in 1848 when it was written (J. A. 1057)." The Classics were in use by the Party, to Matusow's knowledge, in De-

cember 1950 (J. A. 1048-1049). Marxism-Leninism, as embodied in the Classics, provided the basis of what Petitioner's witness Lautner taught and was taught at Respondent's National Training School (J. A. 943-947). The Classics were used in the Marxist-Leninist Institute in Los Angeles which Petitioner's witness Evans attended until it was discontinued in June 1950 (J. A. 1104-1106).

It is established that the above Classics have been used in study courses during the years 1945-1950, for use in teaching Respondent's members (Exs. 369, 393, 425, 427; J. A. 748, 1014-1015, 1048-1049).

A recent article by Alexander Bittelman, a CPUSA leader, states:

> "A theoretical contribution of Stalin which, *like the Foundations of Leninism and his other theoretical works, ranks with the fundamental theoretical and philosophical works of Marx, Engels and Lenin,* is the *History of the Communist Party of the Soviet Union.* The *History* is a fountainhead of Marxist-Leninist knowledge—theory, ideology, strategy, tactics, principles of organization. It is a guide to Marxist-Leninist action. It embodies the theoretical and programmatic positions of Marxism-Leninism." *Political Affairs,* December 1949, Ex. 373, p. 8; J. A. 1695) (Underlining supplied)

The same highly placed author, in January 1952, states:

> "Lenin's teachings are triumphing because they are true. The teachings of Lenin, further developed by Stalin, demonstrate their creativeness and cogency in all the great progressive struggles of our day and epoch. Lenin's teachings inspire the actions of the vanguard fighters for peace and democracy. Peoples fighting for equal rights and national independence find their advance fighters and leaders guided by the teachings of Lenin, so brilliantly continued and further developed by Stalin. And the magnificent historic fight of our epoch—the fight for socialism, for Communism—whose grandeur overshadows all of the great previous achievements of mankind, crowning them with the realization of the noblest aspirations and dreams of the human race—this historic fight, we are proud to

say, is guided by the teachings of Lenin and of his great continuer Stalin. It is led by parties of Marxism-Leninism, by Communist and Workers Parties." (*Political Affairs*, Ex. 489, p. 1).

In addition to the documentary evidence, it was established through the testimony of Petitioner's witnesses Gitlow, Kornfeder, Nowell, Crouch, Honig, Johnson, Meyer, Hidalgo, Matusow, and Budenz, among others, that the CPUSA in reality advocates the overthrow of the government of the United States by force and violence. The membership of the above witnesses in the CPUSA spanned the entire existence of the Party until January 1951. Their various positions therein ranged from high offices to rank and file Party membership. All were in a position to know whereof they spoke (J. A. 225-226, 232-233, 241-252, 298-299, 383-384, 387-389, 437-438, 462, 501, 649, 675-677, 729, 730-731, 872, 1054-1056, 1128-1235, 1270-1272, 1311-1312).

Respondent engaged in extensive cross-examination of these witnesses on their testimony concerning force and violence and also examined its own witnesses at some length on this subject, thus joining issue thereon.

In essence, Respondent's witnesses testified that the CPUSA does not seek to overthrow the government of the United States by forcible means but rather it seeks to establish its program by peaceful means within the framework of the United States Constitution; that "force and violence" as referred to by Respondent comes into play only in the event that the duly elected "socialist" government is subject to "counter revolutionary" force by the unseated capitalist monopolists; it then advocates meeting such an attempt by force to maintain their position. Respondent points to language in its 1945 and 1948 Constitutions (Exs. 329 and 374, respectively) which embraces the United States Constitution. On the other hand, Petitioner's witnesses establish that the principles of "scientific socialism, Marxism-Leninism", as used in Respondent's Constitution and other writings, have a definite meaning to

CPUSA members,[1] *i.e.*, that the basic goal of Respondent, founded on the writings of Marx, Engels, Lenin and Stalin, namely, the establishment of the dictatorship of the proletariat, can be attained only by the violent shattering of the "bourgeois" state, and this includes the government of the United States.

It is established that such language in these Constitutions of Respondent, and other similar statements embracing the Bill of Rights and the United States Constitution, are irreconcilable with Marxist-Leninist principles, and are devices to clothe a conspiracy against the United States Government in the habiliments of legality. The testimony of Respondent's witnesses, as set forth above, is likewise rejected as being irreconcilable with the great weight of the evidence.

The testimony of Petitioner's witnesses establishes that, pursuant to the preachments of the Classics, the CPUSA seeks to overthrow the existing government in the United States, and its institutions, by forcible means, and to establish a dictatorship of the proletariat in proceeding to establish "socialism" (J. A. 946-948, 975-976, 979).[2]

We are also mindful that the evidence in this proceeding discloses, and we officially notice, that most of Respondent's foremost leaders, despite contentions like those made by Respondent in this proceeding, were recently convicted under the statute known as the Smith Act (Title 18, Secs. 11 and 13, United States Code) of conspiring to teach and advocate the overthrow of the United States government by force and violence; and that the convictions of eleven such leaders which have been reviewed by the Supreme Court of the United States have been upheld (341 U. S. 494; Rehearing denied, 342 U. S. 842).

Respondent's adherence to and implementation of a concept requiring the overthrow of the United States Government by any means, including force and violence, is completely incompatible with, and the exact antithesis of,

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[1] See Secret Practices for further details *re* "protective language", pp. 197-198, *supra*.

[2] See Marxism-Leninism, pp. 38-81, *supra*.

allegiance to the United States. This becomes even more clear when we examine additional international aspects of Marxism-Leninism from which this concept flows.[1]

The Classics reveal that the requirement of paramount allegiance to the Soviet Union is but the natural corollary of the Soviet Union's position as leader of the world Communist movement and fatherland of the world proletariat. Consequently, the basic postulates of Marxism-Leninism, (a) protection of the Soviet Union, and (b) destruction of capitalist states and the establishment, ultimately, of world Communism, impinge directly upon allegiance. In the infancy of the Soviet Union, Lenin, as cited by Stalin in *Problems of Leninism* (Ex. 138, p. 19), evaluated its international position as involving inevitable clashes with imperialist states and proclaims the necessity for the Soviet Union to call forth the world revolution (J. A. 1503-1504):

> " 'The second enormous difficulty was . . . the international question. If we were able to cope so easily with Kerensky's bands, if we so easily established our power, if the decree on the socialisation of the land and on workers' control, was secured without the slightest difficulty—if we obtained all this so easily it was only because for a brief space of time a fortunate combination of circumstances protected us from international imperialism. International imperialism, with all the might of its capital and its highly organized miltary technique, which represents a real force, a real fortress of international capital, could under no circumstances, under no possible conditions, live side by side with the Soviet republic, both because of its objective situation and because of the economic interests of the capitalist class which was incorporated in it, it could not do this because of commercial ties and of international financial relationships. A conflict is inevitable. This is the greatest difficulty of the Russian Revolution, its greatest historical problem: the necessity to solve international problems, the necessity to call forth the world revolution.' (*Collected Works*, Vol. XXII, pp. 315-317, Russian Edition)".

[1] See Marxism-Leninism, pp. 38-81, *supra*.

That protection and security of the Soviet Union is fundamental to the world Communist movement is clear from Stalin's statement (J. A. 1509-1510):

> "'The final victory of socialism is a complete guarantee against attempted intervention, and that means against restoration, for any serious attempt at restoration can take place only with support from outside, only with the support of international capital. Hence the support of our revolution by the workers of all countries, and still more the victory of these workers in at least several countries, is a necessary condition for completely guaranteeing the first victorious country against attempts at intervention and restoration, a necessary condition for the final victory of socialism.'" (A quotation of Joseph Stalin cited by him in his *Problems of Leninism, supra,* at p. 64):

The Classics make it plain that the Soviet Union, fostering its own security, will work toward the destruction of capitalism by developing revolutions in all countries. Stalin quoting Lenin (J. A. 1431):

> "Lenin expressed this thought in a nutshell when he said that the task of the victorious revolution is to do 'the utmost possible in one country *for* the development, support and awakening of the revolution *in all countries.*' (*Selected Works,* Vol. VII, p. 182)" (*Foundations of Leninism,* Pet. Ex. 121, p. 46).

Stalin elaborates on this international aspect in setting forth the "absolute law" of capitalist development and of world revolution (J. A. 1510):

> "'Uneven economic and political development is an absolute law of capitalism. Hence, the victory of socialism is possible, first in a few or even in one single capitalist country taken separately. The victorious proletariat of that country, having expropriated the capitalists and *organized its own socialist production* [my italics.—J. S.] would rise against the rest of the capitalist world, attract to itself the oppressed classes of other countries, raise revolts among them against the capitalists, and in the event of necessity, come out even with armed force against the exploiting classes

and their states." (*Collected Works*, Vol. XVIXI, p. 272)" (*Problems of Leninism*, *supra*, at p. 69).

Stalin in *Foundations of Leninism* (Pet. Ex. 121, pp. 90-91) states in capsule form the strategy applicable to the various stages of the revolution, which depicts the Soviet Union as the "base" for the overthrow of "imperialism" (J. A. 1438):

> "Our revolution already passed through 2 stages, and after the October Revolution it has entered a third stage. Our strategy changed accordingly."
>
> * * *
>
> "Third stage. Commenced after the October Revolution. Objective: to consolidate the dictatorship of the proletariat in one country, using it as a base for the overthrow of imperialism in all countries * * *"

The hegemony exercised by the Soviet Union over the world Communist movement is that of originator and founder (J. A. 1430):

> "Is it surprising, after all this, that a country which has accomplished such a revolution and possesses such a proletariat should have been the birthplace of the theory and tactics of the proletarian revolution?
>
> "Is it surprising that Lenin, the leader of this proletariat, became the creator of this theory and tactics and the leader of the international proletariat?" (*Ibid.*, p. 19)

The leadership of the Soviet Union is openly lauded in the *Programme of the Communist International* (Ex. 125, p. 27, J. A. 1448-1449):

> "Thus, the system of world imperialism, and with it the partial stabilization of capitalism, is being corroded from various causes: First, the antagonisms and conflicts between the imperialist states: * * * and lastly, the hegemony exercised over the whole world revolutionary movement by the proletarian dictatorship in the U. S. S. R. The international revolution is developing."

(J. A. 1453-1454):

> "In view of the fact that the U. S. S. R. is the only

> cipal bulwark of its achievements and the most important factor for its international emancipation, the international proletariat must on its part facilitate the success of the work of Socialist construction in the U. S. S. R. and defend her against the attacks of the capitalist powers by all the means in its power." (*Ibid.*, p. 65).

The Soviet Union being the fatherland or home base of the world revolution, the leaders of the Soviet Union serve also as leaders of the organized world Communist movement. Hence, the Communist International, the Soviet Union, and Stalin were given pledges of allegiance by Respondent's leaders and members as shown by the evidence which we now set forth.

Nowell, a former CPUSA official who testified for the Petitioner in this proceeding, took an oath upon joining the CPUSA (in 1929) to carry out the Party line and to adhere to the principles of the Comintern at all times (J. A. 352).

Earl Browder read a pledge to 2,000 workers who were initiated into the CPUSA in the New York District in 1935. Part of this pledge read as follows (J. A. 1541):

> "I pledge myself to rally the masses to defend the Soviet Union, the land of victorious socialism. I pledge myself to remain at all times a vigilant and firm defender of the Leninist line of the Party, the only line that insures the triumph of Soviet Power in the United States." (Ex. 145, p. 105).

At Madison Square Garden in New York City in 1937, about 3,000 new recruits to the Party pledged, among other things, to uphold and advance the program of the Communist Party, as well as their "complete devotion to the Leninist struggle for socialism—for a Soviet America". (Ex. 382).

At the Seventh World Congress of the Communist International at Moscow in 1935, delegates from the CPUSA, including some of the present leaders of the Party, took an oath of fealty, "To Comrade Stalin, leader, teacher, and friend of the proletariat and oppressed of the whole

world'' whom they assured that ''the Communists will always and everywhere be faithful to the end and to the great and invincible banner of Marx, Engels, Lenin, and Stalin'' and that ''under this banner, Communism will triumph throughout the world''. (Ex. 430; J. A. 500, 1115-1116, 1759-1762).

The delegation of Respondent to this Congress approved this oath of fealty to Stalin and two of the delegates, Browder and Foster, were elected at this Congress to the Presidium of the Executive Committee of the Communist International. Subsequently, the decisions of the Seventh Congress of the Communist International and the work of the CPUSA delegation at that Congress were fully approved by the Central Committee of Respondent (Ex. 185, J. A. 1567-1572).

Of the nine members of the delegation to the Seventh World Congress of the Communist International who took and approved this oath to ''Comrade Stalin'', six, namely, William Z. Foster (National Chairman), John Williamson (Labor Secretary), Gilbert Green, Jack Stachel, William Schneiderman, and Martha Stone, are presently leaders of the CPUSA. At the 15th National Convention of the CPUSA, held between December 28-31, 1950, the Party elected these six members or alternate members of its National Committe.

After this 1935 Congress of the Communist International, all Communist leaders and functionaries had to take a basic pledge or oath of loyalty to Stalin (R. 13956).

Foster, as the principal speaker at the 1948 Ohio State Convention of Respondent, stated that the CPUSA in Ohio should elect as leaders only those individuals upon whom they could depend in the event of a war between the Soviet Union and the United States (J. A. 854).

In 1949, the CPUSA published a message to Stalin in which the Party accused the United States Government of violating the commitments made at Yalta and at Potsdam and referred to the existing government as ''American imperialists''. This message, in effect, consituted a reaffirmation by the CPUSA of its loyalty and a further ac-

knowledgment of stalin's leadership of the world-wide Communist movement [1] (Ex. 375; J. A. 976, 1706-1707).

Twelve of the thirteen members of the National Committee of the CPUSA, who were elected at the 15th National Convention of the Party held December 28-31, 1950, and three of the alternates have been convicted under the Smith Act as heretofore noted (Exs. 376, 493; J. A. 1719, 1782-1783). Four of those convicted, namely, Williamson, Green, Schneiderman, and Stachel, were among those leaders of Respondent who took an oath of fealty to Stalin at the Seventh World Congress of the Communist International at Moscow in 1935. The record does not disclose that any of these CPUSA leaders who have taken oaths of fealty to Stalin have ever repudiated the oaths, or that Respondent has repudiated their action.

That the allegiance owed the Soviet Union by Respondent's leaders and members is paramount to that owed the United States is further borne out by the record. The evidence establishes numerous instances in the past where Respondent and its leaders have urged its members to defend the Soviet Union, even in the event of a war between that country and the United States of America. The slogan "Defend the Soviet Union", has been used in this regard (Exs. 44, 132, 133, 135, 136, 137, 143, 144, 145, 148, 149, 155, 158A, 159, 160, 162, 343, 380A, B and C).

Respondent's students at the Lenin School in Moscow, in the period between 1927 and 1937, were taught that the role of the CPUSA, in the event of war between the Soviet Union and the United States, is to support and defend the former and to labor for the defeat of the latter (J. A. 308-308, 389-391).

Early in its history, the CPUSA regarded as one of its purposes or duties the defense of the Soviet Union as the fatherland of the working classes all over the world (J. A. 225; Exs. 89, 125, 132, 133, 137, 143, 145, 148, 149, 158A, 363, 432). All new members of Respondent were instructed between 1927 and 1939, that the first and only allegiance of

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[1] See Training and Reporting, pp. 163-181, *supra*.

a Party member is to the workers' fatherland, namely, the Soviet Union, and not to any capitalist government (J. A. 499-500).

A Red flag, brought from Moscow in 1929 by one of Respondent's members, was displayed at lectures on the Soviet Union. The use of the flag of the Soviet Union at a Communist camp in Michigan during the early 1930's, and up to 1936, was intended to signify the fatherland of the working class, or Communism as practiced in the Soviet Union, as well as to make friends for the Soviet Union, and to draw the American people nearer to Communist ideology and the CPUSA (J. A. 354-358).

Two members of Respondent's Central Committee criticized a Party official for authorizing the flying of the American flag in a Fourth of July parade in 1934 (J. A. 435-436).

In 1935, Dimitri Z. Manuilsky, then head of the Communist International, told Respondent's delegates to the Seventh World Congress of the Communist International in Moscow, at a meeting immediately prior thereto, that the first allegiance of all CPUSA members was to the workers' fatherland, the Soviet Union. Manuilsky demanded that the subject of allegiance again be stressed throughout the lower ranks of Respondent (J. A. 499-500). Students at Respondent's schools in the United States, particularly in 1932 and 1936 to 1941, were taught that the first and only allegiance of a Party member is to the Soviet Union, the fatherland, rather than to the United States (J. A. 436-437, 650-652, 704).

A document in which the defense of the Soviet Union is urged, The Communist Party: *A Manual On Organization* by J. Peters, was used during the 1940's as reference material by CPUSA officials (Ex 145; J. A. 1533-1543; J. A. 398-399, 454-455, 960-961, 963, 1121).

Students at the Communist Midwest Training School in Chicago were taught in December 1945, that the Communist forces throughout the world owe their allegiance to the Soviet Union (J. A. 852-854). Party members were taught at Respondent's meetings in 1948 that they owe allegiance

to the "democratic forces" of the world and that the Soviet Union represents such forces (J. A. 811-812).

Petitioner's witness Lautner, a former high official of Respondent, learned from his varied experience in the Party from November 1929 until January 17, 1950, that the primary duty of a CPUSA member lies in the defense of the Soviet Union (J. A. 974). A CPUSA leader in November 1950 denounced the United States for inciting war against the Soviet Union. He urged Party members to respond to "imperialist slanders and war incitements" by an "ideological and political offensive in the defense of the Soviet Union as the leader of the world camp of peace, democracy and Socialism", as well as "to support and defend the peace policy of the Soviet Union" (Ex. 477).

This evidence takes on clearer meaning when it is viewed against the Marxist-Leninist concept of "imperialism", and its corollary "just and unjust wars".[1]

The Classics are specific on the question of war as is exemplified by the following quotations from the *History of the Communist Party of the Soviet Union (Bolsheviks)* (Ex. 330, pp. 167-168; J. A. 1619):

> "It was not to *every kind* of war that the Bolsheviks were opposed. They were only opposed to wars of conquest, imperialist wars. The Bolsheviks held that there are two kinds of war:
>
> "a) *Just* wars, wars that are not wars of conquest but wars of liberation, waged to defend the people from foreign attack and from attempts to enslave them, or to liberate the people from capitalist slavery, or, lastly, to liberate colonies and dependent countries from the yoke of imperialism; and
>
> "b) *Unjust* wars, wars of conquest, waged to conquer and enslave foreign countries and foreign nations.
>
> "Wars of the first kind the Bolsheviks supported. As to wars of the second kind, the Bolsheviks maintained that a resolute struggle must be waged against them to the point of revolution and the overthrow of one's own imperialist government."

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[1] See Marxism-Leninism, pp. 38-81, *supra*.

In applying this basic concept, it was taught at the Lenin School in Moscow, and by Respondent at its schools and meetings during its entire existence, that a "just" war is any war in which the Soviet Union has as an adversary an imperialist power, regardless of whether the Soviet Union is the aggressor or the defender; and that any war between a colony and its mother country is a "just" war for the colony. Conversely, any war against the Soviet Union, regardless of which nation might be the aggressor, is an "unjust" war for the Soviet Union's adversary (J. A. 389-390, 1114).

In the event of war between two capitalist countries, the Communist role is to work for the destruction of both, thus leaving to the Soviet Union a clear path for future conquest.[1] In the event of a war between the Soviet Union and the United States, however, CPUSA members are to work for the defeat of the United States (J. A. 731-732, 948-949; Ex. 292; J. A. 1597-1600).

The students at the National Training School of the CPUSA in New York City in about 1932, were taught that in the event of such a war, it was the duty of every Communist to help defeat the United States and to secure the victory of the Soviet Red Army; and that Communist cells in the American armed forces should work for the demoralization of such forces (J. A. 651-653).

Browder stated in 1938, that in the event of a war between the Communist and non-Communist worlds, the task of the Party is to work for the victory of the Soviet Union, and world Communism (J. A. 436).

The CPUSA, adhering to the principles of Marxism-Leninism, has consistently characterized the United States as an "imperialist" and a "capitalist" nation which by definition can participate only in "unjust" wars. Any war among capitalist countries or by a capitalist nation against a "socialist" country, such as the Soviet Union, is considered by Respondent to be an "unjust" war. However, the Soviet Union or any other "socialist" countries are up-

[1] It is interesting to advert here to the history of the Nazi-Soviet Pact as related in our findings herein under Non-deviation, pp. 151-153, *supra*.

held as "anti-imperialist" nations which cannot possibly start an "unjust" war; any war participated in by "socialist" nations is considered by Respondent to be a "just" war from the standpoint of such nations. In fact, in 1949, Foster and Dennis, leaders of Respondent, wrote in the Party publication, *Daily Worker*, that Respondent would oppose a "Wall Street" war as "unjust, aggressive, and imperialist". Thus, the war in Korea is considered by Respondent to be a "Wall Street" war. In this connection, the United States has been portrayed by Respondent as the leader of all the imperialist nations bent on world conquest, while the Soviet Union is pictured as the peace-loving leader of the anti-imperialist nations (Exs. 323, 331; J. A. 389-391).

In 1940, Eugene Dennis discussed with witness Budenz the steps to be taken by Respondent to turn the "imperialist" war into a civil war in this country, should the United States join with Great Britain against the Hitler-Stalin combine (J. A. 1178-1180).

Students were taught in CPUSA schools in 1941 and 1947, that imperialism is world-wide and that a world-wide organization is necessary to bring about its downfall; further, that the world Communist movement is such an organization (J. A. 946-948).

In December 1948, Henry Winston, National Organizational Secretary and a member of Respondent's National Committee, stated that the question of industrial concentration and placing of members of the CPUSA youth movement in the basic industries was particularly important at that time because, in the event of an "imperialist" war, their presence would be necessary in order to mobilize workers against this war, to slow down production, and to do whatever possible to make certain that such an "unjust" was is not successful. Winston is one of those convicted of a violation of the Smith Act, referred to earlier (Ex. 418; J. A. 1039-1042, 17-40-1743).

The position the CPUSA stressed in 1949 [1] was that there

[1] See also Imperialism *re* this position of Respondent, pp. 90-91, *supra*.

were two camps in the world: one, the "imperialist" camp led by the United States, and the other camp of the "forces for peace and democracy" led by the Soviet Union; and, that everything must be done to support the latter as against the former. In order to accomplish this objective, Respondent took the position that it should build and expand its Marxist-Leninist ideology (Ex. 214, p. 10; J. A. 977-978).

At a secret meeting of Respondent in Baltimore in 1949, it was agreed that its members would not bear arms for the United States in the event of any conflict between the United States and the Soviet Union (J. A. 744-745; Exs. 331 to 344, incl.).

Students at the Marxist-Leninist Institute in Los Angeles from April 1949 to June 1950, were taught that the Soviet Union could at no time start an "unjust" war while the United States could start an "unjust" war but never a "just" one; further, that a good Communist must support a nation engaging in a "just" war and oppose an "unjust" war (J. A. 1111-1112).

The position of the CPUSA at the present time is that the Korean War is an "unjust" war which the United States and her allies are waging as aggressors against the North Korean and Chinese peoples [1] (J. A. 1112-1113).

From the evidence contained in this record, we find that Respondent exists in this country fundamentally for the purpose, which it constantly seeks to accomplish, of overthrowing the Government of the United States by force and violence, in order to install "socialism" under the dictatorship of the proletariat, after the manner of the Soviet Union; this is the very antithesis of allegiance to the United States.

We find upon the whole record that the evidence preponderantly establishes that Respondent's leaders and its members consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union.

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[1] See Non-deviation, p. 155, *supra*.

## II. LEGAL DISCUSSION.

Respondent attacks the Recommended Decision asserting it does not fulfill its functions, and that it cannot be relied upon by the Board because it allegedly misstates the record, fails to present relevant matters, and confuses the record and issues. Respondent sets forth specific instances which it contends are illustrative of the above alleged errors.

We have heretofore reviewed these matters, along with Respondent's overall exception to the Recommended Decision (No. 310), in disposing of its motion of November 24, 1952, to strike the Decision. As indicated in our Memorandum Opinion and Order of February 24, 1953, denying Respondent's motion, we have completely analyzed and evaluated anew all the evidence in this proceeding, considering all exceptions and contentions of the Parties. Our findings in this report contain only that substance from the Recommended Decision, which we, after an independent evaluation of the record, have confirmed as being supported by a preponderance of the evidence.

Respondent next contends that the Panel admitted both oral and documentary evidence of Petitioner without a proper foundation of competency. It cites examples which it claims are egregious. Respondent argues that while allowing boundless latitude to Petitioner, the Panel erroneously curtailed its cross-examination of all of Petitioner's witnesses, as well as the submission of its proof. It asserts that the Panel erred in refusing to require production of reports and memoranda turned over to the Federal Bureau of Investigation by Petitioner's witnesses, in restricting its cross-examination designed to show that Petitioner's witnesses were not credible, in excluding "various" exhibits offered by Respondent, and in its rulings regarding the evidence relating to the non-deviation criterion of the Act.[1] We have considered each of these specific allegations and we find no substantive error regarding the matters alleged

[1] We have disposed of this latter contention in our discussion concerning Non-deviation, pp. 147-151, *supra*.

by Respondent. Nor can we find any reasonable justification for Respondent's assertion that the Panel restricted its proof and its cross-examination of witnesses. It is noteworthy that Respondent cross-examined Petitioner's witnesses exhaustively and at great length. It was afforded every opportunity to present all material and relevant evidence, to the fullest. Any shortcomings in this respect must lie with Respondent.

Respondent further contends that the Recommended Decision does not rest on evidence of its activities subsequent to the effective date of the Act, but rather that it rests on certain "props" which assertedly are contrary to the evidence and the law. Respondent defines these "props" as the Panel's suggestion that the dissolution of the Comintern in 1943 was not real and that there is some relationship between Respondent and the Cominform; the Panel's conception (a) of Marxism-Leninism, (b) of the Comintern, (c) that Respondent's disaffiliation therefrom in 1940 was not real, and (d) that the formation of the Communist Political Association and the re-constitution of the CPUSA were on orders from Moscow.

Specifically with respect to the Panel's concept of Marxism-Leninism and its reliance thereon, Respondent argues that the decision in *Schneiderman* v. *United States*, 320 U. S. 118, "held that the principles of Marxism-Leninism, as expressed in classical Marxist-Leninist literature, could reasonably be understood so as to be consistent with being 'attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.'" Further, it contends that it is a violation of the First Amendment and the holding in *Dennis* v. *United States*, 339 U. S. 162, to consider as evidence of "guilt" under the Act the belief in, or discussion of, Marxist-Leninist principles and literature (p. 57). After due study and deliberation of the foregoing decisions we conclude that they are in no sense *res judicata* of, or applicable to, the issues in this proceeding, nor do they in any way preclude the findings and disposition we have made herein. After consideration of these decisions we made detailed findings

regarding Marxism-Leninism, which have been set forth above; they are based upon a preponderance of the evidence of record and we deem it unnecessary to discuss them further. Respondent's position with respect to the so-called "props" of the Recommended Decision is untenable. We have, however, considered these propositions and to the extent, and in the form, they appear in our findings in this report they are not subject to the infirmities alleged.

Respondent has repeatedly urged that the issue of whether it is a Communist-action organization must be resolved by evidence of its activities and status during the period between the effective date of the Act (September 23, 1950), and the date of the petition (November 23, 1950). Proceeding on this basis, it has continually attacked the reception and use of evidence pertaining to its activities and status prior to the Act. Initially, it raised the question concerning pre-Act evidence in its motion to dismiss the petition. In disposing of this contention we ruled in our Memorandum Opinion and Order of January 24, 1951, denying the motion, that evidence of conduct or activities which occurred prior to the passage of the Act may be of probative value to establish issues coming into existence after the effective date of the Act and, if so, could be received. Respondent now argues that the Panel, in its Recommended Decision, while giving "lip service" to the Board's ruling, completely "negatives" it by relying on a legal presumption of continuation of a condition. Respondent further argues that no such legal presumption exists when, as here, there has been a change of law (enactment of the Act) which attaches sanction to previously innocent conduct. It stresses that, if such a presumption existed, it was nevertheless "illegitimate" for the Panel to rely thereon in the face of the uncontradicted testimony of its witnesses. It further argues in this connection that the use of pre-Act evidence by the Panel amounted to an unconstitutional "*ex post facto*" application of the Act and was contrary to its provisions.

As is apparent, evidence relating to periods throughout Respondent's entire history has been received and properly

so under our aforementioned ruling on this point. In order to resolve the issues presented here, it is advisable, if not necessary, to consider Respondent's entire existence.

In reaching our conclusion herein we have considered and weighed commensurately, therefore, such pre-Act evidence as reasonably tends to establish or illuminate to the present nature, activities, character and status of Respondent in connection with the issues presented for decision. We believe that in so doing there has been no violation of the Act itself or any *ex post facto* or other unconstitutional application thereof. As the Supreme Court of the United States has stated, "present events have roots in the past." This is particularly true in this proceeding where consideration thereof brought to light facts, and raised presumptions and inferences tending to show Respondent's true current purpose, as well as the nature of its present conduct. We have been able to trace Respondent's operations over more than thirty years into the present and have found that at no time during this period has Respondent changed its fundamental objectives, or its nature and purpose. There are no protestations of repentance and reform; and, though Respondent continually points to its "disaffiliation" from the Communist International, for example, as a severance of its relationship with international Communism, a study of its pre-Act existence properly enabled us to adjudge that this was, at most, only a superficial act designed in the interest of domestic political expediency to circumvent adverse legislation (Voorhis Act).

It would have been unwarranted by law to compel Petitioner to restrict its proof to fragmentary evidence confined to a relatively minute portion of Respondent's existence, i. e., the two-month period between the passage of the Act and the filing of the petition. Our determination on this question is supported by the authorities. *United States* v. *Schneiderman, et al.*, 106 Fed. Supp. 892, 898-900; *United States* v. *Dennis, et al.*, 183 F. 2d 201, 231-32; *F. T. C.* v. *Cement Institute, et al.*, 333 U. S. 683, 704-706; *N. L. R. B.* v. *Pacific Greyhound Lines*, 91 F. 2d 458, 459.

The law assumes in the absence of proof to the contrary, which Respondent did not establish to our satisfaction, that a condition or set of facts shown not too remotely in the past (all circumstances considered) to have existed, still continues. In the circumstances here presented we do not consider that the passage of the Act, in and of itself, affects this presumption respecting Respondent. In addition thereto, the record contains ample post-Act evidence which, when illuminated, supports our finding.

It should be noted in the latter connection that Respondent further contends that there is insufficient post-Act evidence in the record to support the Panel's finding against it. As this contention is really part and parcel of the foregoing, we shall not consider it further.

Suffice to say, our finding herein, that Respondent is a Communist-action organization, is clearly supported by a preponderance of the probative evidence of record.

Respondent also takes the position that Petitioner is required to prove the existence of a world Communist movement having the characteristics described in Section 2 of the Act, and that it has failed to do so. It asserts that the finding made by the Panel concerning the objective of the world Communist movement is irrelevant and unsupported by the evidence. In view of the fact that we have heretofore found on this record that a world Communist movement exists, substantially as described in Section 2 of the Act, it is unnecessary to discuss whether such a finding is required. The evidence stated in our findings on the world Communist movement[1] as well as the other findings in this report plainly establish the existence of an international Communist movement organized and directed by the Soviet Union, which conforms substantially to that described by the Congress in Section 2 of the Act. Respondent does not contend that there is more than one world Communist movement in existence and it is incorrect to state that the movement found herein is not sufficiently identified with that described in Section 2.

[1] Pp. 8 to 17, *supra*.

Throughout this proceeding Respondent has attached the constitutionality of the Act and has contended that it was being administered in an unconstitutional manner. As we have previously ruled, the constitutionality of the Act is not properly an issue before us; and we presume that the Act is constitutional. We shall, therefore, address Respondent, during the hearing, in its briefs, exceptions and supporting memorandum has persistently charged violations of the Bill of Rights of the Constitution. It contends that it violates the First Amendment to use as evidence, to base findings on, or to draw conclusions from its conduct and various statements relating to what it teaches in its schools, materials used in connection therewith such as books, study outlines and reading lists, statements by it or its leaders as contained in various publications including the *Daily Worker, Political Affairs,* and *For a Lasting Peace, for a People's Democracy* and the Marxist-Leninist Classics, and other important documents. On this basis it takes exception to statements in the Recommended Decision which, among others, are quotations from its various publications or Marxist-Leninist Classics, and to findings concerning the source, nature and content of Marxism-Leninism, the world Communist movement, its leader and its objective, as well as the finding that it is a Communist-action organization.

Respondent further contends that the various findings of the Recommended Decision together with the recommendation that the Board enter an order requiring it to register as a Communist-action organization violate the Fifth Amendment. As best we can ascertain, this contention, that due process of law has not been accorded it, has a dual aspect. The first is a corollary to Respondent's assertion that much of the evidence in this proceeding violates the First Amendment, and the other, that irrespective of this it is none the less violative of the Fifth Amendment to find against Respondent on this record. Moreover, Respondent argues that the testimony of Petitioner's witnesses who were "planted in the CPUS as FBI informers, should have been (sic) excluded under the First, Fourth, and Fifth Amendments."

Although it is extremely difficult in many instances to determine from Respondent's general allegations exactly the specific bases of its contention, we have reviewed these contentions with great care and have examined their many aspects as they apply to our report herein. We find that no violation of Respondent's constitutional rights has been committed in this proceeding. To adopt Respondent's theory of what comprises constitutionally protected conduct and expression would result in closing to Petitioner legal avenues of proof.

In conjunction with its contentions respecting violations of the Fifth Amendment we have also examined Respondent's general assertion, often repeated, that a fair and impartial hearing has not been accorded it. From our analysis of the record, we find that Respondent has been accorded a fair and impartial hearing, and a full measure of due process of law.

## CONCLUSION.

The evidence in this proceeding discloses the history and activities of the Communist Party of the United States (Respondent herein) over the period of its entire existence. From its inception in 1919, it has been a subsidiary and puppet of the Soviet Union.

Since the late 1930's, when it was faced with adverse legislation, Respondent has become increasingly diligent and resourceful in its efforts to appear as a domestic political party while continuing its subservience to the Soviet Union. Many of its practices were contrived to conceal its revolutionary objectives. Thus, it continues as an avowed Marxist-Leninist organization but, except to initiates, disclaims so much of Marxism-Leninism as would endanger its continued legal existence to espouse. As in the present proceeding, this frequently entails disavowing the core of Marxism-Leninism.

Consequently, Respondent is met with the dilemma of appearing to reject but yet maintain its reason for being. As our findings in this report reveal, this dual role is so fundamentally incongruous as to be incapable of fulfillment under scrutiny. It is so innate in Respondent's nature that

it seeks and accept Soviet Union direction and control that, in actuality, it does not function as the purely domestic political party whose role it would, *de jure,* assume. Rather, nurtured by the Soviet Union, it labors unstintingly to advance the world Communist movement.

With consummate patience, the Party strives for the establishment of a dictatorship of the proletariat in the United States; a goal which would rob the American people of the freedoms they have forged. While using the cloak of the United States Constitution, it struggles unremittingly to synthesize from the complexities of our time a condition in this country which would enable it to shackle our institutions and preside over a Soviet America, under the hegemony of the Soviet Union.

Upon the overwhelming weight of the evidence in this proceeding, we find that Respondent is substantially directed, dominated and controlled by the Soviet Union, which controls the world Communist movement referred to in Section 2 of the Act; and that Respondent operates primarily to advance the objectives of such world Communist movement.

Accordingly, we find that the Communist Party of the United States is a Communist-action organization and required to register as such with the Attorney General of the United States under Section 7 of the Act.

An appropriate order will be entered.

By the Board:

(Signed) PETER CAMPBELL BROWN, *Chairman.*
(Signed) KATHRYN MCHALE, *Member.*
(Signed) WATSON B. MILLER, *Member.*

Dated: April 20, 1953, at Washington, D. C.

CODDAIRE, *Member,* (Concurring):

On the basis of the testimony, the documentary material, and the Recommended Decision, all of which I have carefully read and studied, I am fully in accord with and concur in the findings and in the determination that the Respondent herein, the Communist Party of the United States

of America, is a Communist-action organization under subsection (3) of Section 3 of the Act and required to register as such under Section 7. Since the Respondent has attempted by its briefs and arguments to eviscerate the Act and this proceeding, and since issues of far-reaching importance have been raised, I deem it desirable to set forth my understanding as to the nature and scope of the Board's Order issued herein. Proper understanding of the nature and scope of the Board's Report and Order does much to eliminate Respondent's contentions against the Act and the application of the Act to the Respondent.

The Subversive Activities Control Act of 1950 marks the beginning of a new stage in the development of public policy against un-American and subversive activities. The Board has been launched as a quasi-judicial agency for the carrying-out of the fact-finding and resultant adjudicatory aspects of a statutory scheme for, *inter alia,* identification of foreign dominated and foreign controlled organizations which operate in the United States primarily to carry out the evils found by Congress to be present in the world Communist movement.

Of particular importance are the facts that, in my opinion at least, registration proceedings before the Board are not criminal proceedings and reasonable registration in the public interest is not punishment. The result of the Board's order is not to outlaw the Communist Party nor is it punitive for past conduct. This proceeding is concerned solely with what amounts to the determination of a status. The order has, in effect, a forward-looking function aimed at registration or identification, as do many regulatory measures.

Respondent's main legal objections involve what it calls an improper use of pre-Act evidence, and a "built-in verdict" whereby under the Act the Board has no discretion other than to find as it has. These contentions, particularly when viewed against the nature and scope of the Board's Order as set forth above, are devoid of merit. The Board's Report treats with the question of pre-Act evidence and further elaboration is not necessary other

than to emphasize that it is clearly proper, in my opinion, to base the determination of a status, or of characteristics, upon past and current facts whose weight we have strictly weighed.

Regarding the many arguments advanced by the Respondent in connection with its "built-in verdict" contention, the short answer is that the facts which have been ascertained in our Report, as established upon the formal record made in this proceeding, clearly and unequivocally show the Respondent to be a Communist-action organization as defined in the Act. Although there is no need for the Board to express an opinion on the constitutional questions raised by the Respondent, and I do not presume to do so, I can see nothing illegal *per se* in that the proofs in this proceeding establish the Respondent to be characteristically just the type of organization which the registration provision of the Act cover.

(Signed) DAVID J. CODDAIRE, *Member.*

Dated: April 20th, 1953, at Washington, D. C.

## APPENDIX A.

### The Witnesses.

Twenty-two witnesses appeared for Petitioner, nineteen of whom were former members of Respondent. Three witnesses appeared for Respondent, all of whom are members of the CPUSA. The periods of membership appear in parentheses after the names of witnesses. An asterisk appears after the name of witnesses who joined or rejoined Respondent as a result of conference with the Federal Bureau of Investigation.

### Petitioner's Witnesses.

A. Petitioner's witnesses—formerly members of the Respondent:

BERENIECE BALDWIN*: (1943-1952) Membership director of Party Club in 1943; delegate to Michigan State Communist Party Convention in 1944; handled registration and membership records for Michigan District in 1947-1948; secretary of Party Section 1947-1950.

JOHN VICTOR BLANC*: (1934-1936; 1944-1949) Attended CPUSA schools in 1947 and 1948; dues secretary of Party Club in 1944; press and literature director for Party Club; organized and was chairman of Party Club 1947-1949; attended Ohio State Communist Party Convention in 1945, 1947 and 1948.

LOUIS FRANCIS BUDENZ: (1935-1945) Member, New York State Trade Union Committee, 1936-1937; labor editor of the *Daily Worker*, 1936-1937; member of Respondent's National Committee, 1936-1940; member of Illinois State Committee, 1937-1940; editor, *Midwest Daily Record*, 1937-1940; member of New York State Committee, 1940; president of Freedom of Press Company, Inc., 1940-1941; managing editor, *Daily Worker*, 1941-1945; alternate member, National Committee of Communist Political Association, 1944-1945.

PAUL CROUCH: (1927-1942) Member of Young Workers League; chairman, CPUSA National Anti-Military Commission, 1928; member, National Young Communist League Secretariat, 1929; editor of the *Young Worker*, 1929; delegate, CPUSA National Convention, 1929, 1934, 1936, 1938 and 1940; National Secretary, Anti-Imperialist League; instructor in various CPUSA schools; CPUSA organizer in various Districts and officer in various District organizations.

WILLIAM GARFIELD CUMMINGS*: (1943-1949) Press director, secretary, vice chairman, and chairman of Party Clubs; member, Ohio State Communist Party Committee; delegate to Ohio State Communist Party Convention, 1945 and 1948; delegate to CPUSA National Convention, 1948.

TIMOTHY EVANS, JR.*: (1948-1952) Chairman of Party Club; delegate to CPUSA regional convention in 1951; group leader and section educational director in 1951; assigned as "underground" member of CPUSA in summer 1951.

BENJAMIN GITLOW: (1919-1929) Helped organize Respondent in 1919; member of Labor Committee and National Committee of Communist Labor Party; member of Political Committee (governing body) for most of time as member of Respondent; member of Secretariat, 1927-1929; General Secretary, 1928-1929; member, Executive Committee of Red International Trade Union, 1928-1929; present at conferences in Moscow, 1927, 1928, 1929; member, Executive Committee of the Communist International, 1928-1929.

BALMES HIDALGO*: (1946-1949) Membership director of Party Club; financial secretary of Party Club; press director of Party Section; attended Party leadership school, 1947.

NATHANIEL HONIG: (1927-1939) Discussion leader in Party Unit; employed by *Daily Worker;* editor, *Timber Worker,* 1937-1938, also editor of *Labor Unity,* 1930-1934; attended CPUSA National Convention, 1929-1934; teacher at Lenin School in Moscow, 1934-1935; representative of Trade Union Unity League to Red International of Labor Unions (Profintern) in Moscow; managing editor of *Western Worker,* 1936-1937.

JOHN EDWARD JANOWITZ*: 1943-1952 Member of various Party Clubs and Shop Units; alternate delegate to CPUSA Ohio State Convention, 1950.

MANNING JOHNSON: 1930-1940) CPUSA district organizer and district Agitation and Propaganda director; National Negro organizer for Trade Union Unity League; member, CPUSA National Committee Trads Union Commission; member, Negro Commission of National Committee; member, CPUSA National Committee, 1936-1938; student at CPUSA schools.

JOSEPH KORNFEDER: (1919-1934) Helped organize Respondent in 1919; Branch organizer, 1919-1920; member, Central Committee, 1920-1924 and 1926-1928; labor union activities director, 1921-1922; eastern area director, 1920-1927; member, district committee and district bureau of

Ohio, 1932-1934; general secretary, Trade Union Unity Council of New York; member, district bureaus and district committees; attended Lenin School in Moscow 1927-1930; Communist International repreentative in South America, 1930 and 1931.

JOHN LAUTNER: (1929-1950) District Secretary of CPUSA National Hungarian Bureau in various States during 1930-1941; organizer in CPUSA sections and districts 1933 and 1936; director, CPUSA National Training School for Hungarian members, 1932; head of New York State Communist Party Review Commission, Fall 1947; member of CPUSA National Review Commission and in charge of security for New York State Party, 1948-1950.

MARY STALCUP MARKWARD*: (1943-1949) Chairman, Party Club in 1944; membership director and treasurer for City of Washington, 1944; City Committee for Washington, D. C., 1945; member, District Committee, 1945 and 1948; visitor at Party National Convention in 1944.

HARVEY M. MATUSOW: (1947-1951) Member of various Party youth clubs; employee of Jefferson School and manager of Camp Unity Book Store in 1948; Press Literature and Educational director of yout hclub, 1948-1949; employed at New York County Party headquarters in 1949; acting National Literature Director of the Labor Youth League and member, N. Y. State Executive Committee of the League during 1949 and early 1950; State literature director, New York Labor Youth League.

FRANK STRAUS MEYER: (1934-1945) Transferred from British Communist Party; worked in Paris for British Communist Party in 1934; associated with British Young Communist League's Secretariat of the Central Committee; active in youth work in United States and Canada while a member of CPUSA; Area secretary, youth section, American League Against War and Fascism; Educational Director of Party Section, 1935-1937; Director, Chicago Workers' School and District Educational Director, 1938-1941; District Membership Director and Assistant Organizational Secretary, 1941-1942; instructor at Jefferson School, 1944.

WILLIAM ODELL NOWELL: (1929-1936) Student, instructor, and director in Communist Party School in Detroit, Michigan; member and secretary of District Negro Commission, 1929; member of Michigan District Bureau and District Secretariat, 1930; member and later President of the Detroit Chapter of the Anti-Imperialist League, 1929; member, International Labor Defense, 1929; organizer, American Negro Labor Congress, 1929; Communist Party organ-

izer in Auto Workers Union and Union representative to founding convention of Trade Union Unity League, 1929; manager, Workers' Book Store, Detroit, 1930; circulation manager of *Daily Worker* and Education Director in Michigan District; attended Lenin School, Moscow, 1931; Communist Party delegate to a celebration of Russian Revolution in Moscow, 1929; representative of Trade Union Unity League to Profintern.

HERBERT A. PHILBRICK*: (1944(1949) Joined Massachusetts Youth Council in 1940 and was later chairman; joined Young Communist League in 1942 and American Youth for Democracy in 1943; member, Communist Party State Education Commission of Massachusetts; chairman, Massachusetts Communist Party leaflet production; alternate delegate, Massachusetts Communist Political Association Convention, 1945; State treasurer, American Youth for Democracy, 1943-1945; Cell Organizer, 1944; attended Communist Party Training School, 1945; District Educational Director, 1947; Professional Group Literature Director, 1947-1949.

DANIEL SCARLETTO*: (1947-1952) Member of various Communist Party Clubs in 1947-1948; Press Director, El Sereno Club, 1948; Club organizational secretary, Mexican Concentration Club, 1948-1951; transferred to "underground" January 1951.

B. Petitioner's witnesses—never members of or connected with Respondent.

JOHN W. CARRINGTON: Clerk of the Un-American Activities Committee of the House of Representatives. This witness was subpoenaed by the Attorney General in this proceeding to produce and authenticate, in his official capacity, certain documents from the files of the House Un-American Activities Committee.

ALEXANDER LOGOFET: Born and educated in Russia. Formerly employed by the Czarist government. Presently Russian interpreter for International Conferences for the Department of State. This witness was subpoenaed by the Attorney General in the instant proceeding to translate a document in the Russian language. (Exhibit No. 3).

PHILIP E. MOSELY: Director of the Russian Institute; Professor of International Relations, Columbia University. Dr. Mosely testified as an expert for the Attorney General in regard to the allegations of the Petition under Section 13(e)(2) of the Act.

**Respondent's Witnesses.**

HERBERT APTHEKER: (1939 to present) Dr. Aptheker testified as an expert on Marxism-Leninism. Member of a Brooklyn Communist Party Club, 1940-1941; teacher, Jefferson School of Social Science, 1946 to present; editor, *Masses and Main Stream,* 1948 to present; managing editor, *Political Affairs*—about 1950 to present; trustee, Jefferson School, New York City, 1950 to present.

ELIZABETH GURLEY FLYNN: (1937 to present) Member, National Committee, 1938 to present; chairman of Women's Commission of Communist Party, 1945 to present; chairman of Defense Commission, CPUSA, 1948 to present; columnist for *Daily Worker,* 1937 to present; delegate to Congress of Women for Peace, Paris, 1945; member, Political Bureau, later called National Board, 1941-1946, 1948; representative of *Daily Worker* at 80th birthday party for Marcel Cachin in Paris, 1949; representative of CPUSA to French Communist Party Congress, 1950.

JOHN GATES: (1933 to present) Member of Young Communist League, 1931; organizer for the League, 1932-1937; organizer of various clubs in Youngstown and member of the Section Committee, 1933-1937; member, International Brigade in Spanish Civil War in 1938 and rose to rank of Brigade Political Commissar (Lt. Col.); National Executive Secretary, Friends of Abraham Lincoln Brigade, 1939; National Education Director of Young Communist League, 1939-1940; "Head", Young Communist League for New York State, 1940; United States Army, December 17, 1941-January 17, 1946; elected member, National Council Communist Political Association *in absentia,* 1944; elected member of National Committee of Communist Party *in absentia,* 1945; National Vets Director Communist Party, 1946-1947; member, National Committee, Communist Party, 1946 to present; chairman National Legislative Commission, 1947-1951; member, National Board, Communist Party, 1947 until it was discontinued; editor, *Daily Worker,* 1947 to present; chairman, National Review Commission, 1951.

## APPENDIX B.

A list of publications of major importance in this proceeding which were received in evidence in whole or in part, follows:

Pet. Ex. 8. *Theses and Statutes of The Third (Communist) International,* published officially by the Communist International in Moscow in 1920. Reprinted by the United Communist Party of America (a former designation of Respondent).

Pet. Ex. 31. *The Communist Manifesto,* by Karl Marx and Friedrich Engels. Copyrighted in the United States in 1948, the 100th Anniversary edition published by International Publishers Company, Inc.[1]

Pet. Ex. 121. *Foundations of Leninism,* by J. Stalin, copyrighted in the United States in 1939, published by International Publishers Company, Inc.

Pet. Ex. 125. *Programme Of The Communist International,* copyrighted in the United States in 1929, published by the Workers Library Publishers, Inc.

Pet. Ex. 137. *Resolutions, Seventh Congress Of The Communist International,* published in 1935 by Workers Library Publishers.

Pet. Ex. 138. *Problems of Leninism,* by J. Stalin, copyrighted in the United States in 1934, published by International Publishers Company, Inc.

Pet. Ex. 139. *State and Revolution,* by Lenin, copyrighted in the United States in 1932, published by International Publishers Company, Inc.

Pet. Ex. 140. *Imperialism, The Highest Stage of Capitalism,* by Lenin, copyrighted in the United States in 1939, published by International Publishers Company, Inc.

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[1] International Publishers Company, Inc., New York City, is headed by Alexander Trachtenburg, a leading member of Respondent.

Pet. Ex. 141. *Working Class Unity-Bulwark Against Fascism*, by Georgi Dimitroff, published by Workers Library Publishers in 1935.

Pet. Ex. 145. *The Communist Party, A Manual On Organization*, by J. Peters, published by Workers Library Publishers, July 1935.

Pet. Ex. 149. *The United Front, The Struggle Against Fascism And War*, by Georgi Dimitroff, copyrighted in the United States in 1938, published by International Publishers Company, Inc.

Pet. Ex. 330. *History Of The Communist Party Of The Soviet Union (Bolsheviks)*, edited and authorized by the Central Committee of the Communist Party of the Soviet Union, copyrighted in the United States in 1939, published by International Publishers Company, Inc.

Pet. Ex. 335. *Mastering Bolshevism*, by J. Stalin, published in 1946 by New Century Publishers.

Pet. Ex. 343. *Strategy and Tactics Of The Proletarian Revolution*, copyrighted in the United in 1936, published by International Publishers Company, Inc.

Pet. Ex. 417. *What Is To Be Done?* by Lenin, copyrighted in the United States in 1929, published by International Publishers Company, Inc.

Pet. Ex. 422. *The Theory Of The Proletarian Revolution*, copyrighted in the United States in 1936, published by International Publishers Company, Inc.

Pet. Ex. 423. *The Dictatorship Of The Proletariat*, copyrighted in the United States in 1936, published by International Publishers Company, Inc.

BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

Docket No. 51-101

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES,

*Petitioner,*

v.

THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,

*Respondent.*

**Order of the Board.**

The Board having this day issued its Report in which it finds and determines that the Communist Party of the United States of America, respondent herein, is a Communist-action organization under the provisions of the Subversive Activities Control Act of 1950;

IT IS ORDERED that the said respondent, the Communist Party of the United States of America, shall register as a Communist-action organization under and pursuant to section 7 of the Subversive Activities Control Act of 1950, and

IT IS FURTHER ORDERED that if the Communist Party of the United States of America fails to comply with the registration requirements of said Act, pursuant to the above Order, then each and every section, branch, fraction, or cell of said respondent shall register in accordance with the requirements of said Act.

By the Board:

(Signed) PETER CAMPBELL BROWN, *Chairman.*
(Signed) KATHRYN MCHALE, *Member.*
(Signed) DAVID J. CODDAIRE, *Member.*
(Signed) WATSON B. MILLER, *Member.*

Washington 25, D. C., April 20, 1953.

☆U. S. GOVERNMENT PRINTING OFFICE 1954—285952/P.O. 801

[fol. 2053] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11,850

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, Petitioner

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, Respondent

MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE—Filed August 11, 1954

The Petitioner, by its attorneys, moves for leave to adduce additional evidence in the administrative proceeding before the Respondent. In support of this motion, Petitioner shows the following:

1. This motion is made pursuant to section 14(a) of the Internal Security Act of 1950, 50 U.S.C. 793, which contains the following provisions, among others, concerning proceedings on judicial review of registration orders issued by the Respondent, the Subversive Activities Control Board:

> "If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by the preponderance of the evidence shall be conclusive, and its recommendations, if any, with respect to action in the matter under consideration."

2. The Petitioner possesses additional evidence material to this case. All of this evidence arose subsequent to the administrative proceeding and most of it subsequent to the submission of this case to the Court. This evidence, particularly when considered in the light of the entire record, [fol. 2054], will establish that the testimony of three of the witnesses for the Attorney General, on which the Respondent relied extensively and heavily in making findings which are of key importance to the order now under review, was false. The additional evidence which Petitioner desires to adduce is described in detail in the affidavit of John J. Abt, one of Petitioner's counsel, annexed to this motion as Exhibit A. In summary, this evidence will establish that Crouch, Johnson and Matusow, all professional informers heretofore employed by the Department of Justice as witnesses in numerous proceedings, have committed perjury, are completely untrustworthy and should be accorded no credence; that at least two of them are now being investigated for perjury by the Department of Justice, and that because their character as professional perjurors has now been conclusively and publicly demonstrated, the Attorney General has ceased to employ any of them as witnesses.

3. If this motion is granted, the Petitioner will introduce oral and documentary evidence to establish the facts set forth in the attached affidavit, including the testimony of Paul Crouch, Manning Johnson, Harvey Matusow, a representative or representatives of the Department of Justice, Bishop G. Bromley Oxnam, attorneys Russell Morton Brown and Robert J. Norvell, Cameron County, Texas, Judge Oscar D. Dancy, employees, past or present, of the Miami Herald and the Miami Daily News, Howard Rushmore of the New York Journal-American, Joseph Alsop, Stewart Alsop, a member or members of the International Organizations' Employees Loyalty Board, and others.

Since the evidence Petitioner seeks to adduce is clearly material to this proceeding, the Court should order, pursuant to section 14(a) of the Internal Security Act of 1950, that Petitioner be allowed to adduce such evidence and any related evidence before the Respondent, and that the Respondent thereafter file with the Court the record of the

evidence so taken, its modified or new findings, if any, and [fol. 2055] its recommendations, if any.

Respectfully submitted,

Vito Marcantonio, John J. Abt, Joseph Forer, Attorneys for Petitioner.

[Certificate of Service omitted in printing]

[fol. 2056] EXHIBIT A TO MOTION

AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE

State of New York,
New York County, ss.

John J. Abt, being first duly sworn, deposes as follows:

1. I am one of the attorneys for the Petitioner and make this affidavit in support of its motion for leave to adduce additional evidence in this proceeding.

2. Paul Crouch, Manning Johnson and Harvey Matusow were three of the principal witnesses who testified on behalf of the Attorney General in this proceeding. Crouch testified on direct examination for almost five days, and his direct testimony occupies 387 pages of the typewritten transcript. Johnson testified on direct examination for two days, and his direct testimony occupies 163 pages of the typewritten transcript. Matusow testified on direct examination for one day, and his direct testimony occupies 118 pages of the typewritten transcript.

3. The Respondent relied extensively and heavily upon the direct testimony of these three witnesses to support its findings of fact. The annotated version of the Report of the Board, filed with the Court by the Respondent, reveals that Respondent supported its findings of fact with thirty-six separate references to the testimony of Crouch, twenty-five separate references to the testimony of Johnson and twenty-four separate references to the testimony of Matusow. An appendix attached to this affidavit contains an analysis of the annotated Report, indicating the pages on which these references to the testimony of Crouch, Johnson and Matusow appear, the pages of the Joint Appendix to

which the references are made, and the subject matter of the testimony referred to.

4. As the attached appendix reveals, the Respondent relied on the direct testimony of these three witnesses to support material and, in many instances, key findings of [fol. 2057] fact. The following examples are merely illustrative of the importance which the Respondent attached to their testimony: The Respondent's key finding that Petitioner's 1940 disaffiliation from the Communist International did not alter Petitioner's relationship to that organization was based on the testimony of Crouch. (Annotated Report, 27, 12, 287; Petitioner's brief, 193-95.) The Respondent relied heavily on the testimony of Johnson for its findings that the authority of alleged representatives of the Communist International superseded that of Petitioner's elected leadership, that individuals could not hold positions of leadership in Petitioner without the approval of the Soviet Union, that the first and only allegiance of Communists is to the Soviet Union, and that in the event of war between the United States and the Soviet Union it would be the duty of every Communist to help defeat the United States. (Annotated Report, 110, 173, 229, 231.) Matusow was one of five out of the twenty-two witnesses called by the Attorney General who had been a member of the Communist Party subsequent to the date of the Act. The Respondent relied exclusively upon his opinion testimony to support its finding that Petitioner advocated the violent overthrow of the government in the post-Act period. (Annotated Report, 221; Respondent's brief, 119.) It also relied exclusively on his testimony for its finding that Petitioner received financial aid from the Soviet Union in 1949. (Annotated Report, 163.)

5. Crouch, Johnson and Matusow had all been members of the Communist Party. Crouch and Johnson are professional anti-Communist informers in the sense that they derive (or until recently derived) all of their income from anti-Communist testimony and activity. Matusow has derived substantial income from such testimony and activity. Prior to and at the time he testified in this proceeding and thereafter until May, 1954, Crouch was under contract with the Immigration and Naturalization Service of the Depart-

ment of Justice as a witness in deportation cases. In addi-
[fol. 2058] tion, he testified as a paid government witness in numerous Federal prosecutions of Communists and alleged Communists and appeared frequently as a witness before Congressional Committees investigating Communism. (Petitioner's Brief, 10, n. 14, 15. Subsequent to his appearance in this proceeding, Crouch continued his career as a professional informer and testified in a number of proceedings including the Smith Act trials in Baltimore, Hawaii, Philadelphia and St. Louis.) On information and belief, Crouch was paid by the Department of Justice for these services at the rate of $25.00 per day plus expenses. According to a statement made by him to a reporter for the Washington Daily News, he received more than $8000 from this source in 1953.

6. Johnson was employed by the Immigration and Naturalization Service as a so-called "analyst-consultant" at a salary of $20.00 per day at the time he appeared as a witness in this proceeding. He continued to be employed in that capacity until June or July, 1954, when as hereinafter stated on information and belief, his employment was terminated. His duties as an "analyst-consultant" consisted in testifying on behalf of the government in numerous cases, including deportation proceedings, loyalty matters and the prosecutions of Communists and alleged Communists. He also appeared as a witness before various Congressional Committees.

7. Matusow became a paid informer for the F.B.I. while still a member of the Petitioner. (Petitioner's brief, 10, n. 13; R. 13122.) After his expulsion from the Petitioner in 1951, he was employed as an investigator for the Committee on Un-American Activities of the Ohio Legislature and appeared as a witness before several Congressional Committees. (R. 13111-12, 13171-73.) He made his debut as a witness for the Department of Justice in this proceeding where he was paid the standard rate of $25.00 per day and expenses for his services. (R. 13140.) Subsequent to his appearance before the Board, he testified as a government witness in cases involving the prosecution of Communists and alleged Communists. He has also appeared as
[fol. 2059] a frequent witness before Congressional Committees.

8. Cross examination by Petitioner of each of these professional informers developed a pattern of false statements both in their direct testimony in this proceeding and, in the case of Crouch and Johnson, in prior proceedings. Thus, Johnson admitted from the stand in this proceeding that he had testified falsely in previous cases in order to keep what he conceived to be a commitment to the F.B.I., and stated that he would not hesitate to do so again for the same purpose. (Petitioner's brief, 214; J.A. 669-74.) Again, Crouch testified that while he was a member of the California district bureau of Petitioner in the spring of 1941, he and the other bureau members planned, directed and prolonged a strike at the North American Aviation Company's Inglewood plant for the purpose of paralyzing the production of war planes for Britain and the United States. He further testified that immediately after the German invasion of the Soviet Union on June 22, 1941, the bureau gave orders to end the strike immediately so that production could be resumed at once, and that pursuant to this order the strike was terminated a week or ten days after June 22. (J.A. 444-46.) This story was shown to be false on cross examination when it was established from a news account in the New York Times that the strike had in fact been terminated and work resumed ten days prior to the German invasion. (R. 5967-71; C.P. Ex. 20.) In addition to these examples, the record is replete with instances in which the testimony of Johnson and Crouch in this proceeding was shown to be directly contradictory to their testimony in prior proceedings. It is further replete with instances in which it was shown that Crouch, Johnson and Matusow either embellished stories recounted by them in prior testimony or testified to incidents which they had never previously mentioned in their numerous prior appearances as witnesses. Finally, the attention of the Board was called to the fact that in *Bridges* v. *United States*, 199 F. 2d 811, 841, the Court of Appeals had rejected the testimony of both Crouch and Johnson that [fol. 2060] Bridges had been seen by them in attendance at a Communist Party convention in New York, inasmuch as unimpeachable documentary evidence established Bridges' presence in California at the time of his supposed attendance at the convention.

9. Despite the proven falsity of some of the testimony of these witnesses and the manifest untrustworthiness of all of it, the Respondent accepted their testimony on direct examination implicitly and uncritically (Petitioner's brief, 191-93, 212-13) and as previously shown drew upon it heavily for the findings of fact.

10. Developments subsequent to the proceeding before the Board, the most important of which occurred after the submission of this case to the Court, have established beyond doubt the untrustworthiness of these witnesses and the perjurious character of their testimony, and have compelled the Attorney General to abandon the use of Johnson and Crouch and, as affiant believes, of Matusow as witnesses. These developments, as to each of the three witnesses, are set forth on information and belief in the paragraphs that follow, with annotation showing the source of the information.

11. *Crouch.*

A. In April, 1954, Crouch testified as a witness for the government in the case of *United States* v. *Kuzma, et al.*, a prosecution in Philadelphia for conspiracy to violate the Smith Act. One David Davis is a defendant in that case. Crouch, in his testimony, identified Davis as a Communist and testified with great particularity about his activities. Crouch testified that from 1928 through the mid-thirties he had seen Davis at Communist Party meetings, heard him make reports, watched him take notes, and joined with him in planning the infiltration of the armed forces. On cross examination, defense counsel produced the transcript of Crouch's 1949 testimony on behalf of the government in the case of *United States* v. *Bridges, et al.* (referred to above), a prosecution for alleged false statements that Harry Bridges was not a member of the Communist Party. On cross examination in that case, [fol. 2061] Crouch was repeatedly questioned about Davis and repeatedly stated that he had no knowledge of him, and that while he knew of other Davises in the Communist Party, he had never heard of David Davis. ("Matter of Fact," by Joseph and Stewart Alsop, New York Herald Tribune, May 19, 1954.)

B. In 1950, Crouch testified before the Committee on Un-American Activities of the California Legislature that, in 1941, he had attended a closed meeting of the Communist Party at the home of Dr. J. Robert Oppenheimer in Berkley, and that among those in attendance were Dr. Oppenheimer and Joseph W. Weinberg, a nuclear physicist. In September, 1952, Weinberg was indicted for perjury in the District of Columbia. One of the counts in that indictment, based on the Crouch testimony, was that Weinberg had falsely denied attendance at Communist Party meetings in testimony before the House Committee on Un-American Activities. Investigations made by the defendant and Dr. Oppenheimer produced documentary evidence that established that neither of them was in or near Berkley at or about the time of the alleged meeting testified to by Crouch. When these facts were brought to the attention of the Assistant United States Attorney in charge of the matter, the count in question was dismissed. United States District Judge Holtzoff who presided at the Weinberg trial (in which the defendant was acquitted on the remaining counts) said of Crouch: "I am amazed that the Immigration and Naturalization Service should employ him as a member of its staff." ("Matter of Fact," by Joseph and Stewart Alsop, Washington Post and Times-Herald, April 16, 1954.)

C. In a brief filed with the Board of Immigration Appeals in December, 1953 and argued on June 24, 1954, in *In the Matter of Jacob Burck,* A.R. No. 4,587,587, counsel for Burck submitted the results of their investigation of a number of sworn statements made by Crouch as follows:

(1) Crouch testified (in *In re Blichfeld,* before the Immigration and Naturalization Service) that in 1946 he had discussed Communism with an F.B.I. agent in Brownsville, [fol. 2062] Texas, in the presence of County Judge Oscar C. Dancy who, according to Crouch, was his personal friend. However an affidavit by Judge Dancy denies this testimony in its entirety and states that he has never in his life met Crouch.

(2) Crouch testified in the *Burck* case that in 1946 he was employed in Florida as the state publicity director of the CIO and editor of the Union Record which he stated was the official organ of the CIO in Florida. However,

affidavits of the leading officials of the Florida CIO state that there has never been such a post as CIO publicity director for the state and that the Union Record was never an official organ of the CIO.

(3) Crouch testified in the *Burck* case that in 1947 he became the editor of the Dade County, Florida, News. However, affidavits of the Dade County tax collector, the clerk of the circuit court, the postmaster and the editor of a local paper all state that there is no record that such a paper was ever in existence in the county.

(4) Crouch testified in the *Burck* case that in 1948, he was employed as an editor of the Miami Herald. However, affidavits from four responsible officers and employees of the Miami Herald state that Crouch was employed by it for five months in the teletype department—a mechanical department—and was at no time engaged in editorial or reportorial work.

(5) Crouch testified in the *Burck* case that his last employment before becoming a professional witness was with the Miami Daily News where he was employed in a supervisory capacity in connection with copy production and, in addition, wrote feature articles from time to time. However, affidavits from five responsible officers and employees of the Miami Daily News state that Crouch was employed by it for nine months exclusively as a tape-cutter in the teletype punching room, that he was never employed in a supervisory capacity, had nothing to do with copy production, and did no writing for the paper whatsoever. (Brief and affidavits *In re Burck*, referred to above.)

[fol. 2063] E. In May, 1934, Joseph and Stewart Alsop, syndicated newspaper columnists who had written a number of articles exposing the dubious role of Crouch and other professional informers employed by the Department of Justice, wrote a widely publicized column describing Crouch's false testimony in the *Kuzma* case and requested the Attorney General to investigate Crouch's credibility. Thereupon, the Attorney General announced that the Department of Justice was undertaking such an investigation. On June 24, 1954, immediately after the oral argument in the *Burck* case, the Attorney General further announced that the evidence of Crouch's alleged perjurious testimony presented to the Board of Immigration Appeals in that case would be added to the study of Crouch which was then under

way in the Department. ("Matter of Fact", New York Herald Tribune, May 19, 1954; Washington Post and Times-Herald, June 25, 1954.)

F. On May 28, 1954, as a result of the charges made against Crouch and the pending investigation of his testimony by the Department of Justice, the Department cancelled his scheduled appearance as a witness before the Board in the pending proceeding against the Veterans of the Abraham Lincoln Brigade. Since that date, Crouch has not received any pay from or appeared as a witness for the Department. In retaliation for the discontinuance of his services and pay, Crouch, on June 30, 1954, wrote a letter to the Director of the F. B. I. requesting an investigation of the members of the Attorney General's staff responsible for this action. Thereafter, he requested the Senate Committee on Government Operations and the Senate Judiciary Committee to investigate Attorney General Brownell and Assistant Attorney General Rogers, charging that the pending investigation of his credibility has given aid and comfort to enemies of the United States and might require the reopening of some sixty hearings and trials in which he had been a principal witness, including this proceeding. (Washington Daily News, July 1, 1954; New York Times, July 9, 1954.)

12. *Johnson.*

A. On May 25, 1954, the International Organizations [fol. 2064] Employees Loyalty Board conducted a hearing with respect to the loyalty of Dr. Ralph J. Bunche. Johnson was one of the two persons responsible for the charges against Dr. Bunche and testified at the hearing. Johnson testified that Bunche had been a member of the Communist Party in the 1930's and that in 1934 he and Bunche had attended a closed strategy meeting of leading Negro Communists in Washington, D. C. This testimony was flatly denied by Dr. Bunche and by a witness who had been present at the meeting in question. The Loyalty Board rejected Johnson's testimony and announced that it had completely cleared Dr. Bunche of all the charges against him. Thereafter, the chairman of the Loyalty Board transmitted the transcript of the hearing to the Department of Justice with the request that Johnson's testimony be investigated for possible perjury. The requested investigation is now under

way in the Department. ("Matter of Fact," by Joseph and Stewart Alsop, New York Herald Tribune, July 2, 1954; *id.*, Washington Post and Times-Herald, July 11, 1954.)

B. On July 1, 1954, the Department of Justice terminated Johnson's employment, and the Department has discontinued the use of his services as a witness. (New York Journal-American, July 6, 1954; Daily Worker, July 8, 1954.)

13. *Matusow.*

A. In June, 1954, the press reported that Bishop G. Bromley Oxnam had stated in speeches made in Westminister, Maryland and Evanston, Illinois that Matusow had recently told him that he, Matusow, had undergone a religious experience, that he had "lied, and lied for the committees" and "wanted to undo all the lies I have told." (Washington Post and Times-Herald, July 13, 1954.) Subsequently, in an interview with the press on July 13, 1954, Bishop Oxnam stated (*id.*, July 14, 1954):

> "The truth is that Mr. Matusow told he had had a religious experience and was seeking each person about whom he had falsified in order to apologize and get right with the people he had harmed. He told me he had [fol. 2065] lied concerning numerous individuals."

B. On July 30, 1954, the Commission on Public Relations and Methodist Information of the Methodist Church released to the press the text of a letter from J. Howard McGrath, the former United States Attorney General, to Charles C. Parlin, attorney for Bishop Oxnam, stating the following facts: Late in April, 1954, Matusow was interviewed by Russell Brown and Robert Norvell, law associates of McGrath. Matusow stated to them that he had lied about many people concerning their connection with Communism and that he was writing a book to be entitled "Blacklisting (or Blackmailing) Was My Business" which would expose and detail his false statements connecting various persons with Communism. In a memorandum dictated after the interview, Brown stated:

> "He (Matusow) said in so many words, 'You should know that I am not to be trusted under any circum-

stances. I have betrayed everybody who ever befriended me. If I give you some information which is helpful, you check it 100% because I don't even trust myself.' "

(Copy of press release referred to above.)

C. As a result of the foregoing incidents, affiant believes that the Department of Justice will discontinue the use of Matusow as a witness.

14. The compelling reasons for granting Petitioner's motion were cogently stated in a New York Times editorial entitled "The Informers", published on July 8, 1954, which reads in part as follows:

"The real problem of the informer arises . . . when questions of a man's personal life, his thoughts, opinions or political activities are under scrutiny. Here is where employment of the informer may become dangerous to individual rights and liberties. The informer smacks of the police state; and we think that most [fol. 2066] Americans instinctively shrink from his use. It is reasonable to suppose that the professional, paid informers, such as those on the rolls of the Justice Department who can be said to make their living at this game, feel the necessity of continuing to 'produce' if they are not to give up their lucrative occupation.

". . . Some informers have been caught in direct contradictions of testimony that smell strongly of perjury. If the Justice Department feels it essential to use informers in the conduct of its anti-Communist prosecutions under the law, it has the unmistakable duty to follow up relentlessly any indication that they may not be telling the truth. As the law-enforcement agency of our government, the Justice Department has a primary obligation to maintain its own integrity and that of its agents."

John J. Abt.

Subscribed and sworn to before me this 9th day of August, 1954. Abbott L. Levine, Notary Public, State of New York, No. 24-7509750. Qualified in Kings County. Commission Expires March 30, 1956.

[fol. 2067] APPENDIX TO MOTION

References to the Testimony of Crouch, Johnson and Matusow Contained in the Annotated Report of the Board

The tables below list each reference in the Annotated Report of the Board, filed by it with the Court, to the testimony of Crouch, Johnson and Matusow, respectively, indicating the page of the Annotated Report (designated as A.R.) where the reference occurs, the pages of the Joint Appendix (designated as J.A.) to which reference is made and the subject matter of the finding in support of which the testimony of the witness is cited.

CROUCH

| A.R. Page | J.A.Page | Subject |
|---|---|---|
| 27 | 421–23 | Policies and Directives—Organization and Leadership |
| 93, n. 1 | 441–42 | Policies and Directives—Imperialism |
| 107 | 425–28 | Policies and Directives—Democratic Centralism |
| 110 | 424 | Policies and Directives—Foreign Representatives in the United States |
| 110 | 425–28; 431–32 | Policies and Directives—Foreign Representatives in the United States |
| 110 | 423 | Policies and Directives—Foreign Representatives in the United States |
| 110 | 461–62 | Policies and Directives—Foreign Representatives in the United States |
| 111 | 424 | Policies and Directives—Foreign Representatives in the United States |
| 112 | 426–28 | Policies and Directives—Foreign Representatives in the United States |
| 136 | 403–05; 413 | Policies and Directives—Youth Work |
| 136–37 | 419–21 | Policies and Directives—Youth Work |
| 153 | 448–50 | Non-Deviation |
| 159 | 401–02 | Foreign Financial Aid |
| 161 | 407–09 | Foreign Financial Aid |
| 165 | 404–05 | Foreign Training |
| 170 | 439–40 | Foreign Training |
| 171 | 400–05; 411–12 | Foreign Reporting |
| 190 | 433–35 | Foreign Disciplinary Power |
| 193 | 416–17; 434–35 | Secret Practices |
| 195 | 434–35 | Secret Practices |
| 200 | 430–33 | Secret Practices |
| 201 | 432–33 | Secret Practices |
| 202 | 432–33; 443 | Secret Practices |
| 202 | 409–10 | Secret Practices |
| 204 | 429–30 | Secret Practices |
| 206 | 442–43 | Secret Practices |
| 207 | 428; 442–43 | Secret Practices |
| 208 | 425–32 | Secret Practices |
| 209 | 425–33; 456–58 | Secret Practices |
| 209 | 442–43 | Secret Practices |
| 214 | 416–24 | Secret Practices |
| 221 | 437–38; 462 | Allegiance |
| 229 | 435–36 | Allegiance |
| 229 | 436–37 | Allegiance |
| 229 | 454–55 | Allegiance |
| 231 | 436 | Allegiance |

[fol. 2068]

JOHNSON

| A.R.Page | J.A.Page | Subject |
|---|---|---|
| 24 | 656 | Policies and Directives—Organization and Leadership |
| 24 | 668 | Policies and Directives—Organization and Leadership |
| 85–6 | 652–53 | Policies and Directives—Imperialism |
| 106, n. 1 | 647–48; 659–60 | Policies and Directives—Democratic Centralism |
| 110 | 660–61 | Policies and Directives—Foreign Representatives in the United States |
| 112 | 660–61 | Policies and Directives—Foreign Representatives in the United States |
| 112 | 664–65 | Policies and Directives—Foreign Representatives in the United States |
| 140 | 648 | Policies and Directives—National Liberation |
| 140 | 654–55 | Policies and Directives—National Liberation |
| 155 | 668 | Non-Deviation |
| 159 | 656–57 | Foreign Financial Aid |
| 162 | 656–57 | Foreign Financial Aid |
| 165–66 | 657–58 | Foreign Training |
| 169 | 659 | Foreign Training |
| 173 | 647–48; 658–59 | Foreign Reporting |
| 194 | 661–62 | Secret Practices |
| 195 | 662, 667–68 | Secret Practices |
| 197 | 661–62 | Secret Practices |
| 203 | 667 | Secret Practices |
| 208 | 661–65 | Secret Practices |
| 209 | 648–49; 664–65 | Secret Practices |
| 213 | 667–68 | Secret Practices |
| 221 | 649; 675–77 | Allegiance |
| 229 | 650–52 | Allegiance |
| 231 | 651–53 | Allegiance |

MATUSOW

| A.R. Page | J.A. Page | Subject |
|---|---|---|
| 76 | 1057 | Policies and Directives—Marxism-Leninism |
| 76 | 1048–49 | Policies and Directives—Marxism-Leninism |
| 86 | 1055–58 | Policies and Directives—Imperialism |
| 110 | 1032 | Policies and Directives—Foreign Representatives in the United States |
| 112 | 1032; 1037–38 | Policies and Directives—Foreign Representatives in the United States |
| 116 | 1056–57 | Policies and Directives—The Communist Press |
| 128 | 1041–42 | Policies and Directives—Trade Union Work |
| 133–34 | 1024–32 | Policies and Directives—Youth Work |
| 134 | 1028–29 | Policies and Directives—Youth Work |
| 163 | 1035–37 | Foreign Financial Aid |
| 174 | 1031–33 | Foreign Reporting |
| 174 | 1037–38 | Foreign Reporting |
| 195 | 1051–53 | Secret Practices |
| 196 | 1026–27 | Secret Practices |
| 197 | 1024–27 | Secret Practices |
| 198 | 1053–55 | Secret Practices |
| 201 | 1034–35 | Secret Practices |
| 203 | 1042–44 | Secret Practices |
| 204 | 1024–26 | Secret Practices |
| 207 | 1027 | Secret Practices |
| 211 | 1042–44 | Secret Practices |
| 219 | 1057 | Allegiance |
| 220 | 1048–49 | Allegiance |
| 221 | 1054–56 | Allegiance |

[2069] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS

[Title omitted]

MEMORANDUM IN OPPOSITION TO MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE—Filed August 20, 1954

STATEMENT

Pursuant to section 14(a) of the Internal Security Act of 1950, the Communist Party of the United States of America, petitioner herein, has moved the Court to order that the petitioner be allowed to adduce additional evidence before the Subversive Activities Control Board and that the Board thereafter file with the Court the record of the evidence so taken, its modified or new findings, if any, and its recommendations, if any.

In support of its motion, the petitioner alleges that it is in possession of additional evidence which will establish that the testimony of three of the witnesses called by the Attorney General was false. It further states that all of this evidence arose subsequent to the administrative proceeding and that most of it arose subsequent to the sub-[fol. 2070] mission of this case to the Court. The additional evidence which is the subject matter of the instant motion is set forth in paragraphs 11, 12, and 13 of an affidavit attached to the motion. It is readily apparent that the additional evidence is confined entirely to collateral matters which, at most, bear on credibility. None of the additional evidence touches the substance of the testimony before the Board of the witnesses in question. None of the additional evidence is concerned with issues of fact determined by the Board.

I. The Hearing Should Not Be Reopened for the Receipt of Evidence Merely Going to the Issue of Credibility and Not to Any Fact at Issue.

An application for leave to adduce additional evidence before an administrative tribunal is addressed to sound judicial discretion. *Southport Petroleum Co.* v. *National*

*Labor Relations Board,* 315 U.S. 100 (1942). Stated generally, the tests to be applied in determining the merits of such an application are the materiality of the evidence sought to be adduced and the sufficiency of the grounds for failure to produce such evidence at the hearing. *Strauss* v. *Berkshire,* 8 Cir., 1943, 132 F. 2d 530.

It is submitted that where the additional, or after-discovered, evidence merely goes to the issue of credibility and not to any fact at issue, the hearing should not be reopened for its reception. In *National Labor Relations Board* v. *J. S. Popper, Inc.,* 3 Cir., 1940, 113 F. 2d 602, the Court of Appeals for the Third Circuit so ruled, holding that the National Labor Relations Board had correctly refused to reopen a hearing to receive impeaching evidence, going solely to the issue of credibility and not to any fact at issue. The Court in its reasoning pointed out that there was an analogy to *United States* v. *Parker,* 3 [fol. 2071] Cir., 1938, 103 F. 2d 857, 863, a criminal case which ruled that after-discovered evidence merely affecting credibility would not justify a new trial.

While the petitioner's motion to reopen the hearing for the taking of additional evidence is not, strictly speaking, a motion for a new trial based upon newly discovered evidence, it strongly partakes of the nature of the latter. Especially is this true since the testimony has been closed more than twenty-five months, the Board has made its determination, and the matter has been briefed and argued before this Court. Certainly the rationale for the determination of either motion is the same, namely, the requirement of a full and fair hearing consistent with the avoidance of unwarranted and unnecessary delay in the judicial process. The criteria for the awarding of a new trial on the ground of newly discovered evidence would appear to be pertinent to the disposition of a motion to reopen an administrative hearing for the taking of additional evidence.

This Court has set forth those criteria succinctly in *United States* v. *Thompson,* D. C., 1951, 188 F. 2d 652, as follows:

> (1) The evidence must have been discovered since the trial;

(2) the party seeking the new trial must show diligence in the attempt to procure the newly discovered evidence;

(3) the evidence relied on must not be merely cumulative or impeaching;

(4) the evidence must be material to the issues involved;

(5) the evidence must be of such a nature that in a new trial it would probably change the result.

[fol. 2072] In the *Thompson* case, the newly discovered evidence tended to discredit the only prosecution witness. Yet this Court affirmed the denial of the motion by the lower court. Subsequently, in *Murphy* v. *United States*, D. C., 1952, 198 F. 2d 87, this Court followed the *Thompson* case in a similar circumstance, saying in a per curiam opinion:

> "As this court has said in *Thompson* v. *United States*, 1951, 88 U.S. App. D.C. 235, 188 F. 2d 652, to obtain a new trial because of newly discovered evidence, the evidence relied on must not be merely cumulative or impeaching."

It is abundantly clear from the moving papers of the petitioner that it seeks to have the hearing reopened solely for the reception of material bearing on the credibility of three of the twenty-two witnesses called by the Attorney General. In each instance, the additional evidence which the petitioner asks leave to adduce pertains to collateral matters not at issue in the proceedings before the Board. No additional evidence is alleged which controverts the affirmative testimony upon which the Board based any of its findings. This is a fact despite the bold claim in the petitioner's motion that the additional evidence will establish that the testimony of three witnesses was false. A reopening of the hearing would result in further delay in the final determination of an already lengthy matter for the sole purpose of trying collateral matters unconnected with the issues involved.

II. The Three Witnesses in Question Were Subjected to Lengthy and Searching Cross-Examination at the Time of the Hearing on the Issue of Credibility.

The witnesses Paul Crouch, Manning Johnson, and Harvey Matusow were each cross-examined at length at the time of the hearing. As an examination of the record will disclose, wide latitude was permitted petitioner's counsel [fol. 2073] in their cross-examination. The affidavit accompanying the motion of the petitioner points out that the direct testimony of Paul Crouch occupies 387 pages of typewritten transcript. It is also true that his cross-examination occupies 810 pages. As the petitioner points out, the direct testimony of Manning Johnson occupies 163 pages of typewritten transcript; however, his cross-examination covers 194 pages. Finally, while the direct testimony of Harvey Matusow occupies 118 pages, according to the petitioner, his cross-examination occupies 102 pages.

Most of the cross-examination of these witnesses was on collateral matters and was obviously designed to shake their credibility. Further evidence of a collateral nature and further cross-examination on collateral matters would be cumulative and would accomplish nothing. Certainly a reopening of the hearing for such a purpose would be unwarranted, and would accord neither with the dictates of common sense nor the requirements of law.

III. The Findings of the Board Are Supported by Ample Evidence of Testimonial and Documentary Character Apart from the Testimony of the Three Witnesses Sought to Be Discredited.

Contrary to the impression which the petitioner seeks to convey by its moving papers, the testimony of Paul Crouch, Manning Johnson, and Harvey Matusow was not of decisive importance at the hearing. Their testimony can be ignored in toto and the ultimate determination of the Board will remain amply supported by evidence both testimonial and documentary in character. The case presented by the Attorney General is supported by the testimony of twenty witnesses and by more than four hundred and sixty docu-

ments. It is apparent from the record and from the Annotated Report of the Board that the result reached would be the same without the testimony of Crouch, Johnson, and Matusow.

[fol. 2074] In paragraph 4 of the affidavit accompanying its motion, the petitioner asserts that the Board relied on the testimony of Crouch, Johnson, and Matusow to support material and key findings of fact. The petitioner has attached an appendix setting forth the instances in which testimony of these witnesses were cited in support of Board findings; and it has described, in paragraph 4 of the affidavit, what it calls "merely illustrative" examples of the importance which the Board attached to their testimony. As will be demonstrated herein, even these "illustrative" examples, which it is reasonable to assume constitute the petitioner's principal showing, are amply supported by other credible evidence of record in all but one instance. Such other evidence would substantiate the Board's findings in these particulars even were the testimony of the questioned witnesses ignored.

A. The Illustrative Examples

1. Paul Crouch

The petitioner asserts that the Board's finding that the petitioner's 1940 disaffiliation from the Communist International did not alter its relationship to that organization is based upon the testimony of Paul Crouch. The direct evidence upon which the finding is based is found on pages 26 and 27 of the Annotated Report. As is plainly demonstrated on those pages, the witnesses John Lautner and Frank Meyes, as well as Crouch, testified to the effect that the organizational disaffiliation of the petitioner was one of expediency, that it did not change fundamentally the petitioner's relationship with the Soviet Union, and that it in no way affected the petitioner's attitude on the question of proletarian internationalism. This matter was raised by the petitioner at pages 193-195 of its brief filed with this Court, and it is fully discussed in the brief of the respondent, pages 123-125.

It is apparent that the testimony of Paul Crouch is corroborated in substance by that of two other witnesses

who formerly held important positions with the petitioner. [fol. 2075] Although the testimony of Crouch is credible and entitled to weight, it is not indispensable to the finding.

2. Manning Johnson

a. It is stated in the affidavit that the Board relied heavily on the testimony of Manning Johnson for its finding that the authority of representatives of the Communist International superseded that of the petitioner's elected leadership. This statement in substance is found at page 110 of the Annotated Report. The Report itself points out that Johnson's statement is but one example. Another, immediately following in the Report, reads: "Similarly, Petitioner's witness Lautner shows that when a Comintern representative spoke at Party meetings, no one questioned his decisions and they were accepted as the Party line." An actual instance of a Comintern representative, Gerhart Eisler, exercising authority over the leadership of the petitioner is taken from the testimony of Joseph Kornfeder and set forth on pages 111 and 112 of the Annotated Report. At the risk of belaboring the point, attention is invited to the striking testimony of Benjamin Gitlow to the effect that a factional struggle in the petitioner was resolved in Moscow, and representatives of the Comintern with power to nullify any decision of any committee of the petitioner and to expel any member were sent to implement the solution (Annotated Report, pp. 25, 104).

It is obvious from a perusal of the Annotated Report that the findings concerning the existence, activity, and authority of Comintern representatives in the United States are based upon a multitude of evidence from many sources. (*e.g.*, Annotated Report, pp. 22-25, 104, 109-112). These findings are not dependent upon the testimony of Johnson to any material degree.

b. According to the petitioner, the Board relied heavily on the testimony of Johnson in finding that individuals could not hold positions of leadership in the petitioner [fol. 2076] without the approval of the Soviet Union. On page 173 of the Annotated Report, the Board, in treating the subject of reporting to the Soviet Union, stated, "As

positions of leadership in Respondent could not be held without approval of the Soviet Union, advancement in the Party depended in part upon the reflection of a member's work in these reports." Testimony of Johnson is cited as a pilot citation to a finding which is based upon a considerable quantity of other evidence of record set forth in other sections of the Annotated Report. For example, Stalin's settlement of the above-mentioned factional dispute of 1929 whereby the leadership of the minority faction was placed in control of the petitioner is strong support for the statement (Annotated Report, pp. 25, 26, 187). Further support will be found at pages 188 and 189 of the Annotated Report.

The pilot reference to Johnson's testimony at page 173 of the Board's Annotated Report is a minor portion of the evidence upon which the Board found that leadership in the petitioner required the approval of the Soviet Union.

e. The petitioner further claims that the Board relied heavily on the testimony of Johnson for findings that the first and only allegiance of Communists is to the Soviet Union, and that in the event of war between the United States and the Soviet Union, it would be the duty of every Communist to help defeat the United States.

In its Annotated Report, the Board devoted eighteen pages to the subject of allegiance, culminating in the finding that the leaders and members of the Communist Party "consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union." (Annotated Report, pp. 215-233). This finding and the subsidiary findings pointed to by the petitioner are based upon extensive and varied testimonial and documentary evidence, as the briefest glance at the cited pages of the Annotated Report will show. That the contribution of Johnson's testimony is merely cumulative [fol. 2077] and corroborative and in no sense necessary to the findings cannot reasonably be disputed. It was not heavily relied on.

3. Harvey Matusow

a. In paragraph 4 of the affidavit accompanying the petitioner's motion, it is alleged that the Board relied ex-

clusively upon the opinion testimony of Harvey Matusow to support its finding that the petitioner advocated the violent overthrow of the Government in the post-Act period. Once again, the petitioner has overstated the facts. In finding that the petitioner advocates forceful overthrow, the Board relied to a great extent on the contents of the so-called classics of Marxism-Leninism and on their continued use in the post-Act period, in addition to the testimony of witnesses whose membership spanned the entire existence of the Party (Annotated Report, pp. 216-222). There can be little doubt that the Board would have made the same finding with complete justification had there been no testimony by Matusow before it.

b. The affidavit further states that the Board relied exclusively on Matusow's testimony for its finding that the petitioner received financial aid from the Soviet Union in 1949. This is true. However, as the Board pointed out on page 137 of its brief filed with this Court, the finding on financial aid is a comparatively unimportant one in relation to the whole record. Surely it cannot be reasonably argued that the presence or absence of the Matusow testimony would affect the result reached by the Board.

B. The Analytical Appendix

In an appendix attached to the affidavit as a part of the petitioner's moving papers, there is listed in tabular form references to the testimony of Paul Crouch, Manning Johnson, and Harvey Matusow as found in the Annotated Report. The affidavit contains the information that these references total thirty-six in the case of Crouch, twenty-[fol. 2078] five in the case of Johnson, and twenty-four in the case of Matusow. It is highly likely that were identical tabulations made in the case of each of the seventeen other witnesses providing the bulk of the testimony presented by the Attorney General a similar result would be forthcoming. It would not be unreasonable to expect that certain of the others would tabulate significantly higher in number of references. There is no doubt that documentary evidence would tabulate much higher. There are literally hundreds and perhaps thousands of citations in the An-

notated Report. The futility of engaging in the awesome task of making such tabulations, which when completed prove nothing of real aid to the determination of the petitioner's motion, would militate against it even if time permitted.

Investigation of the individual references in the appendix demonstrates that in most instances they are accompanied by citations to the testimony of other witnesses and to documentary evidence in substantiation of the same point. In most instances, the citations to Crouch, Johnson, or Matusow could be stricken and ample authority would remain. This Court can easily satisfy itself that the above is true by checking a few of the references at random. Beyond showing that the testimony of the three witnesses in question was used by the Board in its Report, the tabulation proves nothing.

It should be borne in mind that the conclusion of the Board that the petitioner is a Communist-action organization, as defined in section 3 of the Internal Security Act of 1950, is arrived at on the basis of a number of subsidiary findings which comport with the criteria set forth in section 13(e) of the Act. These subsidiary findings in turn depend upon a vast number of individual findings of fact. Were the testimony of Paul Crouch, Manning Johnson, and Harvey Matusow entirely absent from the record, a relative few of the myriad individual findings might be disturbed. [fol. 2079] The effect could be no greater. It is nonsense to maintain that the result would be in any way changed. The petitioner would still be found a Communist-action organization by overwhelming evidence. A hearing should not be reopened for the reception of evidence which could not change the result. *National Labor Relations Board* v. *J. S. Popper, supra; cf., United States* v. *Thompson, supra.*

## Conclusion

An administrative hearing should not be reopened for the taking of additional evidence which goes solely to issue of credibility in collateral matters, which does not controvert a single fact at issue in the administrative proceeding, and which could not change the result. For these

reasons, it is respectfully submitted that the motion of the petitioners should be denied.

Respectfully submitted, (S.) George R. Gallagher, to General Counsel, Subversive Activities Control Board; (S.) Carl H. Imlay, Attorney, Department of Justice; William F. Tompkins, Assistant Attorney General, Internal Security Division; Harold D. Koffsky, B. Franklin Taylor, Jr., Attorneys, Department of Justice.

[fol. 2080] Certificate of Service (Omitted in printing).

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[fol. 2081] [File endorsement omitted]

In United States Court of Appeals

[Title omitted]

Before: Prettyman, Bazelon, and Danaher, Circuit Judges, in Chambers.

Order Setting Case for Reargument—Filed September 13, 1954

It is ordered by the Court that this case be, and it is hereby, set for re-argument on Thursday, October 21, 1954, at 2:00 P. M., and that each side be allowed one hour for said re-argument.

Counsel shall address themselves primarily to (1) the validity of the Internal Security Act of 1950 if it be deemed to be not merely a registration statute, that is if it be considered an integrated whole, including the so called sanction provisions and (2) the effect, if any, of the Communist Control Act of 1954, upon the order here under review.

The motion filed August 11, 1954, by the Communist Party, petitioner herein, for leave to adduce additional evidence may be argued in conjunction with this re-argument.

It is further ordered by the Court that briefs or memoranda upon the matters above described may be filed at any time prior to the close of business Friday, October 8, 1954;

and reply briefs may be filed prior to noon Tuesday, October 19, 1954. Said briefs may be typewritten or otherwise reproduced, provided that at least an original and three perfectly legible copies are supplied.

Per Curiam.

Dated: September 13, 1954.

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[fol. 2082] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS

[Title omitted]

ORDER DENYING MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE—Filed December 23, 1954

Upon consideration of petitioner's motion for leave to adduce additional evidence in the administrative proceeding before the respondent, of respondent's memorandum in opposition thereto and of the argument of counsel on said motion, it is

Ordered by the Court that the aforesaid petitioner's motion be, and it is hereby, denied.

Per Curiam.

Dated: December 23, 1954.

Circuit Judge Bazelon did not participate in the above order.

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 11850

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, RESPONDENT

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On Petition for Review of Order of the Subversive Activities Control Board

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Decided December 23, 1954

*Mr. Vito Marcantonio* (who died subsequent to the argument), *Mr. John J. Abt*, of the bar of the Court of Appeals of New York, *pro hac vice*, by special leave of Court, and *Mr. Joseph Forer* for petitioner.

*Miss Beatrice Rosenberg*, Attorney, Department of Justice, of the bar of the Court of Appeals of New York, *pro hac vice*, by special leave of Court, *Mr. George R. Gallagher*, General Counsel, Subversive Activities Control Board, and *Mr. David B. Irons*, of the bar of the Supreme Court of Texas, *pro hac vice*, by special leave of Court, with whom *Mr. Frank R. Hunter, Jr.*, Assistant General Counsel, Subversive Activities Control Board, *Messrs. Harold D. Koffsky* and *Carl H. Imlay*, Attorneys, Department of Justice, and *Messrs. Leo M. Pellerzi* and *Ned O. Heinish*, Attorneys, Subversive Activities Control Board, were on the brief, for respondent. *Mr. William A. Paisley*, Attorney, Department of Justice, entered an appearance for respondent.

Before PRETTYMAN, BAZELON and DANAHER, Circuit Judges.

PRETTYMAN, *Circuit Judge:* This is a petition to review an order of the Subversive Activities Control Board, which holds that petitioner is a Communist-action organization within the meaning of the Subversive Activities Control Act of 1950 [1] (Section 3)[2] and as such must register pursuant to the provisions of that Act.[3] The proceeding before the Board was initiated by a petition filed by the Attorney General. Testimony was received by a panel of the Board, the Attorney General presenting twenty-two witnesses and the Party-respondent three witnesses. Documentary evidence was introduced, briefs, proposed findings, and reply briefs were filed, and oral argument was heard. The panel issued a recommended decision, and exceptions to it were filed. Oral argument was had before the full Board, and the Board issued a report and the order here under review.

Petitioner's attack is in three parts, one on the Act itself, one on the order of the Board, and the third on "other reversible errors". In Part One of petitioner's brief the Act is asserted to be invalid upon four grounds. These are: The Act is an outlawry statute, designed to outlaw the Communist Party by legislative fiat; the Act violates the due process clause and is also a bill of attainder; the Act violates the constitutional prohibition against compulsory self-incrimination; and the Act violates the First Amendment. In Part Two of the brief the order of the Board is said to be invalid upon three grounds. The first ground is that the Board so applied the pro-

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[1] This Act is Title I of the Internal Security Act of 1950, 64 STAT. 987 *et seq.*

[2] 64 STAT. 989, 50 U.S.C.A. § 782.

[3] 64 STAT. 993, 50 U.S.C.A. § 786.

visions of Section 13(e)[4] of the Act as to magnify their irrationality. The second ground is that the Board violated the First Amendment. The third ground is that the Board members were subjected to extra-legal pressures and were biased. Part Three of the brief presents six additional assertedly reversible errors. They are: (1) The order is based upon conduct prior to the Act; (2) the Board's findings as to petitioner's pre-Act conduct are based upon incompetent and discredited evidence; (3) the findings with reference to the world Communist movement are not supported by evidence; (4) the findings with reference to the facts are not supported by a preponderance of the evidence; (5) the order must be set aside if it is invalid upon any ground; and (6) the appointments to the Board were made in violation of the Constitution.

We shall not follow petitioner's arrangement of its contentions, but in the course of our consideration we will deal with them all. Because this is a case of first impression, involving a new statute of importance, and because the points of both law and fact are many and vigorously pressed, our discussion will be at some length.

We look first at the statute. It opens with findings of the existence and the nature of "a world Communist movement" in a long recitation of fifteen paragraphs dealing with the nature of the movement abroad and in the United States. The Act defines a Communist-action organization. It declares certain actions to be unlawful. These actions are three in number: (1) for any person to agree with another person to contribute to the establishment in this country of a totalitarian dictatorship controlled by a foreign organization (except by constitutional amendment); (2) for an officer or employee of the United States to communicate to any agent of a foreign government or of any Communist organization any in-

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[4] 64 STAT. 999, 50 U.S.C.A. § 792(e).

formation classified as affecting the security of this country; and (3) for any foreign or Communist agent to receive such information. The next two sections of the Act contain certain prohibitions directed to members of organizations registered under the Act. Then the Act requires the registration of Communist-action and Communist-front organizations, annual reports from such organizations, and registration of members of Communist-action organizations. It provides that the Attorney General keep public registers of Communist organizations. The Act prohibits certain privileges to registered organizations. It establishes the Board and provides for proceedings before it. It delineates a series of considerations which must be made by the Board. It provides for judicial review. Penalties for violation of the Act are provided. A series of amendments to other statutes, such as the Nationality Act of 1940 and the Alien Registration Act of 1940, are made. The last section of the Act is a separability provision.

## I

We reject the Government's contention that we must consider the statute as a registration measure only. The argument is that: The several statutory provisions are separable; the Board's power is to require registration and no more; its order does no more than that; therefore the statute and the order must be treated by us as involving registration and no more. It is true that the provisions of this statute are separable. The Act contains a separability section [5] reading:

> "SEC. 32. If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby."

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[5] Sec. 32, 64 STAT. 1019.

And so, if one provision of this Act is invalid, its fall would not necessarily drag down the remainder of the Act; all other provisions would remain unaffected. But that is not the point of the Government's contention. The Government contends that each provision,[6] even if all are valid, must be treated separately from the others, as though each were an independent enactment unrelated to the others. The question whether one section of a statute can stand when other sections are invalid, and the question whether one valid section of a statute can be treated separately and independently of all other valid sections, are two different questions. The former would raise a separability question. The latter is governed by the elementary rule that a statute must be considered as a whole, in its entirety, all parts together.[7] The Government's argument is, in effect, that this statute is not an integrated unit but is a collection of separate measures. But we think this is not that sort of statute. The mandatory provisions, called "sanctions" in this litigation, in Sections 5, 6, 10 and 11,[8] are attached directly to registration. For example, if an organization is registered, or ordered to register, its mail must be marked and its broadcasts identified. We cannot strip the registration of its attachments. We cannot consider the registration requirement as though it were

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[6] The Government agrees that the disclosure of information required by Section 7(d) may well be considered with the registration requirement.

[7] CRAWFORD, STATUTORY CONSTRUCTION § 165 (1940); cases collected and cited at 50 AM. JUR., Statutes § 352.

[8] "Sanctions" were also imposed by Sections 22 and 25 upon alien members of a registered organization, but those sections have been superseded by the Immigration and Nationality Act of June 27, 1952, 66 STAT. 163, 8 U.S.C.A. §§ 1182, 1251, 1424, 1451.

bare, when it is not bare either in the statute or in factual consequences.

The Government relies upon *Electric Bond Co.* v. *Comm'n.*[9] That case involved the validity of those sections of the Utility Holding Company Act which required registration. It was urged that those sections and various other control provisions were an integrated whole and had to be considered together, as though interdependent one upon the other. The Supreme Court held that both the structure of the Act and the intent of Congress were clear that each provision had a purpose and effect of its own, that the provisions constituted groups of regulations, and that as a practical matter they could be sustained and enforced separately. It held that the statute was not an integrated unit. We think the statute now before us is an integrated unit, although invalid sections may be excised. We must treat the registration requirement as though it involves the sanctions in Sections 5, 6, 10 and 11.[10]

We later point out that Section 8, providing for registration by individual members of an organization, is not attached to organization registration but on the contrary applies when the organization does not register. We think it a separate measure from organization registration.

In the disposition of the problems presented to us we will follow the course indicated by the foregoing. We will consider the so-called "sanction" and other provisions which depend upon or flow from registration of the organization. In so far as such sections are valid we will treat them as integrated with the registration requirement and thus involved in the order before us. In so far as any of such provisions are invalid they may

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[9] 303 U.S. 419, 82 L.Ed. 936, 58 S.Ct. 678 (1938).

[10] See note 8, *supra*.

be excised, being severable, and the valid remainder will constitute the integrated unit. We will lay aside consideration of provisions which do not depend upon organization registration but are in lieu of or take effect in the absence of such registration. Factual bases for consideration of such sections are not before us.

We also quickly dispose of contentions by petitioner that the statutory procedures, as procedures, are inadequate or otherwise invalid. Full administrative hearing (Section 13), full findings (Section 13), and full judicial review (Section 14) are provided. There is no insufficiency in this respect so far as the statute is concerned.

## II

The basic provision of the statute, as it concerns the present litigation, is that a Communist-action organization must register with the Attorney General. Such an organization is defined by the statute [11] as follows:

> "(3) The term 'Communist-action organization' means—
>
> "(a) any organization in the United States (other than a diplomatic representative or mission of a foreign government accredited as such by the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement as referred to in section 2 of this title; and
>
> "(b) any section, branch, fraction, or cell of any organization defined in subparagraph (a) of this paragraph which has not complied with the registration requirements of this title."

[11] Sec. 3, 64 STAT. 989, 50 U.S.C.A. § 782.

Congress defined "the world Communist movement" in several paragraphs in Section 2. of the statute. It is enough for our purposes to quote paragraph (1):

> "(1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization."

For the purpose of testing the validity of the statute itself, as a statute, we must assume that the conditions with which it purports to deal actually exist. The question upon validity is: If the conditions recited in the statute as necessary requisites for action under the statute do actually exist, is the statutory plan for dealing with them valid? The question whether a certain organization is subject to the statute is a different and separate question.

We turn first to the general power of government in the premises. Antipathy to domination or control by a foreign government, or even to interference on the part of a foreign government, is a basic policy in this nation. It was one of the compelling reasons for the making of the Constitution in replacement of the Confederation. Frequent references were made to it in the Constitutional Convention. Mr. Madison went all the way back to the intrigues practiced among the Amphictionic Confederates by the kings of Persia as a citation of the danger of foreign interference.[12] It was the premise of the action of the Government, through President Wash-

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[12] 1 FARRAND, RECORDS OF THE FEDERAL CONVENTION 319 (1911).

ington, in respect to Citizen Genet. It ran through the War of 1812 and the Monroe Doctrine, the fight over the League of Nations, and down to such qualms as there are concerning the United Nations. This country has always unequivocally repudiated any action which has seemed to contain the element of foreign control over our governmental affairs. To declare unconstitutional a statute which would require the registration of an organization, substantially directed, dominated or controlled by a foreign government or by an organization such as the world Communist movement defined in this statute, would be to deny one of the purposes and one of the best-established policies of the government which was created by the Constitution. This is true whether or not the foreign government is coupled with a particular movement.

Self-preservation is a high prerogative of any sovereignty. "Security against foreign danger is one of the primitive objects of civil society," wrote James Madison in the Fortieth *Federalist* paper. And he continued, "It is an avowed and essential object of the American Union." It seems to us that, however high in priority the right of self-preservation is among the prerogatives of sovereign powers in general, it is peculiarly so in respect to the Federal Government presently established in this country. As we conceive the matter, the government established by our Constitution is an instrument for service, particularly for the protection of the security of the people whose servant it is; it is a working tool the value of which lies in its usefulness. It was established by the people themselves; it did not arise of its own accord; it was not imposed from without. Since it was created by the people for the security of the people, especially against foreign encroachment, it has supreme duties both to protect its own existence and to insure that unidentified efforts on behalf of foreign agencies devoted to its disestablishment do not occur. It seems clear beyond question that, if the conditions

described in this statute do actually exist, the presently existing Federal Government has power to prohibit within its borders activity of the sort described; *a fortiori* it has power to require identification of such activities and to impose conditions short of proscription. If there is a world movement for the destruction of all presently existing national governments and for the establishment of a world dictatorship under Communist auspices, and if a given organization in this country is actually under the control of the leaders of that movement and is acting to achieve its objectives, we perceive no reason why the presently existing government in this country should not prohibit the unidentified activity of such an organization or withdraw from its members protections and privileges otherwise afforded by that government. We perceive no basic reason why that government must stand helpless before activities such as those described in this statute.

## III

We come next to the place of the First Amendment in our problem. The initial inquiry is a general question whether the subject matter of the statute is such that impingement upon First Amendment rights may be imposed. If the answer to that query be affirmative, the next inquiry is a specific question whether the restrictions imposed by the statute are reasonably calculated to effectuate the remedial purposes being sought and so are valid although impingements upon the protected rights. We discuss this latter question later in this opinion.

We make the same assumption here that we made in *Barsky* v. *United States*.[13] We assume, without deciding, that this statute will interfere with freedoms of speech

[13] 83 U.S. App. D.C. 127, 167 F.2d 241 (D.C.Cir. 1948), *cert. denied*, 334 U.S. 843, 92 L.Ed. 1767, 68 S.Ct. 1511 (1948).

and assembly. It does not interfere in terms, but we think a realistic view must be taken of restrictions on First Amendment freedoms, and realistically the registration and sanction provisions will erect restrictions upon what otherwise might be a wider latitude of expression. The problem is whether the restrictions imposed are valid in this situation.

In the Party's argument an effort is made to cast the entire controversy over Communism into the form of an ideological or philosophical difference of opinion. It is true that there are such differences of opinion in respect to Communism, and controversy does rage in ideological and philosophical circles. But the problem before us deals with government, and government has intensely practical as well as theoretical aspects. Its aspects may be freely discussed in philosophical dissertations, but in the field of action a government must be realistic and factual. The right to free expression ceases at the point where it leads to harm to the Government. The epigram which has become classic as a designation of that point is "clear and present danger". When danger to government is clear and present, the right of unrestricted speech gives way as do the other basic rights of liberty and life. The "clear" in that epigram is not limited to a threat indubitably etched in every microscopic detail. It includes that which is not speculative but real, not imagined but actual. The "present" in the epigram is not restricted to the climactically imminent. It includes that which exists as contrasted with that which does not yet exist and that which has ceased to exist.

The activities of a world Communist movement such as that described in this statute and of organizations in this country devoted to its objectives constitute a clear and present danger within the meaning of any definition of the point at which freedom of speech gives way to the requirements of government security. The basic

theory of Communism that all presently existing nationalist governments be superseded by a stateless world organization under a proletarian dictatorship, the domination of one world power with all its assets by the Communists, the succession of national capitulations to the forces of that group, and the declared intentions of its leaders in respect to the remainder of the world, are reflected in the recitations in this statute and, moreover, are historic facts which cannot be disputed. We cannot at the present time treat the program and policies of the world Communist movement as a dialectic debate.

A few references will support the proposition. In the *Dennis* case [14] the Supreme Court considered the statute (known as the Smith Act) in which Congress made it unlawful for any person knowingly or wilfully to advocate, etc., the desirability, etc., of overthrowing any government in the United States by force or violence or to organize any society of persons who teach such overthrow. Holding that the power of Congress to protect the Government is beyond question, the Court said: "The question with which we are concerned here is not whether Congress has such *power*, but whether the *means* which it has employed conflict with the First and Fifth Amendments to the Constitution." [15] It held that the Government need not wait "until the putsch is about to be executed"; [16] that, if the Government is aware that a group aiming at its overthrow is attempting to indoctrinate its members and to commit them to a course whereby they will strike when the leaders feel the circumstances permit, action by the Government is required.

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[14] Dennis v. United States, 341 U.S. 494, 95 L.Ed. 1137, 71 S.Ct. 857 (1951).

[15] *Id.*, 341 U.S. at 501.

[16] *Id.* at 509.

An attempt to overthrow the Government by force, the Court held, even though doomed from the outset, is a sufficient evil for Congress to prevent, and a conspiracy to advocate, as distinguished from the advocacy itself, can be constitutionally restrained, because the existence of the conspiracy creates the danger.

Moreover, the right to unimpeded expression of views does not apply to unimpeded conduct. That the protection which surrounds speech does not encompass action is well established. *Thomas* v. *Collins* [17] is a sufficient citation. Thomas had been committed for contempt for violating an order of a Texas court. Texas by statute required labor union organizers to secure organizers' cards before soliciting members. A mass meeting had been arranged in a campaign to organize employees at a plant near Houston. Thomas was to address the meeting. He was served with an order of the court, which mentioned the prospective speech and enjoined him from soliciting memberships without an organizer's card. The Supreme Court held that "a requirement that one must register before he undertakes to make a public speech to enlist support for a lawful movement is quite incompatible with the requirements of the First Amendment." [18] But the Court went on to say:

> "Once the speaker goes further, however, and engages in conduct which amounts to more than the right of free discussion comprehends, as when he undertakes the collection of funds or securing subscriptions, he enters a realm where a reasonable

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[17] 323 U.S. 516, 89 L.Ed. 430, 65 S.Ct. 315 (1945).

[18] *Id.*, 323 U.S. at 540.

registration or identification requirement may be imposed." [19]

If the mere solicitation of funds for a lawful cause is sufficient conduct to validate the restrictive police power of a state, operation to achieve the objectives of a movement such as this statute describes is conduct sufficient to invoke federal regulatory power.

Clearly the aim of the statute before us is at action and conduct rather than at mere speech and assembly. A purpose to establish a totalitarian dictatorship, posited in paragraph (1) of Section 2 of the Act,[20] is itself a program of action rather than of mere discussion. Surely no one can be naive enough to believe that such a cataclysmic change in the system of government in this country could be accomplished without action as distinguished from words. And the terms used in paragraph (1) of Section 2 to describe the means adopted by the world Communist movement—infiltration into other groups, espionage, sabotage, terrorism—are terms of action. It is a program of action; it involves the Government. It can be met with action by the Government.

The opinions in *American Communications Ass'n* v. *Douds* [21] are pertinent. That case concerned paragraph 9(h) of the National Labor Relations Act as amended,[22] which denied the privileges of the National Labor Relations Board to labor organizations unless each officer filed an affidavit that he was not a member of the Com-

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[19] *Ibid.* To the same effect are Breard v. Alexandria, 341 U.S. 622, 641 *et seq.*, 95 L.Ed. 1233, 71 S.Ct. 920 (1951), and Giboney v. Empire Storage Co., 336 U.S. 490, 93 L.Ed. 834, 69 S.Ct. 684 (1949).

[20] Quoted *supra.*

[21] 339 U.S. 382, 94 L.Ed. 925, 70 S.Ct. 674 (1950).

[22] 61 STAT. 146 (1947), 29 U.S.C.A. § 159(h).

munist Party. Sustaining the constitutionality of the provision, the Supreme Court held, *inter alia*, that Congress has power to protect interstate commerce; that Congress had before it a mass of material which tended to show that Communists had infiltrated union organizations to make them a device by which commerce might be disrupted; that the remedy provided bore a reasonable relation to the evil which the statute was designed to reach; that Congress might reasonably find that Communists, unlike members of other political parties, represent a continuing danger of disruptive political strikes; that Congress, not the courts, is primarily charged with the determination of the need for regulation of activities affecting interstate commerce; that the legislative judgment that interstate commerce must be protected from a continuing threat of unlawful strikes is a permissible one; that the Act does not suppress belief nor prohibit those who hold beliefs from engaging in any above-board activity; and that the answer to the implication that if the statute were upheld the power of government over beliefs would be as unlimited as its power over conduct, is that that result does not follow "while this Court sits". The concurring opinions throw much light upon the problem.

It seems clear to us that, if Congress, in order to protect interstate commerce, can validly deny the privileges of union office to members of the Communist Party because of the program of that Party, it can, in order to protect the Government itself, impose restrictions upon adherents of a world Communist movement such as that described in this statute.

So we are of opinion that the field in which this statute lies is one in which Congress can impose restrictions upon First Amendment rights, and that the specific evil at which the statute is aimed is one which justifies remedial steps even though such steps are restrictions upon those rights. There remains the question whether

the statutory restrictions go beyond the bounds permitted to remedies for the evil here under attack. We postpone that discussion for the moment. See VI hereinafter.

## IV

Our next consideration is the protection of the Fifth Amendment. Two clauses are involved in the argument—the protections against being compelled to be a witness against oneself and against being deprived of liberty or property without due process of law.

It is said that the revelation of the membership list, required upon registration, would tend to incriminate the members under the Smith Act,[23] and that the revelation would therefore be in violation of the privilege against self-incrimination. But the membership records of an organization are not protected by the privilege. If a grand jury subpoenaed the membership roll of the Party, the custodian of the list, whether or not he was an officer or member, would be compelled to produce. This is made amply clear by *United States* v. *White*.[24] In that case a grand jury had subpoenaed an official of a labor union to produce certain union records. He declined upon the ground that they might tend to incriminate the union or himself as an officer or individually. He based his claim upon a statute which made it a crime to induce any person employed in certain work to "kickback" part of his compensation. The Supreme Court held that the privilege did not apply. It held, first, that the privilege is essentially a personal one, applying to natural individuals only. It then held that the papers which the privilege protects must be the private property of the person claiming the privilege, or at

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[23] Blau v. United States, 340 U.S. 159, 95 L.Ed. 170, 71 S.Ct. 223 (1950).

[24] 322 U.S. 694, 88 L.Ed. 1542, 64 S.Ct. 1248 (1944).

least in his possession in a purely personal capacity, and that individuals acting as representatives of a collective group are not exercising personal rights. The Court said it was unnecessary to determine whether the official was or was not a member of the union, because in any event he could not invoke the privilege. The decision and the opinion apply to the present case. If labor union records are not subject to the privilege in order to protect union members from criminal prosecution, the records of a Communist-action organization, as that term is defined in Section 3 of this statute, are not within the protection. The records of a political party are more "impersonal" than are the records of a labor union.

That the records of the Communist Party are covered by the ruling in the *White* case is established by *Rogers* v. *United States*.[25]

The Party argues that the registration provisions of the statute before us do not call for the production of books or records but require the preparation and submission of a registration statement. That statement must contain (Section 7(d)) the name and address of the organization, the names and last-known addresses of the officers and members, an accounting of moneys received and expended, and, in the cases of officers and members who are known by more than one name, such other names. The Party says that such a statement is protected by the privilege even though books and records are not. But membership lists and accountings for money furnished by an organization are reproductions of or extracts from organization records. And if the records can be compelled oral testimony "auxiliary to the production" can be compelled.[26] Whether such rec-

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[25] 340 U.S. 367, 95 L.Ed. 344, 71 S.Ct. 438 (1951).

[26] United States v. Field, 193 F.2d 92 (2d Cir. 1951), *cert. dismissed*, 342 U.S. 908, 96 L.Ed. 679, 72 S.Ct. 303 (1952).

ords are kept formally or informally is immaterial. No additional explanatory testimony is required by this statute.

Moreover Congress could require Communist-action organizations to keep membership lists and accounting records. The opinion in *Bryant* v. *Zimmerman*[27] establishes that proposition. The provisions of this statute in effect make such a requirement. The Government requires many organizations to keep records. For example, it required all business houses to keep price records when prices were under Government control. To say that a Communist-action organization, as that term is defined in this statute, could not be required to keep records of its membership and its moneys is wholly untenable in our view. If these are matters of which organization records could be required, they fall squarely within the rule in the *White* case, *supra*.[28] As to a registration statement we think the *White* case applies.

Under the *White* case no privilege exists as to organization records—even for the individual who produces and signs them. But, even if the *White* case did not apply, the privilege would protect only the person called upon to sign or swear to the statement, and would protect him only in so far as his own name was involved. The privilege would not protect all members against one person's swearing that they are members, or protect one person against swearing that persons other than himself are members.[29]

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[27] 278 U.S. 63, 72, 73 L.Ed. 184, 49 S.Ct. 61 (1928). And see Shapiro v. United States, 335 U.S. 1, 92 L.Ed. 1787, 68 S.Ct. 1375 (1948), and cases there cited.

[28] Wilson v. United States, 221 U.S. 361, 55 L.Ed. 771, 31 S.Ct. 538 (1911). See discussion at 68 HARV. L. REV. 340 (1954).

[29] It might be urged that even if a person has no privilege against revealing his own membership he has a privilege against revealing the names of other members, since the

We assume for a moment, *arguendo*, that the *White* case does not apply here. We have, then, the problem of the individual who is required to sign the organization registration statement as an executive official of the Party. See Section 7(h) of the statute. By that act alone, even if he were to omit his own name from the list, he would be admitting that he is a member and an officer of the Party. We must make definite the question here posed. It is whether an order directing an organization to register is invalid because the officer who would be required to sign the registration statement would thereby be admitting a membership which might be a basis for a prosecution against him.

The statute provides (Section 4(f)) that the fact of a registration cannot be admitted in evidence in any criminal proceeding and that mere membership in a registered organization is not a violation of any criminal statute. No person called upon to sign is in danger of a prosecution which depends upon the bare fact of registration. So the protection here discussed is against the fringe effects (*e.g.*, a lead to evidence of some offense not premised upon mere membership) of signing the statement.

Several considerations are pertinent. In the first place the privilege against self-incrimination is a privilege which must be explicitly claimed. This rule has been firmly established.[30] We are urged to create an exception of law for the present case, but we see no justification for doing so. Then, since the privilege

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latter revelation might involve him in a conspiracy charge. The contrary was established by *Rogers* v. *United States*, *supra*.

[30] United States v. Monia, 317 U.S. 424, 427, 87 L.Ed. 376, 63 S.Ct. 407 (1943); Rogers v. United States, *supra*, 340 U.S. at 370; United States v. Murdock, 284 U.S. 141, 148, 76 L.Ed. 210, 52 S.Ct. 63 (1931).

must be claimed in order to bring it into play, it is by no means inevitable that a conflict would ensue between this order for registration and the privilege clause. We do not know as of now that the executive officers of the Party would claim the privilege; they might not. The only incriminatory results flowing from the act of signing would be corollaries to the fact of membership in the Party. This record shows that the Chairman and the Executive Secretary of the Party have never attempted to conceal their membership or their places of leadership. On the contrary they have proclaimed it often and publicly, both in writing and in speaking. We have no basis for assuming that they would claim protection against a mere revelation of their membership.

It is suggested to us that a statute or administrative order which places an individual in a position where he must claim his privilege in order to avoid incriminating himself is invalid. It is said claiming the privilege is incriminatory and so to force a person to claim the privilege is to force him to incriminate himself. We think the suggestion is not sound. One does not admit guilt by claiming the privilege; he merely says that an answer would tend to incriminate him, which means that it might involve him in a criminal proceeding.[31] Moreover, if the suggestion were good law, many avenues of legitimate inquiry would be shut off. For example, the statutes imposing punishment for refusal to answer questions would be invalid, because they compel people to claim the privilege.

In the second place it is by no means certain that all the executive officers of our petitioner Party have any privilege in respect to the fact of their membership in

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[31] This is the tenor of federal cases from United States v. Burr, 25 Fed. Cas. 38, No. 14,692e (C.C.Va. 1807), down to Hoffman v. United States, 341 U.S. 479, 95 L.Ed. 1118, 71 S.Ct. 814 (1951).

the Party. The precise provision of the Constitution is that no person shall be compelled to be a witness against himself in a criminal proceeding.[32] Practical considerations, obvious on the face of things, caused the courts to extend that language from its literal content to cover any compulsion to speak where the result would tend to incriminate. But an essential element in the latter doctrine is that the spoken matter would reveal or disclose something, or supply a needed confirmation of something suspected or only partly known. This is a note clearly struck in the cases dealing with the subject.[33] The Supreme Court said in the *Rogers* case:[34] "Since the privilege against self-incrimination presupposes a real danger of legal detriment arising from the disclosure, petitioner cannot invoke the privilege where response to the specific question in issue here would not further incriminate her."

The constitutional provision is not an empty legalism. It is a realistic barrier between the obligation of a citizen to give evidence and the injustice of inquisition by force. It was designed to achieve a precious protection. But, when it has no factual purpose under given circumstances, no reason exists for its application. If a required word does not in fact tend to incriminate the compelled witness, to interpose the barrier to the other-

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[32] See Huard, *The Fifth Amendment—An Evaluation,* 42 GEO. L.J. 345 (1954).

[33] Hoffman v. United States, 341 U.S. 479, 95 L.Ed. 1118, 71 S.Ct. 814 (1951); Mason v. United States, 244 U.S. 362, 61 L.Ed. 1198, 37 S.Ct. 621 (1917); Heike v. United States, 227 U.S. 131, 143-4, 57 L.Ed. 450, 33 S.Ct. 226 (1913); Brown v. Walker, 161 U.S. 591, 600, 40 L.Ed. 819, 16 S.Ct. 644 (1896); United States v. Burr, 25 Fed. Cas. 38, No. 14,692e (C.C.Va. 1807); *Ex parte* Irvine, 74 Fed. 954 (C.C.S.D.Ohio 1896).

[34] *Supra,* 340 U.S. at 372-3.

wise proper process of the law would be to make a mockery of a valued instrument. We turn to the facts before us. Some of these executive officials have been convicted and have served their sentences under the Smith Act, because they organized the Party.[35] Some of them, as we have said, have many times in public print and places asserted membership in the Party. Two members of the National Committee of the Party came forward voluntarily and testified in the proceeding at bar, stating that they are members. In no event could one of these persons be compelled to take the stand as a witness against himself in a criminal case; but in a non-criminal proceeding could he be required to state something which would not in actual fact be a valuable link in a prosecution against him? We do not decide the point, but we note in connection with the suggestion now under discussion that another revelation of the membership in the Party of some of its executive officials may not constitute any real danger of legal detriment to them or tend further to incriminate them. Those officials of the Party may not now have a privilege in respect to their Party membership.

In the next place we do not know and cannot assume what the Attorney General might do under the new Immunity Statute[36] if an executive officer of an organization called upon to sign an organization registration statement had a valid right to the privilege and claimed it. Under that statute the courts have broad powers to grant immunity, upon application of the Attorney General, in proceedings before them involving violations of the statute here involved. We do not decide the

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[35] United States v. Dennis, 183 F.2d 201 (2d Cir. 1950), *aff'd*, 341 U.S. 494, 95 L.Ed. 1137, 71 S.Ct. 857 (1951).

[36] 18 U.S.C. § 3486(c), Pub. L. No. 600, 83d Cong., 2d Sess. (Aug. 20, 1954).

validity or meaning of the Immunity Statute, but we note the possibility that under this new act a person under compulsion to sign a statement which would tend to incriminate him might be granted immunity from prosecution.

In the next place, even if the suggestion under discussion were true, *i.e.*, even if one or all executive officials of an organization validly invoked the privilege, so that no one could be compelled to sign the registration, the utmost result would be that the statute and order would be unenforceable. We think they could not be held to be invalid merely because they might conceivably be unenforceable in a given case. The problem of the practicality of enforcement arises when enforcement efforts are made.

The foregoing considerations lead us to a clear conclusion upon the point. We have before us an order addressed to an organization as such; it is not addressed to any individual. We conclude that neither the statute nor the order requiring an organization to register can be held invalid because of the possibility that the person or persons required to sign on behalf of the organization might be called upon to claim a privilege against self-incrimination, or that such a claim if made would be sustained, or that an application for immunity would not be made or would not be validly granted, or that the statute or order might not be enforceable.

*Boyd* v. *United States*[37] is urged upon us as contrary to the foregoing views. But we do not so read that case. In the first place it dealt with personal, private papers, and the Court made that fact a key to the decision. The production of private papers and the production of organization papers "differ *toto coelo*", the Court said. In later cases the Court has emphasized

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[37] 116 U.S. 616, 29 L.Ed. 746, 6 S.Ct. 524 (1886). For a discussion of the *Boyd* case see 8 WIGMORE, EVIDENCE § 2184 (3d ed. 1940).

that feature of the *Boyd* case.[38] In the second place the statute in that case authorized the compulsory production directly for use in a forfeiture case under a criminal statute. In the case before us, as we have sufficiently noted, the revealed membership is not *per se* a violation of any criminal statute, and the fact of the registration cannot be shown in evidence in any criminal case. We think the *Boyd* case is not in point here.

The information required on a registration statement as to members with more than one name poses a slightly different problem. In so far as the other names appear on organization records, they are covered by the foregoing. In so far as they are names of persons other than the person signing the statement, they have no privilege in his hands. Whether an individual known by several names, and called upon to sign or swear to a registration statement, is privileged to refuse to reveal his own other names is not before us; decision upon it must await the happening and a claim of the privilege.

*United States* v. *Daisart Sportswear*,[39] relied on by the Party, does not apply to the problem before us. It concerned the one individual who testified under compulsion and who claimed immunity.

The Party says the requirement of Section 8 of the statute that an individual member register himself as a member violates the protection against self-incrimination and so invalidates the statute. This section provides that

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[38] Wilson v. United States, *supra* note 28, 221 U.S. at 377; Essgee Co. v. United States, 262 U.S. 151, 158, 67 L.Ed. 917, 43 S.Ct. 514 (1923); Nathanson v. United States, 290 U.S. 41, 47, 78 L.Ed. 159, 54 S.Ct. 11 (1933); United States v. White, *supra*, 322 U.S. at 699; Shapiro v. United States, 335 U.S. 1, 33, 92 L.Ed. 1787, 68 S.Ct. 1375 (1948).

[39] 169 F.2d 856 (2d Cir. 1948), *rev'd on other grounds sub nom.* Smith v. United States, 337 U.S. 137, 93 L.Ed. 1264, 69 S.Ct. 1000 (1949).

an individual member must register himself as a member if an organization finally ordered to register fails to do so, or if upon registering and filing its membership list the organization fails to include the member's name. The section operates when an organization does not register or fails to register accurately. It is an alternate, rather than an attachment, to the registration of the organization. As such it poses a separate and independent problem from that posed by the requirement for organization registration. To reach the problem posed under Section 8 we would have to assume that the Party will not register if it is finally ordered to do so, or that if it registers its membership list will be incomplete. But we cannot make such assumptions. An opinion based upon them would be merely an advisory opinion, which we have no power to render. We have before us only an order requiring the organization to register. Section 8 is separable; if it were held to be invalid its fall would not affect organization registration; it is not before us; its validity is not involved in the order here under review. We do not consider any problems which might be posed by it.

V

The due process of law clause is the basis for two contentions by the Party. The first is that the application of the sanctions to members of a registered organization deprives those members of rights and privileges solely because of their membership in an organization, and that this violates due process. The second contention is that the statute violates procedural due process.

We come first to the sanctions imposed upon members respecting Government and defense facility employment (Section 5(a)(1)) and applications for passports (Section 6). One must note that the condition upon which these sanctions apply is membership; it is not a mere listing as a member in a registration statement. One of

the two provisions refers to "any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final"; the other section contains similar language. Membership in an organization is of course a fact, and if one is actually a member he knows it. The statute before us requires that before these sanctions apply a member must have "knowledge or notice" that the organization has registered or been finally ordered to register. If the organization has registered as a Communist-action organization without an order to do so, it has voluntarily agreed that it is such an organization. If a final order has been entered against it, its nature as such an organization has been determined by full administrative proceedings, fully reviewed by the courts. So notice or knowledge of registration carries knowledge or notice of the nature of the organization; its nature has been either admitted or established. The statute provides for notice to every listed member of a registered organization, and it is to that notice that the statute here refers. If a member has either notice of the registration or knowledge of it through some other means, the sanctions apply to him. Thus there are three requisites for application of the sanctions to members: (1) The person must be a member; (2) the organization must be registered or finally ordered to register; and (3) the person must have knowledge or notice of the registration or order.

There is no novelty in the application of civil prohibitions to members of organizations. For example, an officer, director or employee of a stock investment house cannot be an officer, director or employee of any Federal reserve bank;[40] and a member of one political party cannot become a member of the Federal Communications

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[40] 48 STAT. 194 (1933), as amended, 12 U.S.C.A. § 78.

Commission if a majority of that Commission are already members of that party.[41]

That a sanction may be imposed upon members of an organization which advocates the overthrow of the Government by force is established by *Adler* v. *Board of Education*[42] and *Wieman* v. *Updegraff*.[43] In the *Adler* case the Supreme Court held:

> "Membership in a listed organization found to be within the statute and known by the member to be within the statute is a legislative finding that the member by his membership supports the thing the organization stands for, namely, the overthrow of government by unlawful means. We cannot say that such a finding is contrary to fact or that 'generality of experience' points to a different conclusion. Disqualification follows therefore as a reasonable presumption from such membership and support." [44]

In the *Wieman* case an Oklahoma statute required state employees to take an oath that the affiant was not affiliated with any agency, etc., officially determined by the United States Attorney General to be a subversive organization. The Supreme Court held the statute invalid. The Court distinguished *Garner* v. *Los Angeles Board*,[45] the *Adler* case, and *Gerende* v. *Election Board*,[46] on the grounds that in each of those cases knowledge on the part of the employee was implicitly or explicitly required. In *Wieman* the Court found that the oath would exclude persons solely on the basis of organizational

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[41] 48 STAT. 1066 (1934), as amended, 47 U.S.C.A. § 154.

[42] 342 U.S. 485, 96 L.Ed. 517, 72 S.Ct. 380 (1952).

[43] 344 U.S. 183, 97 L.Ed. 216, 73 S.Ct. 215 (1952).

[44] *Supra*, 342 U.S. at 494-5.

[45] 341 U.S. 716, 95 L.Ed. 1317, 71 S.Ct. 909 (1951).

[46] 341 U.S. 56, 95 L.Ed. 745, 71 S.Ct. 565 (1951).

membership regardless of their knowledge concerning the organization. It said: "Indiscriminate classification of innocent with knowing activity must fall as an assertion of arbitrary power." [47]

In *Bryant* v. *Zimmerman, supra,* the Supreme Court upheld the validity of a requirement that certain organizations report their membership lists against an attack based upon the due process clause. The discussion is apt here.

We think the requirement in this statute that a member have knowledge or notice of the registration of the organization, which means that he has knowledge or notice of the nature of the organization, before these sanctions apply to him, satisfies the due process clause so that sanctions could be premised upon membership under the doctrine of the *Adler* and similar cases.

A special argument is made by the Party in respect to the denial of passports by Government officers under Section 6(b). That section provides that officials shall not issue a passport to an individual if they know the individual is a member of a registered Communist-action organization or if they have reason to believe the individual is a member of such an organization. The latter clause gives rise to the problem. Under it an official may deny the passport if he merely "ha[s] reason to believe". If that provision is valid, knowledge on the part of the individual as to the nature of the organization to which he is supposed to belong would not be a requisite for denial of the passport. We do not pass upon the point, because such a situation is not before us; it does not depend upon registration but upon considerations not necessarily even factual. The provision is severable.

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[47] *Supra,* 344 U.S. at 191.

In this part of its argument the Party groups with the sanctions just discussed the penalty provided by Section 15(a)(2) for individuals who fail to comply with an individual's obligation to register. But such a penalty does not flow from organization registration; it is an alternate provision, not before us. We do not consider it.

We postpone to Part VI of this opinion consideration of the provisions relating to aliens and denaturalization.

We have next the question of procedural due process of law. This general question involves several specific questions. Is procedural due process of law afforded: (1) An organization from which registration is demanded? (2) An organization faced with sanctions to be imposed upon it because it is registered? (3) An individual listed, or proposed to be listed, as a member of a registered organization? (4) An individual threatened with sanctions because of membership in a registered organization? (5) An individual threatened with criminal prosecution by reason of membership in a Communist-action organization?

We have already noted that the provision for the registration of an organization, which involves a determination of its nature, complies with procedural due process. In so far as sanctions—identification of mail and broadcasts and denial of tax benefits—imposed upon an organization, registered or ordered to register, are concerned, the due process afforded by the procedure required for compulsory registration constitutes due process as to the results inherent in the registration and applicable to the registering organization as an organization. In so far as the listing of a name of an individual is concerned, the statute contains detailed provisions whereby one who has been listed erroneously or who leaves the organization can secure the removal of his name from the list before the list is made public. It provides for an individual notice of a listing (Section 7(g)), an application to the Attorney General (Section

13(b)), an appeal to the Subversive Activities Control Board (Section 7(g) and Section 13(b)), and review by the courts (Section 14). In so far as the rights of a person who denies the fact of membership are concerned, not only the foregoing procedure in respect to the listing but all other procedures ordinarily open to a person asserting such a denial are left open in this statute.[48] This statute does not negate any procedural rights otherwise available to a person entering upon a factual controversy. We do not attempt to determine here the validity of the administrative procedures ordinarily open to Government employees and to applicants for passports. This statute leaves all such procedures available for the determination of a disputed claim that a person is a member of a registered organization. Neither the Lloyd-LaFollette Act,[49] which protects Government employees, nor the Secretary of State's procedural passport regulations[50] are repealed or amended by this Act. This statute itself imposes no restriction upon procedural due process. Whether some other statute or regulation does so is not now before us. Moreover the courts are open

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[48] The Act as originally passed provided (Sections 5(c) and 6(c)) that a person who is listed on a membership list in a registration statement and who inaugurates a contest against such listing should not be deemed to be a member of an organization for purposes of the sanctions during the period of the contest and until he has lost and his name has been published as a member. Those provisions were repealed by Section 7(c) of the Communist Control Act of 1954, 68 STAT. 775, 778, and so one who is a member is subject to the sanctions without the interval of immunity. But the presence of such an immunity period is not a due process requirement. Due process is afforded if a person has full opportunity to get off a list and full opportunity to prove he is not a member if he is asserted to be one and thus liable to sanctions or penalties.

[49] 37 STAT. 555 (1912), as amended, 5 U.S.C.A. § 652.

[50] 22 CODE FED. REGS. Part 51.

for an ousted Government employee,[51] and would be open to a person denied a passport under the requirement of this statute. The reviewability of the State Department's denial of a passport in ordinary cases is a disputed question[52] because of the official discretion involved. The statute before us neither adds to nor detracts from that general reviewability. But, certainly, so far as a denial might be premised upon a mandatory requirement of this statute, *e.g.*, Section 6, the courts would be open for review of the action under the statute. In so far as due process is required preliminary to any damage or inconvenience caused by the publication of a listing of a person's name as a member, the statute protects him from publicity until he has exhausted the process, already described, available to test the presence of his name on the list. In so far as criminal prosecutions are concerned, the statute (Section 4(f)) provides: "Neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of * * * any * * * criminal statute. The fact of the registration of any person * * * as an officer or member of any Communist organization shall not be received in evidence against such person in any prosecution * * * for any alleged violation of any * * * criminal statute."

Thus it seems to us that procedural due process is afforded in each of the several situations presented to us for consideration in this respect.

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[51] See Roth v. Brownell, 93 U.S. App. D.C. —, 215 F.2d 500 (D.C.Cir. 1954), *cert. denied*, 23 U.S.L. WEEK 3108 (U.S. Oct. 25, 1954).

[52] Note, *Passports and Freedom of Travel: The Conflict of a Right and a Privilege*, 41 GEO. L.J. 63 (1952); Comment, *Passport Refusals for Political Reasons: Constitutional Issues and Judicial Review*, 61 YALE L.J. 171 (1952).

## VI

We come now to examine severally, in respects not already discussed, the restrictions (or so-called "sanctions") imposed by the statute upon registered organizations and their members. This includes the question whether each sanction is reasonably related to the substantive evil at which Congress was aiming, a pertinent inquiry under the First Amendment. See III hereinabove.

When a Communist-action organization is registered the following consequences ensue: (1) No member with knowledge or notice of the registration can have nonelective Government employment or employment in a defense facility (Section 5); (2) no member can obtain a passport (Section 6); (3) organization mail and broadcasts must be identified as originating with a Communist organization (Section 10); (4) alien members are excludable, deportable, and ineligible for naturalization (Sections 22 and 25);[53] (5) tax deductions and exemptions are withdrawn (Section 11); and (6) certain members are subject to denaturalization (Section 25).[54]

Preliminarily we note that the requirement for registration in and of itself presents no difficulty. It is no more than we customarily require of many organizations, such as lobbyists[55] and foreign agents,[56] and even of doctors, lawyers, restaurants and barbers, who are required

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[53] Carried forward in Sections 212(a)(28)(E); 241(a)(6)(E), and 313(a)(2)(G) of the Immigration and Nationality Act of June 27, 1952, 66 STAT. 185, 205, 240, 8 U.S.C.A. §§ 1182(a)(28)(E), 1251(a)(6)(E), 1424(a)(2)(G).

[54] Carried forward in Section 340(c) of the Immigration and Nationality Act of June 27, 1952, 66 STAT. 261, 8 U.S.C.A. § 1451(c).

[55] 60 STAT. 841 (1946), 2 U.S.C.A. § 267. See United States v. Harriss, 347 U.S. 612, 98 L.Ed. —, 74 S.Ct. 808 (1954).

[56] 52 STAT. 632 (1938), as amended, 22 U.S.C.A. § 612.

to register and obtain licenses. The requirement for an accounting of moneys received and expended is no more than is required of any political party,[57] and since petitioner claims to be a political party we see no invalidity in the application to it of such a requirement. The requirement that a political organization list its members is similar to the customary requirement in the states that persons participating in the activities of a political party, such as primaries, conventions, etc., register publicly as members.

The provisions respecting employment by the Government are in Section 5 of the statute. Congress has forbidden political activity to Government employees, and the Supreme Court has sustained the enactment.[58] The power in this respect as it concerns members of Communist organizations was specifically sustained in *Adler* v. *Board of Education, supra*, as to the public schools. The general power over executive employees was discussed at length in *Bailey* v. *Richardson*.[59]

The restrictions upon Government employment are directly related to the substantive evil at which Congress was aiming in this statute. Infiltration of government by world Communist adherents is one of the specified evils recited by the Congress, and certainly a prohibition of Government employment to such adherents is a direct attack upon that evil. Indeed we can think of no more direct relationship than that which would exist between the objectives of the world Communist movement, as it is described in this statute, and the occupation of Government positions by members of a Communist-action organization.

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[57] 43 STAT. 1071 (1925), 2 U.S.C.A. § 244.

[58] United Public Workers v. Mitchell, 330 U.S. 75, 91 L.Ed. 754, 67 S.Ct. 556 (1947).

[59] 86 U.S. App. D.C. 248, 182 F.2d 46 (D.C.Cir. 1950), *aff'd*, 341 U.S. 918, 95 L.Ed. 1352, 71 S.Ct. 669 (1951).

We think the considerations which validate power to forbid Government employment likewise support the power to forbid defense facility employment. The latter employment is sensitive business, and it would be sheer folly to say that the Government cannot close the gates of such facilities against those who are knowingly members of organizations under the dominion of a foreign government.

The provision respecting passports is in Section 6 of the statute. A passport is addressed to foreign governments and requests for the holder "permission to come and go as well as lawful aid and protection."[60] An American passport, says Hackworth,[61] "indicates that it is the right of the bearer to receive the protection and good offices of American diplomatic and consular officers abroad and requests on the part of the Government of the United States that the officials of foreign governments permit the bearer to travel or sojourn in their territories and in case of need to give him all lawful aid and protection." Only rudimentary reasoning is necessary to a conclusion that the Government may validly decline to confer its diplomatic protection upon, and to request foreign governments to give aid and protection to, a member of an organization operating primarily to achieve the objectives of a world movement such as the Communist movement is defined to be in the statute. Surely a government owes no duty of protection to those who, dominated by a foreign organization, seek its overthrow. Congress can narrow the scope of the passport privilege, so long as the limitation is reasonable.

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[60] United States v. Browder, 113 F.2d 97, 98 (2d Cir. 1940), quoting BORCHARD, DIPLOMATIC PROTECTION OF CITIZENS ABROAD.

[61] 3 HACKWORTH, DIGEST OF INTERNATIONAL LAW c. 10, § 259 (1942).

Under current rules a person must have a passport in order to leave the United States to go outside this hemisphere.[62] It is urged that that is a restriction upon liberty and is without due process because unrelated to the congressional purpose. But we need not, and do not, enter upon consideration of that question, because, whatever else a passport may validly do, it serves the purposes enumerated by Hackworth, *supra*, and that feature is enough to support denial. We think this provision is directly related to the congressional purpose in this statute and is otherwise valid.

The provision respecting the identification of mail and broadcasts (Section 10) applies to a registered organization, not to the individual members as such. It requires the mail of such an organization to bear the label "Disseminated by ————, a Communist organization". It requires similar identification of broadcasts. No censorship of content is imposed. Congress has frequently imposed limitations upon the use of the mails[63] and on broadcasting.[64] All paid broadcasting must be identified by the name of the person paying for it.[65] So far as our present petitioner is concerned, there seems little to choose between identification as "The Communist Party", as it would be identified without the statute here involved, and

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[62] 22 CODE FED. REGS. §§ 53.1, 53.2.

[63] 25 STAT. 874 (1889), 39 U.S.C.A. § 256; REV. STAT. § 3224, as amended, 39 U.S.C.A. § 259; REV. STAT. § 4041, as amended, 39 U.S.C.A. § 732; 52 STAT. 114 (1938), 15 U.S.C.A. §§ 52, 53; 48 STAT. 77 (1933), as amended, 15 U.S.C.A. § 77e.

[64] 48 STAT. 1088 (1934), as amended, 47 U.S.C.A. § 315; 48 STAT. 1089 (1934), 47 U.S.C.A. § 317. See Trinity Methodist Church, South v. Federal Radio Comm'n, 61 App. D.C. 311, 62 F.2d 850 (1932), *cert. denied*, 288 U.S. 599, 77 L.Ed. 975, 53 S.Ct. 317 (1933).

[65] 48 STAT. 1089 (1934), 47 U.S.C.A. § 317.

as "a Communist organization", which is what this statute requires. Moreover broadcasting is permeated with a public interest,[66] and surely the people are entitled to know when an organization which falls within the definition of a Communist-action organization in this statute is addressing them over the air. All political parties identify themselves on the air; otherwise their appeals are useless. The only conceivable reason for anonymity of political broadcasting is a purpose of deception, and that purpose is enough to validate a requirement of identification.

All publications relating to candidates for elective office in the Federal Government must be identified, showing the names of the persons, associations, committees and corporations responsible for the publication or distribution, under heavy penalties for failure to do so.[67] Newspapers must plainly mark as "Advertisement" all editorial or other reading matter for which a consideration is received.[68] All agents of foreign governments must identify "political propaganda" sent through the mails.[69] It is difficult for us to perceive much substance in the claim that the provisions for the identification of the mail and broadcasts of an organization finally required to register under this Act are invalid. First principles protect the right of the public to be advised of the identity of an organization found to be promoting the objectives of the world Communist movement, as that movement is here defined.

The provisions respecting aliens, which were in Sections 22 and 25 of the statute before us, have been carried

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[66] National Broadcasting Co. v. United States, 319 U.S. 190, 226-7, 87 L.Ed. 1344, 63 S.Ct. 997 (1943).

[67] 62 STAT. 724 (1948), as amended, 18 U.S.C. § 612.

[68] 37 STAT. 554 (1912), 39 U.S.C.A. § 234.

[69] 52 STAT. 632 (1938), as amended, 22 U.S.C.A. § 614.

forward into the 1952 Immigration and Nationality Act.[70] Under the latter provisions sanctions apply to aliens who are members of organizations registered under the Act now before us. We therefore consider them. That membership in the Communist Party is a valid ground for the deportation of an alien is settled by *Galvan* v. *Press*,[71] and that it is a valid ground for denial of bail to an alien pending deportation proceedings is settled by *Carlson* v. *Landon*.[72] There is nothing on the subject to be added to the opinions in those cases. They rest upon the power of Congress over the admission of aliens and the rights of aliens to remain in this country.[73] The rationale upon which the Supreme Court there validated the proscription of alien members of the Communist Party applies directly to members of any Communist-action organization as defined in this statute. We think those rulings govern exclusion and naturalization as well as deportation and bail.

Section 25 of the statute before us[74] also contained a provision respecting denaturalization, which was carried forward as Section 340(c) of the Immigration and Nationality Act of June 27, 1954.[75] It established as *prima facie* evidence[76] in a denaturalization proceeding proof that the person within five years of naturalization became

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[70] See note 53 *supra*.

[71] 347 U.S. 522, 98 L.Ed. —, 74 S.Ct. 737 (1954).

[72] 342 U.S. 524, 96 L.Ed. 547, 72 S.Ct. 525 (1952).

[73] See Shaughnessy v. Mezei, 345 U.S. 206, 97 L.Ed. 956, 73 S.Ct. 625 (1953).

[74] Amending Sec. 305(d) of the Nationality Act of 1940.

[75] See note 54 *supra*.

[76] The full phrase is "prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States".

a member of, among others, a registered Communist-action organization. The necessities of proof in a denaturalization case involving foreign allegiance are spelled out in *Knauer* v. *United States.*[11] A denaturalization does not flow automatically from registration; a regular proceeding for the purpose must be brought. No such case is before us, and we therefore express no views upon the problem. Its solution must await a specific test.

The sanctions with reference to tax exemptions and deductions, which are in Section 11 of the Act, forbid income tax deductions for contributions to a registered organization and deny income tax exemptions to such organizations. These allowances and denials fall within the field of congressional grace so long as a reasonable basis appears. This is too well established to require citation. We think these provisions clearly valid.

Concluding, then, our discussions of the several provisions applicable to registration and to registered organizations and their members, we find that they are reasonably related to a remedy for the evil depicted in this statute, that the impingement upon First Amendment rights which they effect is not beyond that permissible for the statutory purpose, and that the provisions are not violative of Fifth Amendment rights.

## VII

The Party makes a number of additional attacks upon the statute as a whole. It says it is an "outlawry" statute. But many valid statutes declare specified activities to be unlawful. The critical questions concerning a so-called "outlawry" statute are whether the matter prohibited is eligible for prohibition and whether the procedures provided protect the rights of those involved. We have discussed those features of this statute.

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[11] 328 U.S. 654, 90 L.Ed. 1500, 66 S.Ct. 1304 (1946).

The fact, if it be a fact, that no organization could survive registration under the Act is no detriment to the validity of the statute. In the first place, if an organization is actually operating primarily to achieve the objectives of a foreign organization dedicated to the establishment of a totalitarian dictatorship in this country by other than constitutional processes, we perceive no constitutional obstacle to its outlawry. In the second place the inability of an organization to survive registration under this Act arises, if it does arise, not from the terms of the statute but because of the extreme unpopularity of the revealed foreign domination, of world dictatorship, and of the Communist world leadership. This statute does not forbid any person to be a member of the Party, but the Party says that when its members are identified their livelihood and liberty will be jeopardized. But a statutory requirement is not invalid merely because of results which may flow from the unpopularity of the cause affected. Popularity of men and movements varies with time and place. In some periods of our history friendship with Great Britain was unpopular, and at other periods friendship with Russia was popular. It would indeed be senseless to propose that popular causes could be subjected to statutory restrictions but that unpopular ones could not be. Unpopular causes are entitled to the privilege of the public arena, but they must sustain the severe burdens of that arena. So long as they are not denied the privilege, they cannot complain that their unpopularity frustrates them or that the observing public visits upon them its displeasure. Stoutness is indeed a requisite for those who would contest in that arena.

Petitioner urges that the statute contains a predetermination of its nature as a Communist-action organization—a built-in verdict against it. We find no such predetermination. Petitioner is not mentioned. Whether it does or does not fall within the description in the

statute is a matter of evidence, just as it is in respect to every other respondent to a petition before the Board. A statute is not necessarily null merely because it fits a known person. Many valid statutes do.

Petitioner says the statute is a bill of attainder and therefore void. We think it is not. The opinion in the *Garner* case [78] discusses and disposes of the point in so far as it relates to Government employ. The remainder of the point is covered by that part of the opinion in *Douds* in which bills of attainder are discussed.[79] Referring to the familiar cases the Court said:

> "But there is a decisive distinction: in the previous decisions the individuals involved were in fact being punished for *past* actions; whereas in this case they are subject to possible loss of position only because there is substantial ground for the congressional judgment that their beliefs and loyalties will be transformed into *future* conduct."

We think that doctrine applies to the case at bar.

## VIII

The next main subject in our consideration of the statute itself is our petitioner's attack upon Section 13(e). That section enumerates eight evidentiary considerations which it requires of the Board in determining whether an organization is Communist-action within the statutory definition. Petitioner says the section is invalid for lack of due process. It says the provisions are irrelevant, vague, and without any rational relation to the derivative facts to be established.

The eight subparagraphs of Section 13(e) direct the Board to take into consideration "the extent to which" an organization does certain things. Roughly paraphrased these are the extent to which

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[78] *Supra*, 341 U.S. at 722-3.

[79] *Supra*, 339 U.S. at 413-14.

(1) its activities are performed pursuant to directives or to effect the policies of the foreign government or organization in which is vested control of the world Communist movement;

(2) its policies do not deviate from those of such foreign organization;

(3) it receives financial or other ~~aid from~~ such foreign organization;

(4) it sends representatives to a foreign country for instruction in the policies or tactics of the world Communist movement;

(5) it reports to such foreign organization;

(6) its leaders are subject to the disciplinary power of such foreign organization;

(7) it operates on a secret basis for the purpose of concealing foreign domination; and

(8) its leaders consider allegiance to the United States subordinate to obligations to such a foreign organization.

The Party denominates these eight specifications "tests" and, having thus characterized them, attacks them severally and collectively.

The Party says that by the definition in Section 2 of the statute the world Communist movement engages in espionage, treason, etc., whereas none of the eight "tests" to be applied to a domestic organization involves any of those offenses; and that thus the whole of Section 13(e) is irrational. The argument misconceives both the text and the purpose of the section. The inquiry with which the statute as a whole is concerned is in two separate parts: (a) What is the world Communist movement? That is dealt with in Section 2. (b) Is a certain domestic organization under the domination and control of that movement, and does it operate primarily to achieve its objectives? The problem at the first stage of the process is the nature, etc., of a world movement known as Communism. The problem at the second stage of the process is simply whether a named organization operates to

achieve the objectives of the world Communist movement, whatever the nature of that movement may be. The so-called "tests" in Section 13(e) are directed at the latter problem, and it alone. Thus construed, as it obviously was intended to be, the section is apt and cogent. We think the division of the inquiry into two steps is a rational one. Certainly it is followed in many types of inquiry.

The Party says the section is too vague to be valid. We find no such infirmity.

The Party says none of the subparagraphs in Section 13(e) specifies how much of any described activity requires a finding of, for example, foreign control; there is no quantitative standard. This argument is an attempt to make out a formula in the statute. But there is no formula. The ultimate finding is to be derived as a conclusion from basic findings. The Board may find full activities in respect to some of these matters, partial activities in respect to some, and a complete absence of activity in respect to some. The Board may make findings in other relevant respects not here enumerated. Having made these several findings, the Board must distil from the composite an ultimate finding whether the respondent is or is not under foreign control, etc. There is nothing unusual about this process; indeed it is quite elementary. It is a familiar process of adjudication based upon fact-finding. Frequently a case discloses numerous basic facts established by the evidence, upon which the trial tribunal exercises its reasoning power and deduces a derivative or ultimate finding. So in the present case.

Moreover this catalog in Section 13(e) is not exclusive. These eight items must be considered, but others which are relevant and of material effect and are offered in competent form must be considered also. Nothing in the statute hints at an exclusive criterion. The Board should, and so far as we can tell did, admit and consider whatever is competent, relevant and material.

The Party argues that evidence merely of the extent to which a respondent does these specified things does not prove or tend to prove any derivative fact in issue, *e.g.*, domination by a foreign government. The argument is clearly without merit. High blood pressure does not prove heart disease, but any competent doctor examining a suspected bad heart would determine and take into consideration the patient's blood pressure. In legal parlance, evidence must be relevant, *i.e.*, must relate to the issue, and must be material, *i.e.*, must have some weight as proof, but, there is no legal doctrine that each separate item of evidence must be conclusive.

Somewhat contrary to the contentions just discussed, the Party asserts that Section 13(e) establishes presumptions and that the presumptions are irrational. We find no presumptions, and we are at a loss as to how one would spell out a presumption from the text. As aids to an ultimate conclusion the Board is directed to take into consideration the extent to which a respondent does certain things. The statute says nothing about presumptions. As we have just pointed out, it does not even specify what quantum or what character of evidence shall produce a given result. The section is a catalog of some basic considerations. There are no statutory presumptions.

The Party argues that under the statutory definition in Section 3 the basic inquiry is whether an organization operates "primarily" to advance the objectives of the world Communist movement, and that the mere "extent to which" the organization operates to advance such objectives is an irrational and irrelevant test. We are not told how the Board could ascertain whether a respondent operated "primarily" in a given manner without taking evidence upon the extent to which it so operated, and we are unable to discern how it could do so.

We next turn to the contentions in respect to the subparagraphs separately, avoiding as much as possible

repetition of the general contentions already discussed.

The Party says that the "directives and policies test" in Section 13(e)(1) is irrational. It says that the statutory definition of a Communist-action organization in Section 3(3) refers only to organizations which pursue objectives which are "evil", whereas the test section refers to any objectives, good or bad.

We take it that by "evil" the Party means immediate objectives which are morally wrong. In our view the objectives here referred to need not necessarily be "evil" in that sense. If the organization in question is dominated by a foreign government or organization, as the definition prescribes, and operates primarily to advance the objectives of the world Communist movement, as the definition describes that movement, Congress may well impose upon it the sanctions of this Act, even if the active or immediate objectives are not "evil". Some of the objectives of the Soviet Union and of the world Communist movement may be excellent, even laudable; as to that we express no opinion here. If the Soviet Union has policies of peace and racial equality before the law, as the Party says it has, those are laudable objectives. Our Government has those objectives, as do many other governments. The crucial factor in the statute before us is the aim, spelled out in detail, of the world Communist movement to disestablish our system of government. Our Government may well oppose the establishment in this country of a totalitarian dictatorship of the sort described in the definition, even if such a dictatorship does not meet the definition of "evil" or even if it has many beneficent features.

The Party says the "non-deviation test" in Section 13(e)(2) is vague and irrational. We think it difficult to conceive of a more proper standard for the purpose. In an inquiry as to the domination of one organization by another, the extent of the deviation one from the other in views and policies is both relevant and material; indeed it would be one of the necessary considerations. If

there were no similarity, domination would be negatived almost conclusively, whereas, if there were identity, domination would be a definite possibility, if not a certainty. Petitioner says the test includes non-deviation respecting policies calculated to secure peace and welfare as well as others characterized as evil. The argument misses the point of this section of the statute. The point is foreign domination; identity of purpose and policy, whether good or bad, is clearly relevant in the proof. Indeed the Board might conclude on this particular phase of its inquiry concerning some domestic organization that it adheres only to the admirable policies of the foreign organization, a partial non-deviation negativing domination. But the possibility of such a conclusion does not nullify the propriety of the inquiry.

Petitioner says that under the non-deviation test a respondent organization could prove its freedom from foreign domination only by proving its failure to adopt any views contrary to those of the Soviet Union. But this paragraph is not limited to absolute identity of views. We repeat once more that these subparagraphs do not constitute a formula for ascertaining foreign domination; they constitute a catalog of required considerations. They involve "the extent to which"—not "whether". So there is no merit in this contention of the Party. Furthermore, even if the statute required consideration of total identity, the provision would be valid, because, if an organization never had any policy which differed from the policies of the world Communist movement, that fact would certainly be pertinent to an inquiry into the relationship between the two. It might not be conclusive, but it would be pertinent.

Subparagraph (3) of Section 13(e) directs the Board to consider the extent to which a respondent receives "financial or other aid" from the foreign government which directs and controls the world Communist movement. The Party says the inclusion in the test of "or

other aid", vitiates it. But we think not. Any type of aid received by one organization from another is pertinent to the question whether the one operates to achieve the objectives of the other. Petitioner says that, while it is an obvious truth that a contributor has a lever by which to shape the policies of the contributee, the terms of the donation are the relevant consideration and the bare fact of the donation is irrelevant. We agree that the terms of a contribution are more, even much more, material to the issue of intended influence by means of the gift, but the bare fact of the gift is not irrelevant to the consideration. It does not have the persuasive weight carried by the terms imposed by the donor, but the fact of the gift is certainly an admissible item of proof. Of course it may be explained away, as may any of the statutory specifications of considerations.

The fourth subparagraph under Section 13(e) provides that the Board shall consider the extent to which a respondent sends representatives to foreign countries for instruction in the principles or policies of the world Communist movement. The Party says that the section is invalid, because it fails to require that the Board also consider whether respondent is obliged to or does conform to what its representatives were taught. Certainly, if the Board were to make an ultimate finding of foreign domination upon the basis of bare evidence that respondent sent agents abroad, the Party would be perfectly correct upon the point. But the argument does not go to the validity of the subparagraph as such, but merely points to possible rebuttal proof and to a contention which might be addressed to findings made on this item in a particular case.

We think we need not prolong this opinion by discussing in detail the contentions made by our petitioner, the Party, in respect to the remaining four of the subparagraphs of Section 13(e). They are variations of contentions already discussed, and what we have already said applies to them.

IX

The Party says that the order of the Board is invalid because the original appointments of members to the Board were in violation of the Constitution. It says no vacancy had "happened" when the appointments were made, that vacancies did not happen during a recess of the Senate, and that in any event the appointments expired January 2, 1951. The sequence of dates is as follows:

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|---|---|
| September 23, 1950 | Subversive Activities Control Act approved. |
| September 23, 1950 | Congress adjourned or recessed to a day certain. |
| October 23, 1950 | President made recess appointments. |
| November 27, 1950 | Congress reconvened. |
| November 27, 1950 | President transmitted nominations. |
| January 2, 1951 | Congress adjourned *sine die*. |
| April 23, 1951 | Hearings began before panel of three Board members. |
| August 9, 1951 | Senate confirmed nominations. |
| October 20, 1951 | One member retired from panel. |
| July 1, 1952 | Hearings before panel concluded. |
| July 28, 1952 | Briefs and proposed findings filed. |
| August 6, 1952 | Reply briefs filed. |
| August 14, 1952 | Argument before panel. |
| October 20, 1952 | Panel issued recommended decision. |
| November 21, 1952 | Exceptions filed. |
| November 24, 1952 | Exceptions filed. |
| January 7, 1953 | Oral argument before full Board. |
| April 20, 1953 | Report and order of the Board issued. The action of the Board was unanimous, four members signing the order. There was then one vacancy in the membership. |

We think we need not discuss this contention of petitioner at length. The minimal effect of any invalidity of appointment upon the final order is obvious from the foregoing table. The appointments were indubitably valid from August 9, 1951. The taking of evidence, which began April 23, 1951, did not conclude until July 1, 1952. The evidence was taken by a panel of members, but it could have been taken by a hearing examiner (Section 13(c) of the Act) and not by a member at all. If prior to confirmation these Board members were merely hearing officers whose taking of the testimony was thereafter ratified by the Board, the proceeding was valid. All findings and conclusions were adopted by a properly confirmed Board after hearing before that Board. The order therefore would be valid regardless of the technical legal status of the members as members prior to formal Senate confirmation. We see no need to examine further the complicated questions posed by petitioner as to constitutional recess appointments.

## X

We directed the parties to discuss in a reargument the applicability of the Communist Control Act of 1954 [80] to this proceeding. In respects other than those already discussed we think it has no application. Its validity and the validity of the order before us are independent questions. Either might stand without the other.

## XI

We come now to the second main part of the case, consideration of the factual findings of the Board. The problem is whether the Board's ultimate finding that the petitioner in the case at bar is a Communist-action organization within the statutory definition is or is not supported by a preponderance of the evidence in the record.

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[80] Pub. L. No. 637, 83d Cong., 2d Sess., 68 STAT. 775.

The statute says that the findings of the Board as to the facts shall be conclusive if supported by the preponderance of the evidence (Sec. 14(a)). That is a less stringent restriction upon the function of judicial review than is customary in such statutes. By the same token it imposes a laborious task upon the reviewing court. We must ascertain the preponderance of the evidence in respect to the findings as that problem is put to us by our petitioner.

Space does not permit comment upon the evidence on each minute issue of fact, or an attempt here to evaluate particles of the proof. But we can indicate the extent, nature, particularity, and personal character of the testimony presented by the Government, and the nature and extent of the evidence presented by the Party, including the character of both its denials and its explanations.

The Attorney General presented the oral testimony of twenty-two witnesses, nineteen of whom had been members of the Party. Thirteen of these nineteen had been members until 1945 or later, four of them as late as 1952. Some of them voluntarily quit the Party, some were expelled, and some were agents of the F.B.I. and acting as such during their membership.

These witnesses testified in large measure concerning practices prior to the disaffiliation of the Party from the International, but each described operations in the Party up to the time of his resignation or expulsion. They stated their views of the reasons for the present concealment of Party matters such as records, membership, etc., and their views concerning the objectives of the Party and its relationship to the world Communist organization and its leaders.

For illustrative purposes we turn to the witness Philbrick. He was an agent of the F.B.I. who from 1942 to 1944 was a member of the Young Communist League and from 1944 to 1949 a member of the Communist Party.

Thus his entire period of membership was after the disaffiliation of the Party from the International. He held several positions in the League, becoming state treasurer for its successor organization, American Youth for Democracy. He also held a series of positions with the Party, being a member of the State Educational Commission, chairman of leaflet production; then he was educational director of the Eighth Congressional District, and later a member of the "pro group", an underground group of professional people. He organized and taught Party classes. These classes studied how to apply the Communist Classics to current problems. His membership in the Party was never an open membership; at times he carried a card, and at times he did not. He identified by name a number of the Party leaders and described their activities. He described the operations and purpose of the Party builders' conference and a number of the speakers and speeches. The *Daily Worker*, he said, is the central organ of the Party, and every member is supposed to read it. He described the intra-Party lines of communication between groups or cells, and the caution taken in respect to meetings. The sessions of the cells were devoted to study, literature sales, and collection of dues. As literature director he furnished his cell regularly with copies of *For a Lasting Peace, Political Affairs, The Worker, The Daily Worker*, and many books. A principal topic of discussion in early 1948 was Zhdanov's report, which appeared in the *Cominform Bulletin*. Another topic was Yugoslavia and Marshal Tito. He testified that a member of the Party could not disagree with a position taken by the Cominform and remain a member of the Party. He discussed the study of capitalism in the United States as a developer of wars, and the teaching that "the true patriot is the one who fights on the side of the working class and who fights against capitalism." He testified that the basic

objective of the Party while he was a member was "to establish a Soviet State in the United States following, without any deviation, the dictates and the methods laid down by Marx, Engels, Lenin, and Stalin." He did not recall hearing any criticism by leaders of the Party directly against the Soviet Union, or any instance in which, when the policy of the Soviet seemed to differ from the policy of the United States, any leader of the Party appeared sympathetic to the United States.

The testimony of the other witnesses presented by the Attorney General as to the operation of the Party after 1940 covered other phases of the alleged operation, but the foregoing illustrates the specificity and claimed first-hand knowledge from which the witnesses spoke.

On the other side of the controversy, as we have said, the Party presented three witnesses. The testimony of John Gates reveals the tenor of that presentation. In addition to the testimony from Mr. Gates which we have already described, this witness said that he has been a member of the National Committee of the Party since 1945. The immediate objectives of the Party, he said, are the improvement of the democratic rights of the American people, and peace. The ultimate objective is a revolutionary change, the superseding of the capitalist system by a socialist system. The Party advocates the achievement of these objectives by peaceful and constitutional means. Democratic centralism, the principle which governs Party organization and function, means that all Party policies and programs are formulated by participation of every member, and once the policies are formulated, democratically, each and every member is obligated to carry out the decision. Mr. Gates denied (1) that the Party has since January, 1946, been affiliated with any other organization; (2) that it contributed to the Communist Information Bureau; (3) that any rep-

resentative of the Party attended any meeting of that Bureau; (4) that any representative of the Bureau ever visited the Party; (5) that the Party ever received any directive or instruction or any written communication of any kind from the Bureau; (6) that the Party received any directives or instructions from *The Lasting Peace*, the newspaper which published information as to what was going on within the various Communist parties throughout the world; (7) that the Party ever received any instructions or directives from the Communist Party of the Soviet Union, or from any representative of that Party, or from any official of the Soviet Union, or from any Communist Party of any other country; (8) that the Communist Party of the United States ever sent any representative to the Soviet Union or to any other foreign country for instruction or training in Communism; and (9) that the Party reported its policies, etc., to the Soviet Government, the Communist Party of the Soviet Union, the Communist International, or the Communist Information Bureau. He stated that the funds of the Party are obtained entirely from dues, annual collection campaigns, and the sale of literature. In respect to the size of the Communist clubs Mr. Gates testified that there were many discussions, that they were interested in bringing about a 100 per cent activity on the part of the membership, that many Communists were being deprived of their constitutional rights, jeopardizing their means of livelihood, and that for those reasons steps were taken to protect the members, reducing the size of the clubs, eliminating lists of members and membership books. He said that the leaders of the Communist Party of the United States recognize no disciplinary power of the Soviet Government, the Communist International, the Information Bureau, or any agent thereof over an American Communist, that American Communists are not bound by any principle or doctrine to execute the decisions of foreign leaders.

Mr. Gates testified the Communists' position is that the national interests of all peoples on earth are identical; that the Party of the United States formulates its policies on the basis of a scientific approach, consisting of the general principles of Marxism-Leninism, which are general scientific principles to be applied in every situation according to time, place and circumstances; that the policies of the Party of the United States are not in many respects similar to the policies of the Party of the Soviet Union, because the circumstances differ, the United States having a capitalistic system and the Soviet a socialistic system; but that the Party of the United States agrees with the Soviet Party on peace. Mr. Gates said that he owed allegiance to the United States and to it alone.

On cross examination Mr. Gates testified that there is a world Communist movement but not of the kind described in the Attorney General's petition. He said that everything he has done is in the defense of democratic rights, economic welfare, and peace, and ultimately in the interest of the establishment of socialism, which is the first stage toward Communism. The Communist International was an actual organization of the world Communist movement, and the Party of the United States was affiliated with it at one time. He knows of no instance where the *Daily Worker*, while he was editor, supported this government in opposition to the Soviet Union, because it is his opinion that the Soviet has never put forward policies in any way contrary to the interests of the American people. He testified to the same effect in respect to deviation from the policies of Cominform, saying that if the Communists of the United States have expressed no disagreement with the views of *The Lasting Peace* it is because they believe those views have not been in contradiction to the interests of the American people. They consider the Soviet Union to be the out-

standing socialist country of the world. To his knowledge the *Daily Worker* has never disagreed with the views and policies of the Soviet Union. It has been stated many times, although not since 1946, that the Soviet Union is the fatherland of the world proletariat. The witness contradicted a statement made by Earl Browder that during the fifteen years of the Browder leadership all major policies of the Party of the United States had the previous knowledge and consent of the international Communist leadership.

The Party attacks the credibility of the witnesses presented by the Government. In this connection it stresses that some of these witnesses were employees of the Federal Bureau of Investigation while they were members of the Party, that others were expelled from membership in the Party, and that some were under charges of false swearing. Full opportunity for cross examination of these witnesses was afforded at the hearing before the Board, and full opportunity was also afforded for the presentation of rebuttal testimony. The evaluation of credibility is primarily a matter for the trier of the facts, and a reviewing court cannot disturb that evaluation unless a manifest error has been made. Moreover the testimony of the witnesses against whom charges are said to have been made was consistent with and supported by masses of other evidence. Petitioner attacks especially the testimony of the F.B.I. operatives, as being without probative weight because they were Government operatives. But we know of no such doctrine. Government agents, especially detectives, are charged with the duty of observing operations to which they are assigned. Their testimony is a commonplace in our courts. We do not consider employment by the F.B.I. or the mere fact of expulsion from the Party as substantial bases for blanket attacks upon credibility. They might be grounds upon which the trier of the facts would

receive such testimony with caution, but standing alone they do not constitute so serious a detriment to credibility as to be grounds for reversal.

## XII

We come, then, to consider the disputed issues of fact. Broadly speaking, these issues concern two subjects, (1) the existence and nature of the world Communist movement and (2) the relationship of the Party USA to the world movement. We divide our consideration accordingly.

In Section 2 of the Act, as we have pointed out, Congress made findings upon the existence and the nature of the world Communist movement. Some years ago, a difference of opinion existed as to the extent to which courts are bound by legislative findings of facts in cases in which constitutional questions are posed.[81] Since then the Supreme Court has resolved the problem in *American Communications Ass'n* v. *Douds* and *Galvan* v. *Press*, both *supra*. The rule, as we understand it, is that, if it appears Congress has power over the subject matter of a statute, and if the findings of fact are not baseless but are based upon extensive investigation, the courts are to adopt those findings. The opinion in the *Galvan* case contains the following statement concerning the section, *i.e.*, Section 2 of the Internal Security Act of 1950, which we are now considering:

> "Under the 1940 Act, it was necessary to prove in each case, where membership in the Communist Party was made the basis of deportation, that the Party did, in fact, advocate the violent overthrow of the Government. *The Internal Security Act of 1950 dispensed with the need for such proof.* On the basis

[81] See the opinions in National Maritime Union of America v. Herzog, 78 F.Supp. 146 (D.C.D.C. 1948).

> of extensive investigation Congress made many findings, including that in § 2(1) of the Act that the 'Communist movement * * * is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship,' and made present or former membership in the Communist Party, in and of itself, a ground for deportation." (Emphasis ours.)[82]

From that viewpoint, and without going further, there is, then, for our purposes in reviewing this order under this statute, a world Communist movement whose purpose it is, by treachery, sabotage, or any other necessary means, to establish a Communist proletarian dictatorship throughout the world.

However the Board did not rely upon the Congressional findings as to these facts but thought it desirable to make independent findings based upon evidence adduced before it. That evidence was largely documentary. We refer here to a few bits of it.

Communism derives its name from Marx's *The Communist Manifesto*. Basic to present-day Communism is Marxism-Leninism. The meaning of Marxism-Leninism is to be found in the writings of Marx, Lenin, Stalin, and their collaborators, which works are known in this litigation as the "Classics". Marxism is a form of Socialism, the basic tenet of which is the ownership by the state of all means of production and distribution. According to Marx all society consists of antagonistic classes, the principal one being the capitalist class, which, as a result of owning privately the means of production, exploits the property-less working class. Marx expressed particular interest in the property-less factory workers, designated as the proletariat, whose numbers had increased

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[82] *Supra*, 347 U.S. at 529.

as a result of industrialization. The conclusion of Marx was that the only true value is the labor of the industrial working class. The objective of Communism is to bring capitalism to an end and to substitute for it a dictatorship of the proletariat in a socialist state.

The Communist Party was formed in 1898 in Russia. Lenin, a Russian revolutionist who had adapted Marxism to Russian revolutionary purposes, had a group within the Communist Party called the Bolsheviks. He recognized that two things were most important to the success of the proletariat revolution: rigidity of organization and flexibility of policy. His group of Bolsheviks obtained control of the Communist Party in Russia. Organizationally he held to the necessity of creating a group of disciplined professional revolutionists, among whom no dissent would be tolerated. After the Russian revolutions of 1905 and 1917 the Communist Party destroyed capitalism in Russia and then sought help throughout the world to support their victory. Following Lenin came Stalin, who further advanced the Marxist-Leninist ideas in a practical way.

In his *Problems of Leninism*, published in 1934, Stalin specified as one of the three fundamental aspects of a dictatorship of the proletariat "The utilisation of the power of the proletariat for the organisation of socialism, for the abolition of classes, and for the transition to a society without classes, to a society without a state." He stressed the necessity for violence, asserting: "But, of course, the dictatorship of the proletariat does not merely mean violence, although there is no dictatorship without violence." He quoted Lenin to the same effect. In his *Foundations of Leninism*, published in 1939, Stalin referred to a phrase used by Marx which seemed to indicate that Marx conceded the possibility of a peaceful evolution in certain countries outside of the European Continent. But, said Stalin, Lenin pointed out that ondi-

tions had changed by 1917 and he had then said that the preliminary condition for the revolution "is the smashing, the destruction of the 'ready-made state machine' ". Stalin said, "Therefore, Lenin is right in saying: 'The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a new one * * *.' "

In 1919 the First Congress of the Communist Parties, held in Moscow and headed by Lenin, founded the Communist International (called the Comintern), described by the Communists as a new type of international revolutionary proletarian organization. The theses and statutes adopted by the Comintern in 1920 contained the following:

> "The Communist International makes its aim to put up an armed struggle for the overthrow of the International bourgeoisie and to create an International Soviet Republic as a transition stage to the complete abolition of the State. The Communist International considers the dictatorship of the proletariat as the only means for the liberation of humanity from the horrors of capitalism. The Communist International considers the Soviet form of government as the historically evolved form of this dictatorship of the proletariat.
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> * * * * * * *
>
> "* * * To all intents and purposes the Communist International should represent a single universal Communist Party, of which the parties operating in every country form individual sections. * * *"

The statutes of the International contained the following:

> "Sec. 1. The new International Association of Workers is established for the purpose of organizing common activity of the workers of various countries who are striving towards a single aim: the overthrow of capitalism; the establishment of the dictatorship of the proletariat and of the International

Soviet Republic; the complete abolition of classes, and the realization of socialism—the first step of Communist Society."

And also, among the theses and statutes of the Third International, the following expressions are to be found:

"* * * Only a violent defeat of the bourgeoisie, the confiscation of its property, the annihilation of the entire bourgeois governmental apparatus, parliamentary, judicial, military, bureaucratic, administrative, municipal, etc., even the individual exile or internment of the most stubborn and dangerous exploiters, the establishment of a strict control over them for the repression of all inevitable attempts at resistance and restoration of capitalist slavery—only such measures will be able to guarantee the complete submission of the whole class of exploiters.

* * * * *

"* * * It is especially necessary to carry on unlawful work in the army, navy, and police, as, after the imperialist slaughter, all the governments in the world are becoming afraid of the national armies, open to all peasants and workingmen, and they are setting up in secret all kinds of select military organizations recruited from the bourgeoisie and especially provided with improved technical equipment."

The *Programme of the Communist International*, a publication of the Workers Library Publishers, Inc., contains the constitution and rules of the Communist International. Included in these rules is the following paragraph:

"Party questions may be discussed by the members of the Party and by Party organizations until such time as a decision is taken upon them by the competent Party committees. After a decision has been taken by the Congress of the Communist International, by the Congress of the respective Sections, or by leading committees of the Comintern, and of its various Sections, these decisions must be unreservedly carried out even if a Section of the Party mem-

bership or of the local Party organizations are in disagreement with it."

The Comintern was dissolved as an organization in 1943, and four years later a new international organization, known as the Communist Information Bureau, or Cominform, was formed by the Communist Parties in countries of Europe and Asia. There is no evidence of any dissolution of the world movement or of any abandonment of the policies and program enunciated by Joseph Stalin. On the contrary, ample evidence is shown that the movement under its Soviet leaders continues as it was planned.

The foregoing is drawn from a considerable mass of material. Out of the whole of the evidence comes a picture of a world movement which has ultimate objectives and interim objectives. The ultimate objective is a classless, stateless society ruled by the proletariat of the world. The basic concepts of this ultimate objective are that the sole value is labor and that capitalism and nationalism are merely means for exploiting the masses of workers. Thus capitalism and nationalism must be destroyed. In the interim the program calls for a small, hard core of revolutionaries, formed into a disciplined Party in every country, who are a vanguard of workers and fighters for the unorganized and suppressed masses of workers. This Party is to attain control of the government of its country for the purpose of destroying its present form and, ultimately, to weld it into the stateless world society. In this interim operation the Party must be ruthless. When the Party takes over the government it is the expectation that the masses will rise and make the Party government a majority government. In this interim period the present government of Russia, the Soviet Union, because it is the first and biggest government thus far brought into control of the Communists,

must be protected and preserved as Communistic at any cost.

The Board made a finding, based on evidence adduced before it, that there exists a world Communist movement substantially as described in Section 2 of the Act. We are of opinion that that finding is supported by a clear preponderance of the evidence.

XIII

We come, then, to the second main division of the facts. This deals with the policies and program of the Party USA and its relationship to the world movement. The Board, pursuant to the mandate of Section 13(e) of the Act, made findings under each of the section's eight subparagraphs, and these, in due course, we will review item by item. For the moment, however, we observe that some things disclose their nature by set characteristics, basic factors which cannot be ignored. Thus we know fish from fowl. In other words, while all relevant facts are cumulative in delineating a completed whole, it is frequently true in respect to derivative facts that certain underlying basic facts; perhaps few in number, determine the final answer. Such facts are heavy in the scales. This is the situation in the case at bar, and we turn now to consideration of some preponderant basic facts. From the record as a whole six such facts emerge as a foundation for the ultimate finding.

1. Prior to 1940 the Communist Party USA was a section of the Communist International, the Comintern. No substantial dispute exists as to this area of the past.

The Third Convention of the Party USA, held in 1921, adopted a resolution which read as follows:

> "The Communist Party will systematically and persistently propagate to the working class the idea of the inevitability of, the necessity for a violent revolution and will prepare the working class for armed insurrection as the only means for the destruction of the bourgeois state and the establishment of the proletarian dictatorship based upon soviet power."

A Special Convention of the Party USA, also held in 1921, adopted a resolution in which it "hereby reaffirms its position as an integral part of the Communist International" and unanimously adopted the 21 Points for Affiliation with the International.

Among the twenty-one conditions for membership in the International thus adopted by the Party USA were the following:

"12. All parties belonging to the Communist International should be formed on the basis of the principle of democratic centralization. At the present time of acute civil war the Communist Party will be able fully to do its duty only when it is organized in a sufficiently thorough way, when it possesses an iron discipline, and when its party centre enjoys the confidence of the members of the party, who are to endow this centre with complete power, authority and ample rights.

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"16. All the resolutions of the congresses of the Communist International, as well as the resolutions of the Executive Committee are binding for all parties joining the Communist International. • • •

"17. In connection with the above, all parties desiring to join the Communist International should alter their name. Each party desirous of joining the Communist International should bear the following name: Communist Party of such and such a country, section of the Third Communist International. • • •

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"21. Those members of the party who reject the conditions and the theses of the Third International, are liable to be excluded from the party."

At the Eighth Convention of the Party USA in 1934 a manifesto was adopted, which declared, among other things, "The only way out of the crisis for the toiling masses is the revolutionary way out—the abolition of capitalist rule and capitalism, the establishment of the Socialist society through the power of a revolutionary workers' government, a Soviet government."

A delegation from the Party USA attended the Seventh

Congress of the International in 1935 and were among those who formally assured Stalin "that the Communists will always and everywhere be faithful to the end to the great and invincible banner of Marx, Engels, Lenin and Stalin. Under this banner Communism will triumph throughout the world."

Thus it is clear that in the years prior to 1940 the Communist Party USA was dominated and controlled by the world Communist movement.

The problem in dispute, then, is whether the same condition exists in present times. The Party denies that since 1940 it has been dominated or controlled from abroad. It also says: (1) Past history is not relevant or, even if relevant, is not material;[83] (2) the Party USA was disaffiliated from the Comintern in 1940; and (3) the witnesses who testified to various features of recent operations by the Party were devoid of credibility. We discuss these contentions *seriatim*.

The past is clearly pertinent to the present nature of a person or an organization. Surely a person's education and experience are pertinent to his present nature. The same is true of an organization. As a matter of fact it is rarely, if ever, possible to prove present nature by some instantaneous, contemporaneous fact, totally ignoring the whole of the past. Not only is the past clearly pertinent, it may be quite material to a determination of present nature. Whether it is material depends upon whether there is affirmative evidence of a departure from the established past. In the ordinary affairs of life and in ordinary litigation, if a person or an organization is shown to have had over many years a certain policy and program, and no more is shown, the conclusion

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[83] The Party makes an argument that only post-Act evidence, *i.e.*, evidence relating to activities since the enactment of the statute, is pertinent in the present proceeding, and that such evidence in this record is insufficient to support the findings. We see no basis for such an evidentiary restriction upon proof as to nature, policies and program.

is clearly indicated that he or it has the same policy and program in the present. He may prove that he has changed, and in the light of such evidence the past may lose its materiality. We are of opinion that the past nature of the Party USA is pertinent to the present inquiry and that it may or may not be material, depending upon the evidence showing a departure from the past.

In line with the thought which we have just indicated, the Party says that it disaffiliated itself from the Communist International in 1940. It concludes from that fact that the established nature of its past cannot be considered in determining its present nature. But there are flaws in that contention. The disaffiliation was an organizational separation. The international organization itself was disbanded in 1943, but the world Communist movement did not then cease to exist. The movement, intact both in theory and in program, continued to exist. Stalin was the leader of the Communists long after the Comintern ceased to exist, and he, as we have noted, was the successor to Lenin and protagonist of the ideas of Marx and Lenin. To demonstrate a changed nature in the Party USA, some assertion of a change in substantive belief and program would have to be made. No such evidence was presented by the Party. The tenor of its proof was that the Communist movement is not as this statute and the Attorney General's petition pictured it. The Party witnesses did not assert a cleavage in policy or program between the Party and the international movement. At the time of the disaffiliation the convention of the Party declared that this action was "for the specific purpose of removing itself [the Party] from the terms of the so-called Voorhis Act",[84] "which law would otherwise tend to destroy, and would destroy, the position of the Communist Party as a

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[84] Act of Oct. 17, 1940, 54 STAT. 1201, as amended, 18 U.S.C. § 2386.

legal and open political party of the American working class." The Party's witness Flynn described the event as "a friendly divorce".

We think a mere organizational disaffiliation, without more, does not render evidence of the Party's past immaterial to its present nature.

It seems to us, therefore, that the first major feature of the facts relating to the Party USA is that prior to 1940 the Party was part of the international Communist movement and that, although there was an organizational disaffiliation in 1940, no evidence has been presented which would indicate that since the disaffiliation the Party has repudiated either the policy or the program of the world movement.

2. The Party calls itself the "Communist Party of the United States of America". This is the name specified by the Communist International as the name by which a Party affiliated with the international movement must be known. The Communist parties in the other countries of the world are certainly motivated by a common cause. They have a common doctrinal basis and a common ultimate objective, and they have an international organization, which today, as we have noted, is known as the Communist Information Bureau, or Cominform. The Party USA is not affiliated organizationally with the Cominform, but it is difficult for us to see why the Party would call itself the Communist Party of the U.S.A. if it were not in fact a part of the Communist movement in theory and program.

3. The present organization of the Party USA resulted from a revulsion on the part of a group of its leaders against what they considered a departure from the program and principles of world Communism. In 1944 the Party underwent a reorganization under the leadership of Earl Browder. It became known as the Communist Political Association; it de-emphasized some

Marxism-Leninism principles and advocated a peaceful coexistence of the United States and the Soviet Union. In the spring of 1945 a French communist by the name of Duclos published an article severely criticizing the attitude and action of the Communists in this country. Following that publication a leading Soviet Union Communist, Manuilsky, being then in San Francisco, expressed to the American Communist leaders the view that the Party USA should follow the counsel of the French Communists. Browder's leading antagonist in the Party councils was William Z. Foster, who attacked Browder as preaching anti-Communism, as fighting the Communist Party, and as being a "revisionist". For some years prior to 1940 Foster had been an official of Communist International. In July, 1945, the Communist Political Association was reorganized into the Communist Party of the U.S.A., Browder was ousted, and Foster was made the National Chairman of the Party. Six of the present leaders of the Party were members of the delegation to the convention of the International in 1935 and participated in the declaration of fealty to Stalin.

4. The amended answer of the Party says that Marxism-Leninism is basic to the Communist Party USA. And, as we have pointed out, while the tenets of Marxism-Leninism, forcefully set out in the writings of Marx, Lenin and Stalin, permit a wide flexibility in tactics, that is, of intermediate activities and objectives, they admit of no deviation from the ultimate objective, which is a classless, stateless world. If the Communist Party USA does not adhere to the basic ultimate objective of Marxism-Leninism, some vivid evidence to that effect should be readily available. Such a position on the part of the Communist Party USA would be a noteworthy fact, which surely would be reflected somewhere. But this record contains no such evidence.

In this connection the Party points to the preamble to its constitution, adopted in 1948, which contains the following sentence: "The Communist Party upholds the achievements of American democracy and defends the United States Constitution and its Bill of Rights against its reactionary enemies who would destroy democracy and popular liberties." But that recitation must be viewed in the light of the established position of Communist leaders that American democracy has gone far in protecting the rights of minorities and of working people and in advancing the economic status of such people, and that in that respect American democracy receives the plaudits of those leaders. But that position in no way negates the ultimate stateless world objective of the Communist movement. Further in this connection it is interesting to note the description of the intermediate program of the Party USA, as described by the Party through its witness Gates. Mr. Gates testified that the historic mission of the working class is the establishment of socialism; that the Party USA advocates the peaceful and constitutional road to socialism; that it advocates a party composed of a coalition of all exploited classes and believes that this party will win an election but that the monopolists will not accept this result and will use violence to overthrow the people's government; that the new government should take measures to anticipate this violence and should remove from the army, navy, and police force all generals, etc., who are sympathetic to monopolists, and replace them with officers who are sympathetic to the cause of the common people; that thus the peace government would be forced by necessity to take revolutionary measures to prevent its overthrow; and that this process is in no way contradictory to the principle of dictatorship of the proletariat.

5. We note next, without discussion, that the evidence shows that the Party press, the *Daily Worker*, follows

the views of the publication of the Cominform, which is known as *The Lasting Peace*.

6. The next outstanding feature of the proof is an elaborate demonstration in the evidence presented by the Government that the Party USA has never differed in policy or program with the Soviet Union. Most notable in this evidence was the meticulous portrayal of many major international questions upon which the United States Government and the Soviet Union have differed, and the striking fact that in every such instance the Party USA has supported the position of the Soviet Union. Examples of such matters are the Truman Doctrine, the Marshall Plan, ECA, the North Atlantic Pact, control and inspection of atomic energy, the seating of Yugoslavia in the United Nations Security Council, the representation of China in the United Nations, the peace treaty with Japan, the William Oatis case, and the Korean War. The Party has consistently adhered to the view of the Soviet Union that the United States is an imperialistic nation which seeks world domination. Quite vivid is the identity of the course of the Party USA with the course of the Soviet Union when the latter's course changed abruptly. The Party denounced Fascism in Nazi Germany until the Hitler-Stalin Pact in 1939, when the Party switched to the Soviet Union position. When Pact was abrogated in June, 1941, and Hitler came conflict with the Soviet Union, the Party promptly switched its attitude and thereafter urged that World War II was a just war. The Party strongly opposed lend-lease aid to Great Britain. It took the same position as did the Soviet in 1947-49 in regard to the internal situation in Greece, and in 1948 in respect to the Czech government. Its course precisely paralleled the Soviet Union's actions in respect to the Tito government in Yugoslavia, including an abrupt reversal of attitude in June, 1948, when the Cominform

attacked Tito. At each stage the Party supported the Soviet position in respect to the blockade of Berlin in 1948. Of current significance is the testimony and documentary evidence establishing that the Party USA and the Soviet Union express the same views regarding Korea. Both maintain that the Syngman Rhee government is a reactionary "puppet regime"; both vigorously condemn the hostilities in Korea as the direct result of imperialism and aggression; and both insist the United Nations police action was illegal and aggressive toward North Korea.

The Party does not deny the facts of the identity of the program and policies of the Soviet Union and of the Party. It makes two contentions in respect to them. In the first place it says the statutory phrase "do not deviate from" (Sec. 13(e)(2)) is the sole pertinent inquiry in respect to identity of views and policies, and that that phrase has reference only to instances where the Soviet Union first adopted a policy and the Party thereafter adopted it. That is obviously an untenable argument. The statutory phrase refers to identity or coincidence and not to chronological adoption. In the second place the Party, through its witnesses, says that the identity of views of the Soviet Union and the Party is a coincidence. Thus the witness Gates testified that while he was editor of the *Daily Worker* he could think of no instance where that paper supported this Government in opposition to the Soviet Union; that this was because the Soviet Union has never put forward policies in any way contrary to the interests of the American people. He said that if the Communists in this country have expressed no disagreement with the views of the Cominform it is because they believe those views have not been in contradiction to the interests of the American people. He testified that, so far as he knows, the views and policies of the Soviet Union are truly in

the interests of the American people. The Party witness Flynn testified to the same effect.

It seems to us that the foregoing six considerations—(1) that the Party was prior to 1940 a section of the Communist International, and, although it was disaffiliated organizationally, it presents no evidence of a repudiation of world Communist doctrines; (2) that the Party calls itself the Communist Party of the United States of America; (3) that the present organization of the Party had its origin in a revulsion against a departure from the world Communist program; (4) that Marxism-Leninism is basic to the Party; (5) that the Party's press follows closely world Communist views; and (6) that the policies of the Party and its views upon all issues have for years been identical with those of the world Communist leaders—are the key considerations in the inquiry as to the relationship of the Party to the world movement and its leadership.

## XIV.

We turn next to the mandate of Section 13(e) of the statute and to the findings made by the Board pursuant to it.

Petitioner attacks all these findings first upon the same grounds as were its attacks upon these subparagraphs as parts of the statute itself. We have discussed those contentions in detail in discussing the statute. Petitioner also attacks severally the findings under each subparagraph of the section.

Proceeding under the requirement of Section 13(e)(1) the Board made an elaborate examination of the policies and directives of the Party, devoting to the subject almost 130 pages of the printed report. Its conclusions are

stated in eleven paragraphs. In substance they are that the Party's organizational forms are based upon directives of the Soviet Union and are carried out to effectuate the policies of the world Communist movement; that by the acceptance of democratic centralism the Party subjects itself to the authority of the Soviet; that the Party advocates the overthrow of imperialist governments, including the United States; and that the major programs of the Party are set forth by the Soviet for the accomplishment of the objectives of the world Communist movement. Without recapitulating or reciting the multitudinous bits of evidence which underlie these findings, we simply state that in our view a clear preponderance of the evidence supports them. As we have made clear, there is scarcely a dispute as to the period prior to 1940, and there is ample evidence in this record as a whole, when balanced against the proof offered to the contrary, to support their accuracy as to the present.

The Board found that the Party invariably follows the views and policies of the Soviet Union (Sec. 13(e)(2)). We have already discussed non-deviation as one of the chief items of evidence in the case.

The Board found, pursuant to Section 13(e)(3)), that, until the disaffiliation of the Party from the International, the Party received substantial financial aid from and at the direction of the Soviet Union and the International, but that since 1940 only one incident of such aid was shown by the record. The evidence in support of that finding is overwhelming. Indeed it is not seriously controverted. The Party's chief defense on this point is that the evidence is not relevant, a legal question we have discussed.

The Board found (Sec. 13(e)(4) and (5)) that prior to the outbreak of World War II the Party USA sent many representatives to the Soviet Union and they were trained therein Communist policies and program; and that there is no substantial evidence that such rep-

resentatives were sent after the outbreak of that war. The latter conclusion is not disputed, of course; the former is overwhelmingly established. However the Board found that the Party reports to the Soviet Union, largely through representatives of the Soviet in this country. The Party's witnesses categorically denied this claim as it was presented to the Board by the Attorney General. There is little doubt about these reports having been made when the Party was a member of the International; such was one of the "conditions" of the International. There is some doubt that a preponderance of the evidence supports the broad conclusion that the Party "reports to the Soviet Union and its representatives." Such a conclusion seems to imply constant, systematic reporting as of now. The evidence indicates instances, as in the cases of Eisler and Peters. On this record we would strike this finding as phrased. There is a preponderance of evidence, we think, to support a conclusion that upon occasion leaders of the Party report to representatives of the Soviet Union.

The Board, pursuing ~~Section 13~~(e)(6), found that an iron discipline exists throughout the world Communist movement, which requires unquestioned devotion to the program laid down by the Soviet Union, and that the Party has recognized and accepted that requirement. The Party's witness Gates denied that the leaders of the Party USA consider themselves subject to the disciplinary power of the Soviet Union or of any international Communist agency.

The requirement of iron discipline within the Communist movement is one of the basic principles of the movement. It is the "democratic centralism" so vigorously insisted upon by Communist leaders in both speeches and documents. The evidence offered by the Government upon the point included the Classics, many publications, categorical assertions by witnesses on the

stand, and incidents in which those who departed from the Communist program were expelled from the Party, including, among others, the experiences of Gitlow in 1929, Kornfeder in 1934, Johnson in 1940, Lautner in 1950, Tompkins in 1951, and the demotion of Browder in 1945. Identification of the Soviet Union as the leader of the world Communist movement is amply shown. It appears in documents taught in Party classes, in Communist publications, in oral testimony, and in circumstances such as the pledge of fidelity to Stalin by the International convention. We think the finding on this point is supported by a clear preponderance of the proof.

With respect to operations on a secret basis, referred to in Section 13(e)(7) of the Act, the Board made findings on a number of such practices, including concealed membership, refusal to reveal information, secretion of records, deceptive language, the use of aliases, the use of codes, false swearing, secret meetings, reduction of committee memberships, assignment of members to small groups, underground plans and operation, and the infiltration of other organizations. There is no serious dispute as to the facts in respect to these operations. Indeed the Party's witnesses testified to many of them, and the amended answer impliedly admits them. The dispute centers about the purposes of the practices. The Party contended, and now contends, that it was forced into these practices in order to protect the constitutional rights of its members to speak and to assemble, and to safeguard them from social and economic persecution. The Government says that these practices were for the purpose of concealing an unlawful conspiracy. The Board concluded that the practices were undertaken for the purposes of concealing the true nature of the Party and of promoting its objectives.

This question, whether the secret practices of the Party are for the purpose of protecting the liberties of the members or are for the purpose of promoting the

objectives of the Party, is a nebulous one. The two purposes may well overlap. In so far as protection of its members from public identification as Communists also promotes the objectives of the Party, both purposes could exist together. In a doubtful situation such as that on this point, we strike the finding as to purpose. At the same time we are of opinion that the Party's view of the limited purpose of secrecy is not shown by a preponderance of the evidence. On this point we conclude simply that a defined purpose is not proven.

The Board found (Sec. 13(e)(8)) that the purposes of the Party are the antithesis of allegiance to the United States and that the Party's leaders and members consider the allegiance they owe the United States as subordinate to their loyalty and obligations to the Soviet Union. The evidence on this point is long and in great detail. Considerable testimony was given that at Communist schools students were taught that a just war is one in which the Soviet Union has as an adversary an imperialist power, that from the standpoint of a war against the Soviet Union the war is an unjust one for the adversary, and that Party members must adhere to the Soviet Union in any just war. Certainly it is clear beyond question that the Party USA regards the Government of the United States as an imperialist government, and the ultimate essence of the Communist movement is the overthrow of imperialist governments. Certainly prior to 1941 the leaders of the Party USA declared fealty to the Soviet rulers, and the same men are now leaders of the Party. *The Communist Party Manual on Organization,* written by J. Peters and published by the Workers Library Publishers, contains this statement:

> "The Communist Party rallies the masses against imperialistic war and fascism, and for the defense of the Soviet Union.
>
> "The Soviet Union is the only fatherland of workers all over the world. * * *"

Certainly it appears that the Communists bitterly assail the Socialists for advocacy of a peaceful path to power. Repeatedly in Communist publications appears the phrase "the Workers' Fatherland, the Soviet Union," or similar phrases.

The Party relies chiefly upon the text of its constitution and the testimony of the three witnesses whom it presented. The witnesses denied that they owed allegiance to any government except the United States.

The use of the term "allegiance" in connection with a relationship to the Soviet Union injects some confusion into the discussion upon this point. Allegiance implies the formalities of the oath of citizenship, the necessities of military service, etc. Of course citizens of the United States have no such "allegiance" to the Soviet. But the statute itself is not confused upon the matter. It refers to the extent to which members of an organization "consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization." The latter are obligations of a nature different from technical allegiance. The Board accurately phrased the point in its key considerations, saying that the obligations which members have accepted toward the Soviet are completely incompatible with, and the exact antithesis of, allegiance to the United States. We think the conclusion is amply supported.

This opinion is too long to permit of recapitulations. The foregoing recitations will reflect the state of the facts as we find the controlling features to be shown by the record. When the parts are put together, the picture is clear and forceful.

## XV

We are of opinion, as hereinabove indicated, that the statute and the order are valid as matters of law. The ultimate finding of the Board was that the Party USA "is substantially directed, dominated and controlled by

the Soviet Union, which controls the world Communist movement referred to in Section 2 of the Act; and that Respondent [the Party] operates primarily to advance the objectives of such world Communist movement." We conclude that this ultimate finding is supported by the basic findings which are in our opinion supported by a preponderance of the evidence, and that the ultimate finding is itself supported by a preponderance of the evidence.

The order of the Board will be

*Affirmed.*

BAZELON, *Circuit Judge,* dissenting: Suppose an Act of Congress required bands of bank robbers to file with the Attorney General statements of their membership and activities, and imposed criminal penalties upon their leaders and members for failure to do so. Such an Act would compel individuals to disclose their connection with a criminal conspiracy. No argument could reconcile such an Act with the Fifth Amendment's command that "No person * * * shall be compelled in any criminal case to be a witness against himself."

The registration provisions of the Internal Security Act of 1950 are similar.[1] They compel individuals, under

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[1] In 1951, sitting as a member of a three-judge District Court, I voted to deny the motion of the Communist Party for a preliminary injunction. 96 F.Supp. 47. The relief sought by that motion was a stay of the proceeding which the Attorney General had theretofore instituted before the Subversive Activities Control Board. I based denial of discretionary preliminary relief upon a series of estimates of probabilities, which was all we had before us. The Communist Party pointed to nothing in the conduct of the administrative proceedings themselves which would necessarily violate constitutional rights. The issue of coverage remained to be determined by the Board, which might have

criminal penalties, to disclose intimate association with the Communist Party, a disclosure which the Supreme Court has held to be incriminatory.[2] Every "Communist-action" organization must register with the Attorney General,[3] list the names, aliases, and addresses of its members and officers during the preceding twelve months, and account for all money received and spent during that time.[4] The organization must register within thirty days after a final order of the Board,[5] under a penalty of $10,000 for each day's delay.[6] In addition, if it fails to register, § 7(h)[7] requires certain officers to register on its behalf.[8] If the officers do not register within sixty days after the final Board order, § 8(a) requires all individual members to register.[9] Noncompliance by individuals with either § 7(h) or § 8(a) is punishable by a

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found that the Communist Party was not a Communist-action organization, and there was nothing in the administrative procedure or in the provision for judicial review which indicated that they were unconstitutional on their face. Since the Communist Party has now been found to be a Communist-action organization, the questions posed now are different. Because they are different, as Mr. Justice Jackson said, quoting Baron Bramwell, "The matter does not appear to me now as it appears to have appeared to me then." Kristensen v. McGrath, 340 U.S. 162, 178 (1950) (concurring opinion.)

[2] Blau v. United States, 340 U.S. 159, 161 (1950).

[3] Section 7(a), 50 U.S.C. § 786(a) (1952).

[4] Section 7(d), 50 U.S.C. § 786(d) (1952).

[5] Section 7(c), 50 U.S.C. § 786(c) (1952).

[6] Section 15(a)(1), 50 U.S.C. § 794(a)(1) (1952).

[7] 50 U.S.C. § 786(h) (1952).

[8] Section 11.205 of the regulations promulgated under the Act supplements the list of officers who must register. 19 FED. REG. 6035-36 (Sept. 18, 1954).

[9] 50 U.S.C. § 787(a) (1952).

fine of $10,000, five years' imprisonment, or both, for each day's delay.[10]

The registration of the organization, required by § 7(a), must necessarily be executed by some individual or individuals. Congress and the Attorney General have recognized this obvious fact. Section 15(b)[11] punishes "individuals" who willfully falsify or omit a required fact in executing a registration statement required under § 7;[12] and paragraph 6 of the Attorney General's instructions which accompany the registration form for organizations (Form ISA-1) requires the statement to "be signed by the partners, officers, and directors, including the members of the governing body of the organization."

My colleagues recognize that some individual will be "called upon to sign or swear to a registration statement" and may be incriminated by having to disclose his aliases.[13] But they fail to recognize that his signing is a complete though tacit admission that he knows the names of the Party's officers and members, and its organization; that he is himself a member or a confidential employee of the Party; and that he has access to Party books and records. *Blau v. United States* is decisive of this case. The Supreme Court there held that an admission that one is "employ[ed] by the Communist Party or [has] intimate knowledge of its workings" might furnish

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[10] Section 15(a)(2), 50 U.S.C. § 794(a)(2) (1952).

[11] 50 U.S.C. § 794(b) (1952).

[12] See Note, *The Internal Security Act of 1950*, 51 COL.L. REV. 606, 620 (1951), where the author states: "It is obvious * * * that an organization cannot register unless its officers, or other persons designated by the membership, execute a registration statement and continue to make the necessary annual reports."

[13] Majority Opinion, p. 24.

a "link in the chain of evidence needed in a prosecution" under the Smith Act and therefore could not be required.[14]

It is true that the present Act does not in direct terms require any individual to execute a statement for the organization during the thirty-day period within which it must register. But of necessity and also by the Attorney General's instructions, the only individuals who can execute a statement for the organization are those upon whom § 7(h) of the Act, supplemented by § 11.205 of the Regulations, places a duty to register for the organization if it defaults;[15] and these officials are subject to the

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[14] 340 U.S. 159, 161 (1950). The admissions implied in executing the statements for the Communist Party are the very admissions sought from Mrs. Blau: "Mrs. Blau, do you know the names of the State officers of the Communist Party of Colorado?" "Do you know what the organization of the Communist Party of Colorado is, the table of organization of the Communist Party of Colorado?" "Were you ever employed by the Communist Party of Colorado?" "Mrs. Blau, did you ever have in your possession or custody any of the books and records of the Communist Party of Colorado?" "Did you turn the books and records of the Communist Party of Colorado over to any particular person?" "Do you know the names of any persons who might now have the books and records of the Communist Party of Colorado?" "Could you describe to the grand jury any books and records of the Communist Party of Colorado?" *Id.* at 160, n. 1. See cases collected 19 A.L.R. 2d 388.

[15] Under the statute the duty to register falls upon the organization's executive officer, secretary, or the individuals performing the ordinary and usual duties of such officers, and upon such other officers as the Attorney General may prescribe. Under the regulation, "(a) The president, chairman, or other person who is chief officer of the organization. (b) The vice-president, vice-chairman, or person performing similar function. (c) The treasurer. (d) Members of the governing board, council, or body" "jointly with the executive officer and secretary" are made liable to register for the organization after the expiration of thirty days. It

severe criminal penalties of § 15(a)(2)[16] if they fail to perform this duty. Since they will be subject to criminal penalties for failure to register shortly after the thirty-day period has run,[17] as a practical matter they are under heavy pressure to prevent it from running.[18] The "compulsion prohibited by the fifth amendment is not alone physical or mental duress, such as comes from unlawful commands and authoritative orders, * * *,"[19] "the test being whether all things considered the testimony in question was voluntarily given."[20]

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will be recalled that paragraph 6 of the Attorney General's instructions specifies that the organizational registration form shall be signed by the organization's "partners, officers, and directors, including the members of the governing body * * *."

[16] The officers are subject to a fine of $10,000 and imprisonment of five years for each offense. Any offense is defined as one day's failure to register, so that two weeks' nonregistration could mean a fine of $140,000, seventy years in prison, or both.

[17] The designated officers must file the statement within ten days after the organization's thirty-day period has run. Regulations, § 11.205, 19 FED. REG. 6036.

[18] Cf. United States v. Bell, 81 Fed. 830, 837 (W.D.Tenn. 1897), where it was held that a witness, although "technically not under the compulsion of a subpoena," had nevertheless been under compulsion in testifying before an "official having the power to compel him to come, if he should be recalcitrant about it * * *."

[19] United States v. Bell, 81 Fed. 830, 837 (W.D.Tenn. 1897); cf. Boyd v. United States, 116 U.S. 616, 621-22 (1886) (holding that it is equivalent to the compulsory production of papers to make their nonproduction a confession of the allegations it is contended they will prove); and see McKnight v. United States, 115 Fed. 972, 981 (6th Cir. 1902).

[20] United States v. Neff, 212 F.2d 297, 312 (3d Cir. 1954).

Nor are the compulsory self-incrimination provisions of the Act saved by § 4(f). That section provides that "*the fact of registration* of any person * * * *shall not be received in evidence* * * * in any prosecution for any alleged violation of subsection (a) or subsection (c) or for any alleged violation of any other criminal statute." [21] Since this provision merely bars the "fact of registration" as evidence, and leaves the registrant exposed to prosecution for everything to which the registration relates, it does not meet the command of the Supreme Court in *Counselman* v. *Hitchcock*. There, as here, a statute prevented use of extorted disclosures as "evidence" in any criminal proceeding but, as the Court pointed out, the statue did not prevent their use "to search out other testimony to be used in evidence * * * in a criminal proceeding." No grant of immunity is sufficient unless it provides "complete protection from all the perils against which the constitutional prohibition was designed to guard." [22] Nothing less than "absolute immunity against future prosecution for the offence to which the question relates" can serve as a "full substitute for that [constitutional] prohibition." [23]

But my brethren say, in effect, that under the doctrine of *United States* v. *White*,[24] no officer of the Communist Party can assert the constitutional privilege to avoid giving information about the organization which § 7(a)

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[21] 50 U.S.C. § 783(f) (1952); emphasis supplied.

[22] 142 U.S. 547, 564, 585-86 (1892).

[23] *Ibid.* For law review comment asserting the purported immunity to be inadequate, see Meltzer, *Required Records, The McCarran Act, and the Privilege against Self-Incrimination*, 18 U. OF CHI.L.REV. 687, 724 (1951); Comment, *Communist Registration under the McCarran Act and Self-Incrimination*, 1951 WIS.L.REV. 704, 715 (1951).

[24] 322 U.S. 694 (1944).

requires. I do not think the *White* doctrine can be so applied.

In *White* an officer of a labor union had appeared before a grand jury in response to a *subpoena duces tecum* but had declined to produce union documents. His mere appearance as a union officer was not, and was not claimed to be, incriminatory. Instead, he invoked the privilege on the theory that the demanded documents were incriminating. The Court replied that he could not "place under the protective shield of the privilege * * * official union documents held by him in his capacity as a representative of the union." [25] The vice of the present statute is not that it compels someone to produce incriminatory documents, but that it *compels someone to identify himself as a Communist Party functionary.* Such identification, unlike identification as a corporate or union official, is incriminatory under the *Blau* case.[26] That situation was not involved in *White*, nor in *Rogers* v. *United States*, since the witness there had "freely described her membership, activities and office in the Party." [27] This fundamental difference makes the *White* case inapplicable. There are two further distinctions.

(1) Section 7(d) requires the *preparation of a statement* naming the organization, listing its members and officers (and their aliases), describing the officers' duties and functions, and accounting for money received and

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[25] *Id.* at 704.

[26] See n. 14 and text, *supra*.

[27] 340 U.S. 367, 372 (1951). In United States v. Field, 193 F.2d 109 (2d Cir. 1951), an official of the Bail Fund Committee of the Civil Rights Congress declined to produce the organization's documents on the ground that to do so would in itself be incriminatory. The argument was rejected by the Second Circuit solely on the ground that earlier, in the same proceeding, he had admitted being a trustee of the fund.

spent. Hence incriminating information is, in effect, "forced from the lips of the [executing officer], rather than obtained from the records or books." [28] As the Second Circuit has held, "the production of records must be distinguished from * * * testimony as to what the records would contain, had they been produced." [29]

(2) I do not think the *White* doctrine applies even as to books and records of the Communist Party, notwithstanding the dictum in *Rogers* that there is no privilege with respect to the books of the Party. Under the *White* test, the privilege is unavailable to officers of an organization only when the organization's character is "so impersonal in the scope of its membership and activities that it cannot be said to embody or represent the purely private or personal interests of its constituents, but rather to embody their common or group interests only." [30] The "impersonal" criterion, as discussed by the Court, clearly indicates that unions, other lawful associations, and corporations are to be distinguished from

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[28] United States v. Daisart Sportswear, 169 F.2d 856, 862 2d Cir. 1948). See Note, *The Internal Security Act of 1950*, 51 COL.L.REV. 606, 621 (1951), where the author states: "The execution of a registration statement by an individual would at least require him to confirm and transpose selected material from the organization's records to the registration statement. Since an organization need not keep complete records prior to registration, in many cases the officer would be forced to execute the registration statement by relying on his own knowledge. It is clear that in both instances the officer is doing more than producing records and identifying them. He is disclosing other matters of his personal knowledge."

[29] 169 F.2d at 862.

[30] 322 U.S. at 701.

criminal conspiracies.[31] Only by ignoring the history of the decade since *White* can the Communist Party be equated to an ordinary corporation, union or association. For in that decade it has been established that officers of the Communist Party are engaged in a conspiracy to violate the Smith Act.[32] Since these officers, unlike the officers of "impersonal" organizations, are co-conspirators, bound by the acts of other officers in pursuance of the conspiracy and subject to criminal penalties for such acts, the *White* case does not touch the self-incrimination problems posed by this Act.

In *Boyd* v. *United States* [33] the Supreme Court declared "unconstitutional and void" a statute which merely imposed economic pressure to produce incriminating documents. State courts have invalidated various statutes that compelled self-incrimination,[34] including two that re-

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[31] In finding unions similar to corporations, the Court enumerated features common to both which are clearly inapplicable to criminal conspiracies: "Duly elected union officers have no authority to do or sanction anything other than that which the union may lawfully do"; "no member or officer has the right to use [the union's books and records] for criminal purposes * * *"; "the actions of one individual member no more bind the union than they bind another individual member unless there is proof that the union authorized or ratified the acts in question"; and "the members are not subject to either criminal or civil liability for the acts of the union or its officers as such unless it is shown that they personally authorized or participated in the particular acts." 322 U.S. at 702.

[32] Dennis v. United States, 341 U.S. 494, 516-17 (1951); Frankfeld v. United States, 198 F.2d 679 (4th Cir. 1952).

[33] 116 U.S. 616, 638 (1886).

[34] In re DeWar, 148 A. 489 (Vt. 1930) (statute requiring persons convicted of intoxication to disclose name of person from whom liquor obtained held "unconstitutional and void"); People v. Reardon, 90 N.E. 829 (N.Y. 1910) (statute

quired members of the Communist Party to register,[35] I would do the same with the present statute. Section 14(a)[36] permits a "party aggrieved" by respondent's order to obtain judicial review. Plainly the Communist Party is "aggrieved." Therefore it may challenge the legality of the Board's order even though the constitutional rights invaded are those of other persons and not of the Party itself.[37]

The Government and my brethren would postpone determination of constitutionality until a Communist Party official has declined to register for the Party on self-incrimination grounds. First, they say that an official may register voluntarily. But as I have pointed out, the coercion to register precludes voluntary compliance as a matter of law. In *Boyd* the Supreme Court held a statutory disclosure requirement "void" although, theoretically at least, someone within its scope might at some time have voluntarily made the required disclosures. Second, they argue that a Communist Party official might suffer no "substantial detriment" either because he had already disclosed his Communist affiliations in other proceedings or because he had already been convicted under the Smith Act. But the privilege can never be lost in any such

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compelling individual to submit to investigation of books and papers kept in private business for purpose of furnishing evidence in criminal prosecution held to violate self-incrimination clause of State constitution); State v. Simmons Hardware Co., 18 S.W. 1125 (Mo. 1892) (statute requiring officers of every corporation to inform Secretary of State whether company is violating State anti-trust law held void).

[35] People v. McCormick, 228 P.2d 349 (Cal. 1951); Maryland v. Perdew, 19 U.S.L. WEEK 2357 (Md. C.C., Allegany Cty., 1951).

[36] 50 U.S.C. § 793(a) (1952).

[37] National Coal Ass'n v. Federal Power Comm'n, 89 U.S.App. D.C. 135, 191 F.2d 462 (1951); Associated Industries v. Ickes, 134 F.2d 694 (2d Cir. 1943).

way. "The privilege is not waived by testimony given in a previous proceeding, even in the same case."[38] It is waived only by testimony in the same proceeding. Hence the individuals referred to by my brethren as having admitted Communist Party affiliations at the hearing before the Board did not thereby waive their privilege.[39] And the previous conviction of some Communist Party officials confers no immunity upon them from further prosecution based upon later Communist affiliation. Third, it is urged that the privilege "must be specifically asserted at the time a particular question is asked * * *."[40] But that doctrine applies only where it is not plain from the inquiry itself that incriminating disclosures are de-

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[38] United States v. Steffen, 103 F.Supp. 415, 417 (N.D. Cal. 1951); see also Marcello v. United States, 196 F.2d 437 (5th Cir. 1952); United States v. Field, 193 F.2d 109 (2d Cir. 1951); United States v. Peckhart, 103 F.Supp. 417 (N.D.Cal. 1952); United States v. Malone, 111 F.Supp. 37 (N.D.Cal. 1953) (waiver before grand jury held not to bar privilege at trial on indictment returned by same grand jury); Note, 36 A.L.R. 2d 1403 (1954). Other state authorities are collected in United States v. Steffen, *supra*, 103 F. Supp. at 417, n. 4. See WIGMORE § 2276(4) (3d ed. 1940).

[39] In the three-judge court suit brought by the Communist Party (see n. 1, *supra*), one of the grounds urged for enjoining hearings before the Board was that to properly defend itself at such hearings Communist Party officials would necessarily have to testify and that such testimony would necessarily entail their admission of Communist Party affiliations. Those officials who testified at the hearing did so only after denial of relief in that suit. Moreover, they testified more than two years ago. A fresh disclosure of continued Party office would clearly constitute a "substantial detriment," particularly in view of the intervening Board determination that the Party is a Communist-action organization.

[40] Brief for Government, p. 56.

manded.[41] It is plain here. Since any person who comes forward, even to claim the privilege, thereby identifies himself as a Communist Party functionary,[42] to require him to claim the privilege would, in the words

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[41] In a judicial or legislative proceeding, where most questions asked will not necessarily require incriminating answers, the tribunal must be put on notice that in a particular instance the Fifth Amendment may apply. See, *e.g.*, Vajtauer v. Commissioner, 273 U.S. 103, 113 (1927), where the Court said: "It is for the tribunal conducting the trial to determine what weight should be given to the contention of the witness that the answer sought will incriminate him, *a determination which it cannot make if not advised of the contention.* The privilege may not be relied on and must be deemed waived if *not in some manner fairly brought to the attention of the tribunal which must pass upon it.*" [Emphasis supplied.] Similarly, under a revenue statute requiring all taxpayers to give information about their sources of income either in a return or an investigation, the enforcing authorities must be put on notice that as to a particular taxpayer the Fifth Amendment may bar the required disclosure. See United States v. Sullivan, 274 U.S. 259, 263 (1927), where the Court said: "If the form of return provided called for answers that the defendant was privileged from making he could have raised the objection in the return, but could not on that account refuse to make any return at all." The matter was well expressed by the Seventh Circuit in Murdock v. United States, 62 F.2d 926, 927 (1932): "* * * a citizen from whom information is sought under a statute enacted pursuant to authority granted to Congress by the Sixteenth Amendment may invoke or waive the protection provided by the Fifth Amendment. And likewise the courts will compel the production of information, *subject, however, to the right of said taxpayer to justify his refusal so to do by showing facts that bring him within the protection of the Fifth Amendment.* Thus construed, the statute under consideration is not unconstitutional." [Emphasis supplied.]

[42] This is so because the only persons within the class required to act are Communist functionaries. As in the case of the hypothetical bank robber statute, to claim the privi-

of Chief Justice Marshall, "strip him of the privilege which the law allows * * *."[43]

In reviewing administrative action, the court "may adjust its relief to the exigencies of the case in accordance with equitable principles governing judicial action."[44] Equitable principles, even in the absence of a statute providing for judicial review, justify the relief I would grant in this case. *Truax* v. *Raich* is in point. There the complainant was an alien employee who was threatened with discharge because of a state statute which penalized only the employer for employing more than a certain percentage of aliens. It did not penalize employees. The Supreme Court held the threatened injury to the complainant brought the case "within the class in which, if the unconstitutionality of the act is shown, equitable relief may be had."[45] And Government officers have been enjoined "from bringing criminal proceedings to compel obedience to unconstitutional requirements."[46]

---

lege is to admit that one is within the class to which the statute relates.

[43] United States v. Burr, 25 Fed.Cas. 38, 40, No. 14692(e) (C.C.Va. 1807); see also Hoffman v. United States, 341 U.S. 479, 486 (1951), where the Court declared: "* * * if the witness, upon interposing his claim, were required to prove the hazard in the sense in which a claim is usually required to be established in court, he would be compelled to surrender the very protection which the privilege is designed to guarantee."

[44] Ford Motor Co. v. National Labor Relations Board, 305 U.S. 364, 373 (1939); United States v. Morgan, 307 U.S. 183, 191 (1939); see Davis, ADMINISTRATIVE LAW 727 (1951).

[45] 239 U.S. 33, 39 (1915). See also Terrace v. Thompson, 263 U.S. 197 (1923); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[46] Philadelphia Co. v. Stimson, 223 U.S. 605, 621 (1912). See also Ex parte Young, 208 U.S. 123 (1908); and cases cited n. 45, *supra*.

Since Congress has enlarged the area of incrimination with regard to the Communist Party, and since the Supreme Court has found the enlargement permissible, we must see that the constitutional guarantee against compulsory self-incrimination is co-extensive with the widened danger.

The Fifth Amendment, as Dean Griswold has said, "is a clear and eloquent expression of our basic opposition to collectivism, to the unlimited power of the state. It would never be allowed by Communists, and thus it may well be regarded as one of the signs which sets us off from Communism." [47]

Since I would void the Act on Fifth Amendment grounds, I do not consider the petitioner's other contentions.

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[47] Griswold, *The Fifth Amendment As a Symbol*, HARV. LAW SCHOOL RECORD (Oct. 21, 1954).

[fol. 2172] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS, DISTRICT OF COLUMBIA CIRCUIT, OCTOBER TERM, 1954

No. 11,850

October Term, 1954

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, Petitioner

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, Respondent

On Petition for Review of Order of the Subversive Activities Control Board.

Before: Prettyman, Bazelon, and Danaher, Circuit Judges.

JUDGMENT AND DECREE—December 23, 1954

This case came on to be heard on the transcript of the record from the Subversive Activities Control Board, and was argued by counsel.

On consideration whereof, it is ordered, adjudged and decreed by this Court that the order of the Subversive Activities Control Board on review herein be, and it is hereby, affirmed.

Dated: December 23, 1954.

Per Circuit Judge Prettyman.

Separate dissenting opinion by Circuit Judge Bazelon.

---

[fols. 2173-2198] Petition for rehearing covering 25 pages filed January 6, 1955. Omitted from this print. It was denied, and nothing more by order January 14, 1955.

[fol. 2199] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS

[Title omitted]

Before: Stephens, Chief Judge, and Edgerton, Wilbur K. Miller, Prettyman, Bazelon, Fahy, Washington, Danaher and Bastian, Circuit Judges, in Chambers.

ORDER OF THE COURT IN BANC DENYING REHEARING—January 14, 1955

Upon consideration of petitioner's petition for a rehearing in banc in the above entitled case, it is

Ordered by the Court that the aforesaid petition for a rehearing in banc be, and it is hereby, denied.

Per Curiam.

Dated: January 14, 1955.

Circuit Judge Fahy did not participate in the above order.

---

[fols. 2200-2203] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS

[Title omitted]

Before: Prettyman, Bazelon and Danaher, Circuit Judges, in Chambers.

ORDER OF THE COURT DENYING REHEARING, ETC.—January 14, 1955

On consideration of petitioner's petition for a rehearing of the above entitled case by the division of the Court deciding the case, it is

Ordered by the Court that the petition for rehearing be, and it is hereby, denied.

Per Curiam.

Dated: January 14, 1955.

[fols. 2204-2205] Clerk's certificate to foregoing transcript omitted in printing.

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[fol. 2206] SUPREME COURT OF THE UNITED STATES,
OCTOBER TERM, 1954

No. 718

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
Petitioner

vs.

SUBVERSIVE ACTIVITIES CONTROL BOARD

ORDER ALLOWING CERTIORARI—Filed May 31, 1955

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

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FILED
APR 13 1955
HAROLD B. WILLEY, Clerk

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1954

No. ~~710~~ 818

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner*,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

**Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit**

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1954

No. .....

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,

Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

## Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

Communist Party of the United States of America petitions that a writ of certiorari issue to review a judgment of the United States Court of Appeals for the District of Columbia Circuit (R. 2172; Appendix A herein)[1] which affirmed (Judge Bazelon dissenting) an order of the Subversive Activities Control Board (R. 138) that the petitioner register as a Communist-action organization under Section

[1] We use "R." to refer to the record from the court below, which consists of the Joint Appendix below and the proceedings in that court. "Tr." refers to the transcript of the proceedings before the Subversive Activities Control Board, filed with this Court by order of the court below and pursuant to Rule 21(3) of this Court. "A. G. Ex." refers to an exhibit offered by the Attorney General in the proceeding before the Board. "C. P. Ex." refers to an exhibit offered in that proceeding by the petitioner herein.

7 of the Subversive Activities Control Act of 1950, 64 Stat. 993, 50 U. S. Code 786.[2]

## OPINION BELOW

The opinion of the court below has not yet been reported. It appears in the record at 2083-2171. The Report of the Subversive Activities Control Board appears in the record at 1-137. It has been published as Sen. Doc. No. 41, 83d Cong., 1st Sess.[3]

## JURISDICTION

The judgment of the court below is dated, and was entered, on December 23, 1954. Petition for rehearing was denied on January 14, 1955 (R. 2199, 2200). Jurisdiction of this Court is conferred by Section 14(a) of the Act and 28 U. S. Code 1254.

## QUESTIONS PRESENTED

Whether the provisions of the Subversive Activities Control Act of 1950 as amended, relating to Communist-action organizations and their members, and as supplemented by section 5 of the Communist Control Act of 1954, are unconstitutional on their face or as applied in this case.

---

[2] The Subversive Activities Control Act, as amended, is hereafter referred to as the Act. It is Title 1 of the Internal Security Act of 1950.

[3] Pursuant to Rule 23(1)(i) of this Court, we have filed with the Court pamphlet copies of the opinion of the court below and of the Report and Order of the Board. References to the court's opinion will be designated "Op." and will be to the pagination of the pamphlet copy. The pagination of the Report of the Board is the same as in the record from the court below, and references to the Report will be designated "R."

2. Whether the court below, having stricken two of the key findings on which the Board based its order, erred in failing to remand the proceeding for administrative redetermination.

3. Whether the order of the Board and the decision below are erroneous because they rest on alleged conduct of petitioner which admittedly was discontinued long before the enactment of the Act.

4. Whether the court below and the Board erroneously interpreted and applied section 13(e) of the Act.

5. Whether the court below and the Board erroneously interpreted and applied the Act's definition of "world Communist movement."

6. Whether the Report of the Board and the opinion below demonstrate on their face that the Board's findings are unsupported by the preponderance of the evidence.

7. Whether the order and findings of the Board are unsupported by the preponderance of the evidence.

8. Whether petitioner was denied a fair hearing because of the extra-legal pressures exerted upon the Board members to decide against petitioner and because of the refusal of the Board to disqualify members Brown and McHale upon petitioner's affidavits of bias and prejudice.

9. Whether the denial by the court below of petitioner's motion for leave to adduce additional evidence violated section 14 of the Act and was an abuse of discretion.

10. Whether the order of the Board should have been set aside because part of the administrative hearing was conducted by "recess" appointees to the Board whose appointments were invalid or had expired under article 2, section 2, clause 3 of the Constitution.

## STATUTES INVOLVED

The pertinent provisions of the Subversive Activities Control Act, as amended, the Immigration and Nationality Act, and the Communist Control Act of 1954, are set forth in Appendix B hereof.

## STATEMENT OF THE CASE

### A. The Act

#### 1. Its Enactment.

The Act originated in proposals advanced by the House Committee on Un-American Activities. While the bill was pending, the President sent Congress a special message in which he commented on the bill as follows (H. R. Doc. No. 679, 81st Cong., 2d Sess., pp. 5-6):

> "Once a government is committed to the principle of silencing the voice of opposition, it has only one way to go, and that is down the path of increasingly repressive measures, until it becomes a source of terror to all its citizens and creates a country where everyone lives in fear.
>
> "We must therefore be on our guard against extremists who urge us to adopt police state measures. Such persons advocate breaking down the guarantees of the Bill of Rights in order to get at the Communists. They forget that if the Bill of Rights were to be broken down, all groups, even the most conservative, would be in danger from the arbitrary power of the government.
>
> "Legislation is now pending before the Congress which is so broad and vague in its terms as to endanger the freedoms of speech, press and assembly protected by the first amendment. Some of the proposed measures would, in effect, impose severe penalties for normal political activities on the part of certain groups, including Communists and Communist Party-line followers. This kind of legislation is unnecessary, ineffective, and dangerous."

The bill was passed, and the President vetoed it. He stated in his veto message (H. R. Doc. 708, 81st Cong., 2d Sess., p. 5):

> "Unfortunately, these [registration] provisions are not merely ineffective and unworkable. They represent a clear and present danger to our institutions."

Congress overrode the veto on September 23, 1950.

### 2. Organizations Covered

The Act provides for administrative proceedings before the Board, upon petitions of the Attorney General, to determine whether or not accused organizations shall be required to register as "Communist-action" or "Communist-front" organizations (Sec. 13). The Communist Control Act of 1954 adds provisions authorizing the Board, on petitions of the Attorney General, to declare organizations to be "Communist-infiltrated" (Secs. 3(4A) and 13A of the Act, added by Sec. 7 of the Communist Control Act). These latter are not required to register, but are deprived of the benefits of the National Labor Relations Act, as amended. The three types of organizations are collectively referred to as "Communist organizations" (Sec. 3(5)).

The definitions of Communist organizations are tied into findings made in Section 2 of the Act. Section 2 finds, among other things, that there exists a world Communist movement, controlled by the Communist dictatorship of a foreign country, which seeks by treacherous and terroristic methods, and through the medium of a world-wide Communist organization, to overthrow capitalist governments and establish in their place totalitarian dictatorships subservient to the foreign dictatorship.

A Communist-action organization is defined as one "which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in Section 2 of this title, and (ii) operates primarily to advance the

objectives of such world Communist movement as referred to in section 2 of this title" (Sec. 3(3)).

A Communist-front organization is defined as an organization which is substantially dominated or controlled by a Communist-action organization and is primarily operated for the purpose of giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement (Sec. 3(4)).

A Communist-infiltrated organization is defined as one which is substantially dominated or controlled by an individual or individuals who are, or within three years have been, engaged in giving support to a Communist-action organization, a Communist foreign government, or the world Communist movement, and is serving, or within three years has served, as a means for giving aid or support to any such organization, government, or movement, or for the impairment of the military or industrial strength of the United States (Sec. 3(4A)).

### 3. Consequences of a Registration Order

A Communist-action organization is required to register as such with the Attorney General. The registration statement must show the names and addresses of the organization's officers and members during the preceding year, give a detailed accounting of all moneys received and expended, including the source of its revenues and the purposes of its expenditures, and list all printing and duplicating facilities. Annual reports must be filed to keep the registration up to date. The registration statement is open for public inspection (Sec. 7).[4]

When a registration order becomes final, as it does on exhaustion of judicial review (Sec. 14(b)), the officers of the organization have an individual duty to register the organization and to list its members (Sec. 7(h)). Mem-

[4] The requirement of listing printing and duplicating facilities was added as section 7(d)(6) by P. L. 557, 83rd Cong., 2d Sess.

bers not so listed are under a duty to register themselves after an adininistrative determination of their membership (Secs. 8, 13(a)). Failure to comply with these duties is punishable by imprisonment up to five years, fine up to $10,000, or both. These penalties are potentially astronomical since each day of failure to register constitutes a separate offense. Any falsity in a registration statement is punishable by a similar penalty. Here, too, astronomical accumulation is made possible because each misstatement and each omission is a separate offense (Sec. 15).

The listing or self-listing of members of petitioner in compliance with a registration order has been made an impossible task by Section 5 of the Communist Control Act. That section enumerates thirteen criteria for determining "membership" in the Communist Party. These are dependent on facts of which the petitioner and its officers can have no knowledge, and in addition are so vague and irrational that individuals cannot determine whether or not they are "members".[5]

Any person whose name is listed on a registration statement as an officer or member of, or a contributor to, the organization is in jeopardy of prosecution under the extravagantly vague sedition provisions of Section 4(a) of the Act,[6] as well as under the Smith Act and a host of state laws.

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[5] For example, the twelfth criterion of membership is whether the individual "has indicated by word, action, conduct, writing or in any other way a willingness to carry out, in any manner and to any degree the plans, designs, objectives, or purposes of the organization." Other criteria are no more definite. Furthermore, the irrationality of section 5 is apparent from the introductory clause alone, which establishes identical criteria to prove such divergent facts as "membership" in petitioner, "participation" in petitioner, and "knowledge" of petitioner's purpose or objective.

[6] Section 4(a) makes it criminal to conspire "to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship" under foreign control. And see *infra*, p. 11, for a list of other federal criminal statutes which might be invoked against members of a registered organization.

In addition, the entry of a final registration order automatically makes operative crippling sanctions against the organization and its members. These sanctions apply whether or not the organization registers.

The sanctions are the following:

(1) The organization must label publications and literature which it distributes by mail or in interstate or foreign commerce as being disseminated by a Communist organization, which is defined as a participant in a seditious conspiracy. Its radio and television broadcasts must be announced as sponsored by a Communist organization. These requirements apply without regard to the nature and content of the publications and broadcasts (Sec. 10).

(2) Members of the organization may not hold nonelective federal employment, employment in any privately owned "defense facility," or office or employment in labor unions; nor may they represent employers in matters arising under the National Labor Relations Act (Sec. 5, as amended by Sec. 6 of the Communist Control Act). A defense facility is any establishment listed by the Secretary of Defense on his ex parte determination that the security of the United States requires such listing (Secs. 3(7), 5(b)). Accordingly, what employment is open to members of the organization, and, for that matter, whether any employment at all is open to them, rests in the unreviewable fiat discretion of the Secretary of Defense.

(3) Government employees and employees of defense facilities are prohibited from contributing funds or services to the organization. Accordingly, the ex parte determination of the Secretary of Defense limits, or may virtually eliminate, the sources from which the organization can obtain funds or services (Sec. 5).

(4) Members of the organization may not hold, or apply for, passports (Sec. 6).

(5) Alien members of the organization are excluded from admission into the United States, and if already in the country, must be deported. An alien may not be naturalized if he was a member of the organization within ten years preceding the filing of his naturalization petition. Naturalized citizens who become members of, or who affiliate with, the organization within five years after naturalization are subject to revocation of citizenship.[7]

(6) Contributions to the organization are not tax deductible, and the organization itself is denied tax exemptions (Sec. 11).

The prohibitions described in the first four paragraphs above are enforceable by criminal penalties of up to five years imprisonment and $10,000 fine (Sec. 15).

The sanctions on members apply regardless of the personal innocence of the members and their lack of knowledge of alleged illegal or conspiratorial actions or purposes, and though their activities are confined to constitutionally protected areas.

The registration order has still other consequences, as follows:

(1) It officially brands the organization, its members and contributors, as treasonable conspirators, and subjects them to public opprobrium and ensuing social and economic reprisals.

(2) The Act makes it dangerous for other organizations or persons to associate with the proscribed organization or its members or to forward by constitutionally protected means social, economic, or political changes supported by the proscribed organization. Under the Act's evidentiary cri-

[7] Originally contained in Secs. 22 and 25 of the Act, these sanctions have been carried forward by Secs. 212(a)(28)(E), 241(a)(6)(E), 313(a)(2)(G) and 340(c) of the Immigration and Nationality Act, 66 Stat. 163, 8 U. S. C. 1182, 1251, 1424, 1451.

teria of front and infiltrated organizations, an organization which has any dealings with or expresses views similar to those of an organization proscribed as a Communist-action organization or its members, is itself in danger of being proscribed as a front or infiltrated organization (Secs. 13(f), 13A(e)). Moreover, under the sweeping criteria of Section 5 of the Communist Control Act, any person who has any contact or dealings with the Communist Party or its members may thereby be determined to be a member of the Party, become liable to register as such, incur the other penalties for membership, and jeopardize the status of any organization to which he belongs. A registration order therefore puts the organization into a quarantine, depriving it of access to the people and the people of access to ideas propagated by it.

The total impact of the Act is such, therefore, that if the organization registers, it destroys itself and jeopardizes the livelihood and liberty of its members. Furthermore, the organization and its officers incur astronomical criminal penalties for the inevitable "false statements" and "omissions" in registration, which are induced by Section 5 of the Communist Control Act. If a member registers, he destroys himself. On the other hand, if there is no registration, the organization, its officers and members are subject to severe criminal penalties for each day of non-registration.

An organization ordered to register is, therefore, given the illusory choice of organizational and political suicide by registration or governmental execution for non-registration. The registration order does not, and was not intended to, result in registration, which the Act makes an impossible alternative. Its function is to lay a foundation for the imposition of destructive penalties, whether or not there is registration; for mass prosecution of the organization's members, if there is no registration; and for the issuance of similarly destructive orders against other

organizations on findings that they are "fronts" or "infiltrated".

The order is not a means for obtaining the disclosure of information. Its purpose and effect is to outlaw the organization and so to prevent it from disclosing its views to the American people. The Attorney General has acknowledged that the registration order in this case, if sustained, will result in outlawing or destroying petitioner.[8]

**4. The Act's Predetermination of the Administrative Order**

The determination of whether an organization is "Communist", is made administratively by the Board, after hearing (Sec. 13). Provision is made for judicial review by the Court of Appeals and on grant of certiorari by this Court. On judicial review, the Board's findings of fact are conclusive only if supported by the preponderance of the evidence (Sec. 14(a)).

The Act purports to require the registration of Communist-action organizations and their members as participants in a foreign-controlled conspiracy to commit espionage, sabotage, treason, violent revolution, etc., on behalf of a foreign power. The activities claimed to supply justification for the registration requirements are, of course, already punishable under numerous federal criminal statutes,[9] and, if not already punishable, could easily be

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[8] Hearings before Subc. No. 1 of Comm. on Judiciary, H. R., 83rd Cong., 2nd Sess., April 12, 1954, p. 137; and public statement of Attorney General Brownell quoted in 100 Cong. Rec. 14401. Attorney General Clark, testfying on the Mundt bill, the ancestor of the Act and a far less stringent measure, described the bill as one of "several proposed bills which seek to outlaw communism and the Communist Party." *Hearings on Proposed Legislation to Curb or Control the Communist Party of the United States*, Subc. on Legislation of Comm. on Un-American Activities, H. R., 80th Cong., 2d Sess., on H. R. 4422 and 4581, p. 17.

[9] E.g., the following sections of 18 U. S. Code: 2153-2156 (sabotage); 793-798 (espionage); 2383 (inciting rebellion or insurrection); 2384 (seditious conspiracy); 2385 (advocating forceful over-

made so. The Act thus establishes a mechanism to prosecute accused persons not for their alleged crimes, but for their failure to register themselves as criminals. The explanation for this shift of the locus of punishment from the crime itself to failure to register as a criminal is that the Act seeks to punish Communists as criminal conspirators even though they are not and cannot be proved to be such. The legislative history and the scheme of the Act show that such is its purpose and effect.

The legislative history of the Act discloses the following:

(1) The sponsors of the legislation were bent on outlawing the Communist Party by a legislative fiat determining that it is a foreign agent and requiring it to register as such. The first ancestor of the Act, the Mundt bill (H. R. 4422, 80th Cong., 1st Sess.), would have required the Communist Party by name to register as a foreign agent, without judicial or quasi-judicial determination of the facts. However, the Congress was informed by Attorney General Clark and various constitutional authorities, testifying before the legislative sub-committee of the House Committee on Un-American Activities, that such an approach was probably unconstitutional as fiat legislation violating the due process and bill of attainder clauses. *Hearings on Proposed Legislation to Curb or Control the Communist Party of the United States*, before Sub-Committee on Legislation of the Committee on Un-American Activities, H. R.

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throw of government); 2381 (treason); 2382 (misprision of treason); 951 (failure to register as foreign agent); 957 (possession of property of a foreign government for use in violating United States statute); 2387-2388 (undermining loyalty, discipline, or morale of the armed forces); 2386 (failure to register by organizations engaged in civilian military activity, subject to foreign control, affiliated with foreign government, or seeking to overthrow government by force); 1361-1364 (damaging federal property or communications); 1381 (enticing desertion and harboring deserters); 2390 (enlistment to serve against United States).

80th Cong., 2d Sess., on H. R. 4422 and 4581, pp. 19-20, 113, 115, 117, 209-11, 256, 432, 493-95.[10]

Because of these warnings, the Committee on Un-American Activities rejected the crude approach of the Mundt bill and reported the Mundt-Nixon bill (H. R. 5852, 80th Cong., 2d Sess.), which first proposed the scheme of an administrative proceeding to determine registerable organizations. Representative Nixon, Chairman of the legislative sub-committee of the Un-American Activities Committee, and co-author of the bill, explained the reason for the change to the Senate Judiciary Committee (emphasis added):

> "From having heard the witnesses before our Committee, we came to the conclusion that naming the Communist Party by name and attempting to build the entire registration provisions around such a definition was an unconstitutional approach and consequently *the committee attempted to find a legislative device for meeting the problem in a constitutional manner.* • • •
>
> *"That is the reason that we do not name the Communist Party."* [11]

The House and Senate Committees also informed the Congress in their reports on the bill which became the Act:

> "To make membership in a specifically designated existing organization illegal *per se* would run the risk of being held unconstitutional on the ground that such an action was legislative fiat" (H. Rep. No. 2980, 81st Cong., 2d Sess., on H. R. 9490, p. 5; Sen. Rep. No. 1358, 81st Cong., 1st Sess., on S. 2311, p. 9).

(2) The "problem" to which Representative Nixon referred in his testimony before the Senate Judiciary Committee is also revealed by the legislative history. As Attorney General Clark advised the legislative subcommittee of the Un-American Activities Committee, there

[10] Hereafter cited as *House Hearings*.

[11] *Hearings before Senate Committee on the Judiciary*, 80th Cong., 2d Sess., on H. R. 5852, pp. 40, 45-46.

already existed legislation which required registration of foreign agents and "subversive" organizations (the Foreign Agents Registration Act and the Voorhis Act) and which prohibited advocacy of the overthrow of the government by force and membership in a group of persons who so advocate (the Smith Act). The Attorney General also informed the Congress, however, that the Communist Party and its members could not be proved to have violated these statutes. This caused the House and Senate Committees to conclude that the existing legislation was "ineffectual" and "inadequate". *House Hearings*, pp. 21-22; Sen. Rep. No. 1358, *supra*, p. 7; H. Rep. No. 2980, *supra*, p. 2.

The Act was an attempt to solve the dilemma that to name the petitioner was unconstitutional and to require proof was "ineffectual". While not specifically naming petitioner, the Act guaranteed that petitioner would be ordered to register as a seditious foreign agent without proof of either sedition or foreign agency. This result was accomplished by three devices:

1. The findings essential to guilt are made by the Act, and are not the subject of independent adjudication by the Board.

Under the definition contained in Section 3(3), there can be a Communist-action organization in the United States only if there is a world Communist movement subject to the control and having the objectives described in Section 2. However, the existence and nature of the world Communist movement are not issues left to adjudication by the Board. Instead, these "facts" are found by Congress in Section 2. The findings are then incorporated into Section 3(3) in the form of assumptions of fact which the Board is not authorized to re-examine, but is required to accept as the foundation for its decision.

The correctness of these legislative findings regarding the world Communist movement is also assumed by the eight criteria which Section 13(e) requires the Board to

apply in deciding whether an accused organization is a Communist-action organization. Seven of the eight criteria require the Board to act on the assumption that a world Communist movement exists and has the characteristics found in Section 2.[12]

The respondent admitted in its brief below (pp. 61-62), and the court below held (Op. 55-56), that the Section 2 findings on the existence and nature of the world Communist movement were binding on the Board and the court, and that these matters were not subjects for adjudication.

It is thus undisputed that a determination of key facts which constitute the necessary foundation for a finding that an organization is a Communist-action organization has been made by legislative fiat and is not within the competence of the Board.

Section 2 also predetermines other aspects of the Board's findings. It finds that "the Communist organization in the United States" engages in practices which satisfy the definition of an action organization (2(15)) and has characteristics which satisfy four of the eight criteria which the Board is supposed to apply under Section 13(e). *Cf.* 2(5) with 13(e)(6); 2(6) with 13(e)(1); 2(7) with 13(e)(7); 2(9) with 13(e)(8).

By legislative fiat, Section 2 thus predetermines virtually all of the elements requisite for the entry of a registration order, including the supposed existence, nature, and foreign control of a world Communist movement, and the exist-

[12] Thus the first of the evidentiary standards of 13(e) is "the extent to which" an accused organization's policies are formulated and its activities performed pursuant to directives or to effectuate the policies "of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement, referred to in section 2." All the remaining standards, except 13(e)(7), refer back to "such foreign government or foreign organization" or "such world Communist movement."

ence, purposes, and characteristics of an organization which it finds to be the domestic agent of that movement.

All that remained for the Board, therefore, was to supply the name of the particular organization which Congress had in mind as the American Communist-action organization referred to in Section 2. As to this there could be no doubt in view of the legislative history previously alluded to and the fact that the committee reports and the debates refer to petitioner by name.[13] Finally, while this litigation was pending in the court below, the Congress, abandoning its previous constitutional apprehensions, expressly named the petitioner as a Communist-action organization (Sec. 4, Communist Control Act).

The court below, ignoring the fact that the Congressional findings of fact basic to the ultimate decision were not left open for adjudication, held that the Act did not predetermine the Board's order because "Petitioner is not mentioned" (Op. 39).

2. The second device employed by the Act to guarantee the issuance of a registration order against petitioner consists of the evidentiary standards of Section 13(e). The function of these standards is to permit the Board to rubber-stamp the legislative finding that petitioner is a Communist-action organization without proof to that effect.

By the Section 3(3) definition, a Communist-action organization is distinguished by two characteristics: (1) foreign control, and (2) advancement of the seditious objectives attributed by Section 2 to the world Communist

[13] The reports stated: "There is incontrovertible evidence of the fact that the Communist Party of the United States is dominated by such totalitarian dictatorship and that it is one of the principal instrumentalities used by the world Communist movement in its ruthless and timeless endeavor to advance the world march of Communism." House Rep. No. 2980, *supra*, pp. 1-2; Sen. Rep. No. 1358, *supra*, p. 5. The same passage appears in the House Committee Report on the Mundt Nixon bill. House Rep. No. 1844, 80th Cong., 2d Sess., to accompany H. R. 5852, p. 3.

movement. However, none of the criteria which Section 13(e) establishes for the Board's determination (and which were the only criteria applied by the Board) has any relevance whatsoever to the advancement of seditious objectives, and still less to the specific seditious objectives attributed by Section 2 to the world Communist movement.[14] This fact was conceded in the respondent's brief below, which argued that registration could be ordered even though the accused organization's policies are "good" and every act it does is "innocent" (Br. 72). The court below apparently took the same view (Op. 41, 44). Accordingly, Section 13(e) removes from administrative adjudication one of the two components of the Section 3(3) definition.

As to the other component of that definition—foreign control—the situation is hardly better. The standards of 13(e) are vague and irrational criteria for a finding of foreign control. At most they supply a series of nebulous circumstantial and inferential tests which can be satisfied by relevant or irrelevant factors. For present purposes, four examples of the eight standards will suffice.

The "non-deviation" standard (Sec. 13(e)(2)) is irrational because, as the Board held (*infra*, pp. 30-31), it permits foreign control to be inferred from a similarity of the organization's views to those of the Soviet Union even though the views are demonstrably true, widely held by non-Communists, reasonably deducible from the facts, or independently arrived at by the organization.

The "financial aid" standard (Sec. 13(e)(3)) is satisfied merely by evidence of receipt of aid, without regard to those facts which, as the court below recognized (Op. 46),

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[14] Only the first two standards of section 13(e) have anything to do with objectives, and neither of these requires proof that the objectives referred to are seditious or evil. The court below recognized that the second standard ("non-deviation") had no relevance to the objectives element of the 3(3) definition (Op. 45).

determine whether the aid is an instrument of control, i.e., the terms and conditions, if any, on which it is extended.

Section 13(e)(5) makes "reporting" proof of foreign control without regard to the nature of the "report", the purpose for which it was given, or its use, if any, by the recipient. Trade unions and business, religious, scientific, cultural and political organizations customarily receive reports at their gatherings as a means of exchanging and sharing knowledge, experiences, and ideas. Under the preposterous theory of this subsection, persons who make reports at such gatherings thereby supply evidence that they and the organizations they represent are "controlled and dominated" by the organization which sponsors the gathering.

Again, Section 13(e)(6) directs the Board to consider "the extent to which" the organization's "principal leaders or a substantial number of its members are subject to or recognize the disciplinary power" of the alleged foreign principal. This standard, aside from relying on subjective attitudes, permits the condemnation of the organization upon proof of the disciplinary status of some of its leaders or members, notwithstanding that they may be an unrepresentative or dissenting minority and that the organization itself is completely independent.

The foreign-control element of the Section 3(3) definition is reasonably definite, and its application requires no subsidiary guides. Therefore, the function of Section 13(e) (in addition to eliminating adjudication of the objectives element of the definition) is to unsettle the ultimate standard by permitting it to be "proved" by irrelevant evidence.

3. In addition to predetermining the essential findings and establishing vague and irrational standards of proof, the Act establishes a Board which is necessarily under compelling pressure to decide against petitioner and whose

members have a personal stake, financial and otherwise, in so deciding.

The Board is set up as a permanent agency, which originally had the sole function of identifying Communist-action organizations, their members, and Communist-front organizations. Since Communist-front organizations are by definition tools of a Communist-action organization, they can exist only if the Board finds that there is an action organization.[15]

The Act (see Sec. 2(15)) and its legislative history contemplate the existence in the United States of only one Communist-action organization, the petitioner. And even if Congress had considered that there might be more than one, it is certain that it believed petitioner to be the principle organization of that character.

It is clear, therefore, that if the Board had decided that the petitioner was not a Communist-action organization, it would have rendered itself functus officio and effectively repealed the Act. For there would be no other organization which could be charged with being a Communist-action organization, and there could be no Communist-front organization.

This circumstance has been recognized by the Board and the Attorney General. The first two chairmen of the Board informed Congressional appropriations committees that the continued functioning of the Board depended entirely upon the entry of a registration order adverse to petitioner.[16] The Attorney General instituted no proceed-

[15] After the registration order was issued, the Communist Control Act gave the Board the additional function of identifying Communist-infiltrated organizations. The definition of the latter also presupposes the existence of a Communist-action organization (Sec. 3(4A)).

[16] Hearings before Subcommittee of Comm. on Appropriations: On 2d Suppl. Appropriations Bill for 1951, H. R., 81st Cong., 2d Sess., p. 263; On Independent Offices Appropriations for 1953, H. R., 82d Cong., 2d Sess., pp. 245, 248; On Independent Offices Appropriations for 1954, H. R., 83d Cong., 1st Sess., pp. 188, 190, 196-198.

ing under the Act against any other organization during the two years that the case against petitioner was pending before the Board. But two days after the Board issued its decision against petitioner, the Attorney General filed twelve petitions with the Board, all charging that the organizations named were Communist-front organizations and that the Communist-action organization which controls them is the petitioner herein. In the four and a half years since the Act was passed, only one organization, the petitioner, has been charged before the Board with being a Communist-action organization.

The pressure on the Board to preserve itself and the Act by deciding against petitioner was intensified by considerations of personal interest. The members of the Board had to rule against petitioner if they were to have any further business and thus keep their jobs, salaries, and the appointment patronage available to them as heads of an agency. The Board's staff, including those employees who assisted the Board in analyzing the record and preparing the decision, had a similar job interest in seeing that the order was adverse to petitioner.

## B. The Proceeding Before the Board

The Act became law on September 23, 1950, and the Attorney General filed his petition with the Board on November 22, 1950 (R. 1).

The taking of evidence commenced on April 23, 1951, before a panel of three Board members (R. 1).[17] Following issuance by the panel of a recommended decision adverse to petitioner, the Board on April 20, 1953, issued its order requiring petitioner to register as a Communist-

[17] The panel was reduced to two in October, 1951, when the chairman, Charles M. LaFollette, was forced to withdraw because of adjournment of the first session of the 82nd Congress without confirmation of his appointment.

action organization (R. 138). The order was accompanied by a Report, in which the Board set forth its findings and opinion in support of the order, as required by Section 13(g) of the Act (R. 1-137).

The Attorney General called twenty-two witnesses. Two of these translated or identified a few documents (R. 135-36). A third, a Columbia University professor, testified that petitioner and the Soviet Union held similar views on a number of international questions (R. 136).

The remaining nineteen witnesses had once held membership in the Communist Party. Fourteen had left or been expelled from the Party prior to the date of the Act, eight of them for periods ranging from five to twenty years before the Act (R. 134-35). None of the fourteen gave testimony as to the character or activities of the petitioner subsequent to the termination of his membership.

The testimony of the five witnesses who had remained in the Party after the date of the Act (R. 134-35) was meagre, and related almost exclusively to the period before that date. These witnesses had been rank and file members or minor officers of local units of the Party. Two of them had become virtually inactive in the Party prior to the date of the Act (R. 1034-35; Tr. 12360). Except for Harvey Matusow, all five produced little evidence on which the Board relied.

The great bulk of the documentary evidence introduced by the Attorney General consisted of Communist writings which likewise long antedated the Act. These included the *Communist Manifesto* of 1848, writings in the 1920's or earlier of Lenin and Stalin, and resolutions and reports of the Communist International (dissolved in 1943), of which the most recent is dated 1935. The Report contains copious quotations from and citations to these early works, but ignores contemporary writings of American Communist leaders put in evidence by petitioner as authoritative expositions of its policies, including writings whose au-

thoritativeness was acknowledged by the Attorney General's own witness (e.g., C. P. Exs. 55, 58; R. 979-80, 983-84).

The Attorney General paraded as witnesses some of the most notorious professional informers on the current scene.[18] The testimony of several of these witnesses had been rejected as false in previous proceedings.[19] One of the Attorney General's witnesses had earlier admitted perjuring himself in prior appearances as an anti-Communist witness and declared his readiness to continue doing so.[20] Unimpeached documentary evidence established that many of these witnesses perjured themselves in the proceeding before the Board.[21] Subsequent to the hearing, one of the Attorney General's witnesses has admitted a series of perjuries.[22] Two others have been shown to be so unreliable that even the Department of Justice has stopped using them as witnesses.[23] Still others have thoroughly discredited themselves.[24]

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[18] E.g., Budenz, Matusow, Crouch, Manning Johnson, Gitlow, Markward (R. 134-35).

[19] Honig, Johnson, Crouch. Honig's testimony was rejected by Judge Sears, the presiding officer in the first Bridges deportation case (Tr. 6439-40). In the recent prosecution of Bridges for perjury, the Ninth Circuit rejected the testimony of Johnson and Crouch that Bridges attended a Communist Party convention, on the grounds that unimpeachable documentary evidence established that the alleged attendance was impossible. See *Bridges* v. *United States*, 199 F. 2d 811, 841.

[20] Manning Johnson (R. 669-74).

[21] Gitlow (R. 273-78; C. P. Ex. 1); Crouch (Tr. 5967-71; C. P. Ex. 20); Budenz (R. 1178-80, 1187-91); Markward (R. 734-35, 200-01); Scarletto (R. 1091-92); Evans (Tr. 11579, 11687, 11691, 12486-88; C. P. Ex. 79); Kornfeder (Tr. 1607-27; R. 350-51); Honig (Tr. 4514-22, 4573-87, 4608-20).

[22] Harvey Matusow. See Matusow, *False Witness* (1955), *passim*, and R. 2064-65).

[23] Crouch and Johnson (R. 2060-64).

[24] E.g., Gitlow has recently testified that among "the ministers who carried out the instructions of the Communist Party or collaborated with it" were Rabbi Stephen S. Wise, Rabbi Judah L. Magnes, Rev

The case of the petitioner was presented through three witnesses. Two of these (Elizabeth Gurley Flynn and John Gates) have for many years been members of the petitioner's national committee, its highest governing body in the intervals between national conventions.[25] The third witness, Dr. Herbert Aptheker, a member of the Communist Party, and a distinguished historian and author, testified as an expert on Marxism-Leninism (R. 136).

The testimony of these witnesses and the documentary evidence introduced through them, present a detailed portrayal of petitioner's purposes, views, policies and activities as they exist currently and from the time of petitioner's reconstitution as a political party in 1945 (R. 1199-1241, 1257-97).

The Report either rejects or ignores all of the oral and documentary evidence presented by petitioner, although much of it was uncontradicted. It goes to fanciful lengths to disparage the credibility of Gates and Aptheker (R. 17-18, 38-39). It makes no adverse comment on any of the Attorney General's witnesses.

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John Haynes Holmes, and other eminent clergymen (Hearing before Comm. on Un-American Activities, H. R., 83rd Cong., 1st Sess., July 7, 1953, p. 2077). Markward's identification of Annie Lee Moss as a member of the Communist Party has been rejected by the Department of Defense (N. Y. Times, Feb. 24, 1954, p. 1; Jan. 20, 1955, p. 1). Secretary of State Dulles rejected Budenz' positive identification of John Carter Vincent as a member of the Communist Party (Hearings before Internal Security Subc. of Comm. on Judiciary, Sen., 82d Cong., 1st Sess., pt. 2, p. 625; N. Y. Times, March 5, 1953, p. 8).

[25] At the time of testifying, Gates was serving a sentence imposed in the first New York Smith Act trial. See *Dennis* v. *United States*, 341 U. S. 494. Miss Flynn was convicted, after her testimony before the Board, in the second New York Smith Act trial. See *United States* v. *Flynn*, 216 F. 2d 354.

## C. The Evidence and the Findings

The Board's findings are subsumed in its Report under nine sections. In the first, the Board found "that there exists a world Communist movement, substantially as described in Section 2 of the Act" (R. 9). In the other eight sections, the Board made findings adverse to petitioner under each of the eight standards of Section 13(e). The Board based its ultimate conclusion on the totality of these findings. It did not suggest what its conclusion would have been had it made a finding favorable to petitioner under any of the standards of Section 13(e).

The court below held that the Board's findings under the "reporting" and "secret practices" standards (13(e)(5) and (7)) were not supported by a preponderance of the evidence. Accordingly, it "struck" these two findings (Op. 72-74). Nevertheless, the court affirmed the Board's order instead of remanding the case for decision anew on the basis of the surviving findings.

The issue before the Board was the current character of the petitioner, i.e., whether it was a Communist-action organization, as defined by the Act, at the time of the proceeding.[26] The Report, though acknowledging this fact (R. 130), ranges over the entire thirty-three years of petitioner's history, indiscriminately commingling discussion of alleged contemporary practices and alleged episodes of the remote past. The great bulk of the evidence on which the Report relies relates to the period when the petitioner was affiliated with the Communist International. The undisputed facts are that petitioner severed its affiliation with the Communist International in 1940, in order to avoid the registration requirements of the then newly en-

[26] Sections 13(g) and (h) of the Act require the Board to determine whether an accused organization "is" or "is not" a Communist-action organization. Likewise, the definition of a Communist-action organization (sec. 3(3)) and the evidentiary criteria (sec. 13(e)) are all phrased in the present tense.

acted Voorhis Act, and that the Communist International itself dissolved in 1943 (R. 14-15).[27] It is also undisputed, and was acknowledged by the court below (Op. 65), that petitioner has had no foreign affiliation since 1940.[28]

The Board acknowledged that there was no post-Act evidence under two of the standards of Section 13(e). As to "instruction and training" (13(e)(4)), the Report admits that "there is no substantial evidence of record showing training of [petitioner's] members in the Soviet Union subsequent to the outbreak of World War II" (R. 92). In fact, none of the instances of alleged training abroad cited in the Report post-date 1936 (R. 90). As to "financial aid" (Sec. 13(e)(3)), the Report finds that after petitioner's disaffiliation from the Communist International in 1940, "evidence of such financial aid does not appear in the record with one exception." The "exception" consisted of the Board's misrepresentation of testimony by Harvey Matusow (R. 88).[29]

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[27] The report states that the 1940 disaffiliation did not alter the relationship betwen the petitioner and the Communist International (R. 6). This conclusion is without foundation and was not accepted by the Court below (Op. 64-65). The evidence is undisputed that the petitioner had no communications or dealings with the Communist International after the disaffiliation (R. 1286). Nor is there any suggestion that the Communist International survived its dissolution in 1943.

[28] The uncontradicted evidence is that petitioner is not, and never was, affiliated with the Communist Information Bureau, and has had no dealings or relations with it (R. 1209-10, 1280-82, 1288; Tr. 15037-38). As the evidence cited by the Report shows, the Bureau is an organization of the Communist Parties of eight European countries for "mutual consultation and voluntary coordination of action" among the member parties (R. 7).

[29] Matusow testified that in 1949 the head of International Publishers told him that the company had, *at some undisclosed time in the past*, received from the Soviet Union without charge book plates, English translations of books, and page proofs (R. 1036-37). There was no testimony that the petitioner ever benefited from this alleged transaction, and, in fact, the Report itself elsewhere refers to International Publishers as a Soviet organization (R. 87). Matusow has admitted that this testimony was perjurious. *False Witness* (1955).

Though acknowledging that there was no post-Act evidence of either instruction and training or financial aid, the Board nevertheless made findings adverse to petitioner on both subjects (R. 88-89, 93). It then used these findings to support its ultimate determination as to petitioner's current character, and its action was affirmed by the court below (Op. 71-72).

The only post-Act matters cited by the Board to support its findings on the four other standards of Section 13(e) which were sustained by the court below ("directives and policies," "non-deviation," "discipline" and "allegiance") are: (1) obviously irrelevant episodes (e.g., that the *Daily Worker* stations a correspondent in, and prints dispatches from, Moscow (R. 62-63); (2) that petitioner is an avowed adherent of the principles of Marxism-Leninism; and (3) that petitioner publicly opposes the cold-war policy of the national administration and has taken the same position as the Soviet Union on certain international questions (R. 9-86, 98-104, 118-28).[30]

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pp. 101-02. It is illuminating to note that the finding as to the next-preceding alleged transaction was based on testimony of Budenz that in 1940 the Daily Worker and Intercontinent News received news dispatches from a Soviet news agency without cost (R. 88). Documentary evidence demonstrated that Budenz' testimony was false (C. P. Exs. 70-75; R. 1191-94). There is no credible evidence contradicting the testimony of petitioner's witnesses Flynn and Gates that petitioner did not receive any foreign financial aid during their tenure as national committee members, commencing in 1938 and 1945, respectively (R. 1213-15, 1290-91).

[30] In the court below, the Board virtually conceded that the only post-Act evidence supporting its order is petitioner's adherence to Marxism-Leninism and the similarity of its views to those of the Soviet Union. It stated (Respondent's brief, 118): "Petitioner admits that the 'post-Act evidence' shows it to be an American adherent of Marxism-Leninism and that it consistently takes the same position as the Soviet Union. It does not deny the evidence of its non-deviation from Soviet policies and its present secret practices. When these admitted current facts are judged, as they must be, in the light of the evidence of record as to what Marxism-Leninism and non-deviation involve, it is clear that they support the finding that petitioner not only was, but presently is, a Communist-action organization as defined by the Act."

The Board's finding on "reporting" (Sec. 13(e)(5)), stricken by the court below, was in the present tense, though the Report cites nothing after the date of the Act which it characterizes as reporting even under a palpably absurd conception of that term (R. 93-98). There was post-Act evidence relating to "secret practices" (Sec. 13(e)(7)), but, as the court below held in striking the Board's finding, there was no evidence that these practices were engaged in for purposes made relevant by the Act (Op. 73-74). On the contrary, the uncontradicted evidence of both sides was that petitioner's utilization of such practices was a precaution against persecution (R. 1216-23, 919, 1025-26).

The court below affirmed the ultimate finding of the Board primarily on the basis of six factors which it considered determinative (Op. 61-70). The only post-Act evidence supporting these factors are items indicating that petitioner adheres to the ultimate objective of Communism, referred to by the court as "a classless, stateless world," and that petitioner advocates various international policies which are similar to those of the Soviet Union (see *infra*, p. 33).

Accordingly, the real evidentiary basis for the Board's order is petitioner's adherence to the principles of Communism and its views on international questions. This fact also appears from the major features of the Board's treatment of the four standards for which the Report claims the existence of post-Act evidence and which the court below allowed to stand.

*Directives and policies.* The Board found, under Section 13(e)(1), that petitioner formulates and carries out its policies pursuant to directives from and to effectuate the policies of the Soviet Union (R. 79). In reaching this conclusion, the Board first found that prior to petitioner's disaffiliation from the Communist International in 1940, decisions and resolutions of that body were "directives" to petitioner (R. 10-11). The Board cites no evidence that

subsequent to 1940 petitioner received foreign directives in any legitimate meaning of the term. Moreover, petitioner's witnesses, Gates and Flynn, testified, without contradiction, that during their tenure as members of petitioner's national committee, petitioner has received no foreign directives of any kind, but has formulated and carried out its policies pursuant to its independent judgment as to the needs and interests of the American people (R. 1211, 1227, 1288-89).

The Board, however, concluded from its reading of various Communist writings, commencing with the *Communist Manifesto* of 1848, that this body of doctrine constitutes on its face a series of "directives" issued by the Soviet Union and binding upon petitioner [31] (R. 78). The Board found from its reading of the texts that "the [Marxist] classics are one of the chief means by which the C. P. S. U. directs and controls the C. P. U. S. A." (R. 43). The court below applied the same theory, sustaining the Board's order primarily on the grounds that "Marxism-Leninism is basic to the Party" and that petitioner "presents no evidence of a repudiation of world Communist doctrines" (Op. 70).[32]

*Non-Deviation.* The Board found under Section 13(e)(2) that petitioner's "views and policies do not deviate from those of the Soviet Union" (R. 86).

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[31] Of course, much of the literature from which the Board draws this conclusion was written long before there was a Soviet Union. Furthermore, the doctrine had American adherents more than half a century before the Russian revolution or the formation of a Communist Party in America (R. 1262-5, 1270-1).

[32] The court stated (Op. 66) that "while the tenets of Marxism-Leninism * * * permit a wide flexibility in tactics, that is, of intermediate activities, they admit of no deviation from the ultimate objective, which is a classless, stateless world." The Report characterizes Marxism-Leninism as an "amorphous amalgam" (R. 42). It states that Marxist-Leninist principles have "been provided an elasticity which makes them applicable under an endless variety of circumstances," and that the "overall policy of Marxism-Leninism" is to do "what is expedient under the given circumstances" (R. 31, 21). Thus, the "directives" of Marxism-Leninism come down to an instruction to achieve "a classless, stateless world."

The Board's finding was based primarily on testimony that the petitioner and the Soviet Union, as shown by their public statements, held similar or "parallel" views on each of 44 different questions relating to international affairs, ranging from the League of Nations in 1919 to the Korean war in 1950 (R. 80, 82-84).

In making its finding on "non-deviation," the Board applied the following principles:

1. That it was irrelevant whether or not the Soviet Union adopted its view on a given subject before petitioner adopted its view. The Attorney General stated that "we have not made any attempt to show how the Communist Party reached the views that it did" (R. 836). He offered no evidence that the Soviet view was adopted or communicated prior to petitioner's expression of its view on the same subject. In affirming the Board's finding, the court below held that the date sequence of the views was irrelevant, stating, "The statutory phrase ['do not deviate from'] refers to identity or coincidence and not to chronological adoption" (Op. 89).

2. That it was irrelevant whether the views were true, reasonable or generally accepted by non-Communists, including, in some instances, the government of the United States. The Board accepted the Attorney General's position (Tr. 8878) that "it does not matter whether the Soviet view on these issues which were raised were [sic] right or wrong, or whether the Soviet view was held by many people, by some people, or by all the people." Accordingly, it sustained the action of the hearing panel in excluding evidence offered by petitioner to show the truth, reasonableness and general acceptance of the views (R. 81).[33]

[33] These rulings were applied to the following views, among others: that there should be negotiations for a cease-fire in Korea (R. 8647); that the Chiang Kai-shek regime was a corrupt dictatorship (R. 836-37); that the establishment of a second front in World War II was desirable (R. 844-45); that the League of Nations as originally organ-

3. That it was irrelevant that petitioner arrived at its views independently, and that the similarity of the views of petitioner and the Soviet Union resulted from an independent application by each of the premises and analytical approach of Marxist-Leninist principles. Evidence to this effect was excluded by the hearing panel. The Board affirmed the panel's rulings. Yet its Report asserts that the "great weight of the evidence is contrary" to the proposition which petitioner was precluded from proving [34] (R. 842-44, 80, 86).

4. That it was irrelevant that the views were calculated to promote the peace and well-being of the United States, or even that the United States government officially adopted them (R. 81).[35] The Attorney General made no attempt to show that any of the views testified to were dangerous, seditious, or opposed to the national interests of the United States. He took the position that these matters were "wholly irrelevant" (Tr. 9059). In agreement with that position, the hearing panel excluded evidence offered by petitioner to show that the views in question were in the national interest, and the Board affirmed its ruling (R. 839, 844, 861, 864, 81).

Petitioner's witnesses testified, without contradiction, that petitioner's views and policies are established by it

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ized promoted imperialist purposes (R. 839; Tr. 9063); that the defendants in the 1937 Soviet treason trials were guilty as charged (R. 840); that Oatis' confession of espionage was true (R. 845); that the Syngman Rhee government was a corrupt police state (R. 862-64). Citations are to exclusions on cross-examination. For renewal of the rulings to exclude the proof in petitioner's affirmative case, see R. 1274-75.

[34] This too though the Attorney General's expert witness, on whose testimony the "non-deviation" finding is based, testified that he was unable to conclude that the petitioner's views were not arrived at independently (R. 837-38).

[35] E.g., the views that a second front in World War II was desirable and that a cease-fire in Korea should be negotiated (R. 844-45, 864).

in the exercise of its own best judgment and in the application of the principles of scientific socialism to current conditions. They further testified that the similarity of petitioner's views on international questions to those of the Communist Parties of other countries, including the Soviet Union, is only natural because all Communists share the same scientific approach and are guided by the needs of the working people, who in all lands have a common interest in promoting international friendship, cooperation and world peace (R. 1224-27, 1283-84). Also uncontradicted was petitioner's testimony that it has often taken positions in advance of the Soviet Union and has taken positions on many questions as to which the Soviet Union has never expressed a view (R. 1227).

*Discipline.* The Board found that petitioner recognizes and is subject to the disciplinary power of the Soviet Union (R. 104; Op. 72-73).

To support this finding, the Report cites four instances in which members of petitioner were allegedly expelled or otherwise disciplined on the initiative of the Communist International during the period of petitioner's affiliation with that organization (R. 102). The most recent of these cases occurred in 1934. The Report and the court below cite four other disciplinary cases (R. 102-03; Op. 73). These were: petitioner's expulsion of Johnson in 1940 for opportunism; its expulsion of Lautner in 1950 on the charge that he was a police spy; its expulsion of Tomkins in 1951 for distributing anti-Soviet leaflets; its demotion of Browder in 1945 for abandoning Marxist-Leninist principles, and its expulsion of him in 1946 for conducting a factional fight against the decisions of petitioner's national convention. Neither the Board nor the court below suggested that the Soviet Union had anything to do with these cases of internal discipline, and no such suggestion could find support in the record.

Both the Board and the court relied heavily on petitioner's practice of "democratic centralism" to support the finding

on foreign discipline (R. 103-04, 56-57; Op. 72). The Board found that "democratic centralism" is a Marxist-Leninist principle of organization which requires the election of all officers and leading committees; full discussion of all policy questions before a decision is taken by the appropriate body; unqualified acceptance by the minority of majority decisions, and the execution of such decisions by the entire membership (R. 56). The Board found that prior to 1940 adherence to the principle of democratic centralism obliged petitioner to accept decisions of the Communist International to which it was affiliated (R. 57). However, subsequent to petitioner's 1940 disaffiliation from the Communist International, which dissolved in 1943, there has been no international organization whose decisions are binding on petitioner, and the Board makes no finding to the contrary. Hence, at least since 1940, petitioner's practice of democratic centralism relates solely to internal management. As the Attorney General's own witness, Lautner, testified, democratic centralism "pertains to rules and regulations by which the Communist Party *governs itself*" (R. 965).

The petitioner's witnesses testified, without contradiction, that petitioner's leaders and members are not subject to and do not recognize the disciplinary power of any foreign government or organization (R. 1223-24).

*Allegiance.* The Board found under Section 13(e)(8) that petitioner's "leaders and its members consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union" (R. 128). This finding is based pimarily on the Board's view (R. 118-23) of Communist theory as developed in the works which were examined by this Court in *Schneiderman* v. *United States*, 320 U. S. 118, and from which this Court concluded that belief in Communist doctrine was not incompatible with attachment to the principles of the Constitution and being well disposed to the good order and happiness of the United States.

Petitioner's witnesses testified that petitioner's leaders and members owe allegiance only to the United States and its people, and that they do not consider their allegiance to this country subordinate to any obligations (of which they have none) to any foreign government or foreign organization. They repudiated the Board's version of Marxism-Leninism. Their testimony was documented by evidence of writings distributed by petitioner opposing doctrines of forcible overthrow of the government and affirming the allegiance of Communists to the United States (R. 1235-41, 1282-83; C. P. Ex. 55, p. 3; C. P. Ex. 56, p. 3).

*Facts Relied on by the Court.* The court below sustained the ultimate finding of the Board primarily on the basis of six factors which it characterized as "underlying basic facts" that "are heavy in the scales" and "determine the final answer" (Op. 61). These factors were:

(1) The fact that petitioner "presents no evidence of a repudiation of world Communist doctrines" subsequent to its disaffiliation from the Communist International in 1940 (Op. 70).

(2) The fact that petitioner calls itself the Communist Party of the United States. The court explained that "it is difficult for us to see why the Party would call itself the Communist Party of the U. S. A. if it were not in fact a part of the Communist movement in theory and program" (Op. 65).

(3) The fact that the reconstitution of the Communist Party in 1945 resulted from what was considered to be a prior departure from the principles of Marxism-Leninism (Op. 65-66).

(4) The fact that petitioner adheres to the "ultimate objective" of Marxism-Leninism, "a classless, stateless world" (Op. 66).

(5) The fact that "the Party's press follows closely world Communist views" (Op. 70).

(6) The fact that petitioner's views on a series of international questions (see *supra*, p. 29) were similar to the views of the Soviet Union (Op. 68-69).

The court below did not find that any of these factors involve the advocacy of violent or unconstitutional means for the attainment of petitioner's immediate or ultimate objectives. It noted the testimony of petitioner's principal witness that petitioner advocates a peaceful and constitutional transition to socialism in this country (Op. 67). It acknowledged that it is "the established position of Communist leaders that American democracy has gone far in protecting the rights of minorities and of working people and in advancing the economic status of such people, and that in that respect American democracy receives the plaudits of those leaders" (*ibid.*). The court, however, considered this position irrelevant, on the ground that it "in no way negates the ultimate stateless world objective of the world Communist movement" (*ibid.*).

*World Communist Movement.* As we have seen (*supra*, p. 15), the court below held that the findings of Section 2 of the Act with reference to the existence and nature of a world Communist movement were conclusive upon the Board and the courts. Nevertheless it reviewed and sustained the finding of the Board that on the evidence, "there exists a world Communist movement substantially as described in section 2 of the Act" (R. 9; Op. 61).

The court's conclusion was based (Op. 56-60) on its reading of the *Communist Manifesto;* Stalin's *Problems of Leninism* and *Foundations of Leninism;*[36] the *Theses and Statutes* adopted by the Communist International in 1920;

[36] The American editions of these works of Stalin which were introduced were published in 1934 and 1932, respectively. They were written in 1926 and 1924, respectively. A. G. Exs. 138, 121A.

and the *Programme of the Communist International*, adopted at the Sixth Congress of that organization in 1928 and superseded by the resolutions of the Seventh Congress in 1935 (A. G. Exs. 125 and 137). From these works the court below found that there is a world Communist movement having the following characteristics: (1) The movement has as its ultimate objective "a classless, stateless society ruled by the proletariat of the world."[37] (2) "The basic concepts of this ultimate objective are that the sole value is labor and that capitalism and nationalism are merely means for exploiting the masses of workers." (3) the program of the movement "calls for a small hard core of revolutionaries, formed into a disciplined Party in every country," which is to attain control of the government in order to destroy its present form and ultimately weld it into the stateless world society. (5) In the interim period, the Soviet Union, being the first and so far biggest government under Communist control, "must be protected and preserved as Communistic at any cost" (Op. 60-61).

Accordingly, the court below found that there is a world Communist movement in the sense that there are Communist parties in various countries which base their program and activities on a common economic and political outlook, and work toward the ultimate achievement of a common goal —a universal, classless, stateless society.

The movement found by the court below is palpably not *the* world Communist movement postulated in Sections 2, 3(3) and 13(e) of the Act. The movement postulated by the Act is characterized by the presence of a highly centralized organization, rigid control by a foreign government, and the use of violent and criminal means. Thus subsections (1), (5) and (8) of Section 2 describe the movement as operating "through the medium of a world-wide Communist organization" of which the Communist parties of the various coun-

[37] The court does not explain how there can be a proletariat, which by definition is a class, in a classless society, or how it can rule in a stateless society.

tries are "sections" and "affiliated constituent elements." Subsections (4) and (5) of Section 2 find that the control of the world Communist movement is vested in "the Communist dictatorship of a foreign country" through the medium of "action organizations" which are "sections of a world-wide Communist organization." And subsections (1) and (11) of Section 2 find that the world Communist movement employs espionage, sabotage, terrorism and treachery.

Neither the court below nor the Board found, or could have found from the evidence, the existence of a movement having these characteristics. The only organization which was "a world-wide Communist organization" was the Communist International. But, as the court concedes, the Communist International was dissolved in 1943 and has not been succeeded by any similar organization.[38]

In the absence of such an organization, there could be no foreign control of the movement "through the medium" of the organization. Furthermore, the court below did not find that the movement which it described is controlled by the Soviet Union. Finally, the record is devoid of evidence of the means employed by the Communist parties of other counties to achieve their objectives. It is equally devoid of evidence that petitioner has committed or advocated acts of terror, sabotage or espionage, and indeed the court below held that no such evidence is required by the Act (*supra*, p. 17).

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[38] The Communist Information Bureau, referred to by the court below (Op. 60), is not, and was not found to be, the organization described in section 2. Its membership is not world-wide, but is confined to the Communist parties of eight European countries (R. 17; 1592). It is not a centralized organization, but, as the Board's report states and a witness for the Attorney General testified, its purpose is to provide a medium for "mutual consultation and voluntary coordination of action" among the member parties (R. 7; 937-38; 971). Moreover, the court below acknowledges (Op. 65) that petitioner is not affiliated with the Communist Information Bureau, and the uncontradicted evidence shows that petitioner has never had dealings with it (R. 1205-10; 1286-89).

The petitioner's witnesses testified that there is no "world Communist movement" as described in Section 2. According to their testimony, a world Communist movement exists today only in the sense that there are Communist Parties in most nations, all of which are independent of one another, but which share a common working-class science and world outlook, and work for the eventual establishment of socialism in their respective countries by the free choice of a majority of the people of each country (Tr. 15137-40, 15229-30, 15950, 15137-39).

Petitioner denied that it was a Communist-action organization. It described itself as "a political party of the American working class, basing itself on the principles of scientific socialism-Marxism Leninism" (A. G. Ex. 374; R. 1695). While its ultimate objective, as stated in its constitution, is "the establishment of socialism by the free choice of a majority of the American people" (A. G. Ex. 374), it is petitioner's view that the issue now before the American people is not between socialism and capitalism, but between peace and war, democracy and fascism (R. 1229; A. G. Ex. 378, p. 1; C. P. Ex. 55, pp. 8, 10, 30-31). According to petitioner's witnesses, its immediate objectives are to promote the interests of American labor and the people under capitalism by organizing and uniting them for action to win demands which are realizable under capitalism. These include maintaining peace, preserving and extending civil liberties, improving the economic conditions of the workers and eliminating racial and religious discrimination. (R. 1201-02).

## D. Extra-Legal Pressures on the Board and Manifestations of Bias

1. The President named the five original members of the Board by so-called recess appointments on October 23, 1950. He submitted their nominations to the Senate on November 27, 1950 and again on February 12, 1951 (*First Annual Report, Subversive Activities Control Board,* p. 5). However, the Senate Judiciary Committee under the chairmanship of Senator McCarran, one of the fathers of the Act, took no action on these nominations until July 30, 1951. It then reported favorably on three of the appointees, but took no action on Charles M. LaFollette, chairman of the hearing panel and acting chairman of the Board.[39] The three nominees reported on favorably were confirmed by the Senate ten days later (*Second Annual Report, Subversive Activities Control Board,* p. 5). The LaFollette nomination died in committee with the adjournment of the Eighty-Second Congress on October 20, 1951, at which time Mr. LaFollette ceased to serve (J. A. 1).

Accordingly, for many months during the pendency of this proceeding,[40] the jobs of the Board members were subject to the pleasure of the Senate Judiciary Committee, which had stated, in its report on the bill which became the Act, that "there is incontrovertible evidence of the fact that the Communist Party of the United States" is a Communist-action organization.[41]

During the hearing, it developed that witnesses of the Attorney General were reporting on the conduct of the pro-

[39] The fifth original member of the Board and its first chairman, Mr. Seth W. Richardson, resigned on June 6, 1951, because of his health (*First Annual Report, Subversive Activities Control Board,* p. 5).

[40] The petition was filed on November 22, 1950, and after pre-hearing motions were disposed of, the panel began to hear testimony on April 23, 1951 (J. A. 1).

[41] *Supra,* p. 16.

ceeding by the panel to a staff member of Senator McCarran's committee. The panel chairman reacted to this surveillance as follows:

> "Mr. LaFollette: So that my own thinking may be clear for everybody to know, I feel pretty much the same way about this witness discussing my conduct in the hearing room with Mr. Mandel, under the circumstances, as I would if I were a nisi prius judge in an elective office, and a political boss had the right to control my nomination or renomination" (R. 297).

2. During the course of the hearing, Board and panel member McHale made a speech before the Women's National Democratic Club in which she discussed the proceeding at some length. She referred to one of the issues of fact which had arisen in connection with the "non-deviation" criterion and to the character of the world Communist movement; and expressed a prejudgment on both (R. 193-6, 187-190). She clearly indicated her view that the hearing was merely a formality by likening the petitioner to the rabbit in the aphorism, "As an old recipe for rabbit stew goes, we must first catch the rabbit" (R. 196).

Immediately after the issuance of the panel's recommended decision and while the proceeding was pending on review before the full Board, chairman and panel member Brown, together with the Board's general counsel, appeared on a radio and television forum sponsored by Georgetown University and devoted to a discussion of this case from an anti-Communist point of view. The chairman and the general counsel commented on the evidence, expressed self-gratulatory delight with the recommended decision, and stated their conviction that petitioner is a Communist-action organization as defined in the Act. In referring to the Act's definition of Communist-front organizations, the chairman stated that they are organizations controlled by the Communist Party, thereby demonstrating his awareness of and agreement with the Act's prejudgment (R. 197-98, 206-08).

The conduct of Brown and McHale was made the subject of affidavits of bias and prejudice, filed under Section 7(a) of the Administrative Procedure Act, 5 U. S. C. 1006(a), made applicable to the proceeding by Section 6 of the Act (R. 187-90, 196-99). The Board refused to disqualify them (R. 190, 209).

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**E. Petitioner's Motion to Adduce Additional Evidence**

While this proceeding was pending before the lower court, petitioner moved pursuant to Section 14 of the Act for leave to adduce additional evidence before the Board.[42] The motion and supporting affidavit in substance stated and offered to prove that subsequent to the conclusion of the proceeding before the Board, two of the Attorney General's principal witnesses, Crouch and Johnson, committed perjury in other proceedings[43] and that a third, Matusow, admitted a course of perjury[44] (R. 2053-68). The moving papers further stated that because of the public disclosure of the perjury of these three informers, the Attorney General had ceased to employ them as witnesses[45] (R. 2063-65).

Petitioner's motion and affidavit further showed from an analysis of the Report that in numerous instances the Board had rested material findings of fact adverse to petitioner

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[42] Section 14 provides for the granting of such a motion upon a showing "to the satisfaction of the court that such additional evidence is material."

[43] Johnson before the International Organizations Loyalty Board in a proceeding with respect to Dr. Ralph J. Bunche; Crouch, in *U. S. v. Kuzma*, a Smith Act conspiracy prosecution in the Eastern District of Pennsylvania and in *Matter of Jacob Burck*, a deportation proceeding (R. 2061-64).

[44] These admissions were made to Bishop G. Bromley Oxnam and to Messrs. Russell Brown and Robert Norvell, law associates of former Attorney General J. Howard McGrath (R. 2064-65).

[45] As petitioner's affidavit also shows, the cross-examination of these three informers in their appearances before the Board had developed a pattern of false testimony both in this proceeding and, in the case of Crouch and Johnson, in prior proceedings (R. 2059-60).

in whole or in part on the testimony of these three witnesses (R. 2056-57, 2067-68).[46]

Respondent filed no counter-affidavit, but urged that petitioner's motion should be denied for lack of a showing that a hearing of the additional evidence would probably change the result—i.e. persuade the Board to find for petitioner (R. 2069-79). The court below denied petitioner's motion without opinion, Judge Bazelon not participating (R. 2082).

Subsequent to the court's action and its decision in this case, Matusow, by affidavits and from the witness stand, has recanted as perjurious his testimony in two other proceedings (*U. S.* v. *Jencks*, U. S. D. C. W. D. Tex.; *U. S.* v. *Flynn et al.*, D. C. S. D. N. Y. ).[47] In addition, Matusow has written and published a book, *False Witness*, in which he details numerous instances in which he gave false testimony under oath, including (pp. 101-02) his testimony before the Board in this proceeding. Finally, the Board recently ruled that it would disregard all of the testimony of Matusow in another proceeding before it because of the admissions made by him to Bishop Oxnam and Brown. Report of the Board, *Brownell* v. *Labor Youth League*, No. 102-53, pp. 4-5.

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[46] The Board's annotated version of the Report (R. 1799-2052) reveals that the Board supported its findings of fact with 36 separate references to the testimony of Crouch, 25 to the testimony of Johnson and 24 to the testimony of Matusow (R. 2067-68). To cite but four examples: Matusow's is the only testimony relied on by the Board to support its findings that petitioner advocated the violent overthrow of the government in the post-Act period and that it received foreign financial aid subsequent to 1940 (R. 2020, 1962). The Board's key finding that petitioner's 1940 disaffiliation from the Communist International was spurious is based on the testimony of Crouch (R. 1826, 1811, 2036). And the Board relied heavily on the testimony of Johnson for its findings with reference to the authority over petitioner exercised by alleged representatives of the Communist International (R. 1909, 1972, 2028, 2030).

[47] After a hearing in the *Jencks* case, the District Court denied a motion for a new trial based upon Matusow's perjurious testimony. The court in the *Flynn* case has taken a similar motion under advisement upon the conclusion of a hearing.

## REASONS FOR ALLOWING THE WRIT

**I. The Board's order, if allowed to stand, will have immediate and far-reaching consequences of the greatest public importance.**

A. If the Board's order becomes final, it will immediately outlaw the Communist Party, proscribe all of its advocacy, prevent it from engaging in lawful political activity, and subject its members to intolerable sanctions. It will lay the foundation for mass prosecutions of members for failure to comply with the impossible requirement that they publicly declare that they are criminal conspirators and expose themselves to the Act's sanctions. For all practical purposes, a final order will make membership in the Communist Party a crime.

This is the first time in our history that the Communist Party or any other political party has been outlawed by federal legislation. Yet Marxist groups and parties have been active in this country as lawful political organizations since the middle of the last century,[48] and the Communist Party has been a legal political party since its inception. Although always numerically small, it has run numerous candidates for public office, some of whom were elected, has participated in coalitions to elect non-Communist candidates, and has engaged in other political and economic activity within the tradition of American working class and socialist parties which preceded it.

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[48] American Marxists helped in the formation of the Republican Party, backed Lincoln's candidacy in 1860, made significant contributions to the cause of the federal government in the Civil War, helped form the first national federation of American trade unions, and played a leading role in organizing the American Federation of Labor. See R. 1262-65, 1270-71; Gompers, *Seventy Years of Life and Labor* (N. Y. 1925), v. 1, pp. 51-60. Marx once observed, "Socialism and Communism did not originate in Germany, but in England, France and North America." *Selected Works* (N. Y. 1926), p. 140.

Even the worst enemies of the Communist Party must admit that it has frequently played a seminal role in bringing about needed changes in our social and economic life. Many of the reforms advanced by the Communist Party, and originally the object of vilification, have been adopted by the people of the United States, when they were convinced, with the aid of Communist agitation, that these were to their best interest. To name only a few: social security, minimum wage legislation, the organization of labor unions on industrial lines, and measures against racial discrimination.

No other Western democracy outlaws the Communist Party.[49] Only the United States, the most powerful capitalist nation, which proclaims leadership of the free world, asserts that such a measure is necessary for its safety and compatible with a democratic society. Yet Mr. Justice Douglas has observed that America's "growing tendency in the interests of security to take short cuts, to disregard the rights of the individual, to sponsor the cause of intolerance, and to adopt more and more the tactics of the world forces we oppose . . . have helped lose for America the commanding position of moral leadership which we had at the end of World War II." [50]

B. A final order of the Board will supply the foundation for governmental proscription of many organizations in addition to the petitioner and for the imposition of the Act's sanctions against their members. The Board has already ordered one organization to register as a "Communist-front," and proceedings are now pending against twelve other organizations on the same charge. These organizations include two schools for social studies and groups pro-

[49] Legislation to outlaw the Communist party of Australia was held unconstitutional by the High Court. *Australian Communist Party* v. *The Commonwealth*, 83 C. L. R. 1.

[50] Address to the American Law Institute, *New Republic*, Nov. 16, 1953.

moting such causes as civil liberties, the interests of the foreign born, economic security for the aged, etc.[51]

The number of front organizations can, and undoubtedly will, be multiplied almost indefinitely in the light of the comprehensive criteria of section 13(f).[52] And the sweep of the Act has been recently extended by the creation of a new category, "Communist-infiltrated" organizations, under which the Attorney General will, as he has indicated, institute proceedings against a number of trade unions.[53] Moreover, if the present categories of front and infiltrated organizations turn out to be too restricted, new ones can, and undoubtedly will, be created. Having moved from action and front organizations to infiltrated organizations, the Act could next be extended to groups which are "contaminated," "tainted," "tinged," and finally, "politically unreliable."

If the Constitution can be held to authorize the premises which underlie the proscription of petitioner, there remains little room for constitutional objections to the application of the Act to all of these other organizations.

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[51] The names of these organizations give some indication of the diverse nature of their activities: Civil Rights Congress, American Committee for the Protection of Foreign Born, Jefferson School of Social Science, Labor Youth League, Council on African Affairs, Washington Pension Union, Council for American-Soviet Friendship, Veterans of the Abraham Lincoln Brigade, Committee for a Democratic Far Eastern Policy, Joint Anti-Fascist Refugee Committee, American Slav Congress, United May Day Committee, California Labor School.

[52] An illustration of these criteria in operation is supplied by the following typical allegation made by the Attorney General in a petition to require an organization to register as a front: "The Committee supported the views, policies and objectives of the Communist Party by opposing the enactment of certain legislation regarded by the Party as inimical to its interests such as the Mundt-Nixon Bill, the Hobbs Bill, and the Internal Security Act of 1950." Paragraph III(4)(c) of Amended Petition in *Brownell* v. *American Committee for Protection of Foreign Born*, Docket No. 109-53, Subversive Activities Control Board.

[53] N. Y. Herald-Tribune, Sept. 13, 1954, p. 1.

Moreover, the techniques and interpretations of the Act used against petitioner by the Board and the court below, will, if allowed to stand, be applied in cases involving other organizations so as to destroy virtually any group whose views are not governmentally approved.

C. If the order of the Board becomes final, the civil and criminal penalties which the Act imposes on individuals for membership in petitioner will be extended far beyond those who are its members by any conventional or rational standards. The all-embracing criteria of membership contained in section 5 of the Communist Control Act will jeopardize the liberty of countless non-Communists, including all those who are now "security risks."[54] Such persons as Oppenheimer, Vincent, Davies, Ladejinsky, Condon, Lattimore, Peters, and many thousands of lesser prominence, will be natural targets of the civil disabilities imposed by the Act on "members" of petitioner and of prosecution for failure to register. The Court should not wait until the axe has fallen on some of these victims before determining whether it may be constitutionally wielded.

D. If the Act and the order of the Board are allowed to stand, traditional American liberties, already severely restricted, can scarcely survive. As President Truman declared in vetoing the bill which became the Act (H.R. Doc. No. 708, 81st Cong., 2d Sess., pp. 6-7):

> "Obviously, if this law were on the statute books, the part of prudence would be to avoid saying anything that might be construed by someone as not deviating

[54] See *supra*, p. 7. Commenting on section 5, the *Newark Ledger* stated: "Such a law might be used to herd into prison thousands of persons who have never been Communists and who have no basic sympathy with the Communist conspiracy." 100 Cong. Rec. 14399. The *Wall Street Journal* said: "One of these provisions is that it would be evidence of cooperation with the Communist groups if any person has indicated a willingness to carry out aims and purposes of the party. For all we know the Communist Party may be against juvenile delinquency. So is this newspaper." *Id.* at 14400

> sufficiently from the current Communist-propaganda line. And since no one could be sure in advance what views were safe to express, the inevitable tendency would be to express no views of controversial subjects."

For this reason, the President declared that the registration provisions of the legislation "represent a clear and present danger to our institutions" (*Id.*, p. 5). On this and related grounds, passage of the Act was opposed by numerous trade unions, religious and community organizations, more than twenty major newspapers, and many prominent lawyers and laymen.[55]

This proceeding immediately involves the rights of Communists. But events of recent years have once more proved that repression cannot be contained. What began as a drive against Communists has inexorably led to the victimization of thousands of non-Communists, who have been prosecuted, dismissed from their jobs, blacklisted, ostracized, barred from public platforms, deported, denied the right to leave or enter the country, and otherwise persecuted. Of even more moment have been the pervasive restraints on expression, the burning of books, and the creation of "the ministry of fear in our country."[56]

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[55] *Hearings before House Committee on Un-American Activities*, H. R., 81st Cong., 2d Sess., on H. R. 3903 and 7595; *Hearings before the Committee on the Judiciary*, Sen., 80th Cong., 2d Sess., on H. R. 5852; Cong. Rec., 81st Cong., 2d Sess., pp. A6135, A6220-21, A6724-26, A7397, A7266, A7275-81. See R. 185. Organizations opposing the bills included: A. F. of L., C. I. O., Brotherhood of Railway Trainmen, National Farmers Union, Society of Friends, American Unitarian Association, National Fraternal Council of Negro Churches, American Civil Liberties Union, Americans for Democratic Action, American Association of University Professors, National Association for Advancement of Colored People, Council for Social Action, Congregational Christian Churches, United Council of Church Women, American Jewish Congress, Women's International League for Peace and Freedom, National Council of Jewish Women, American Veterans Committee, National Community Relations Advisory Council.

[56] Averill Harriman, quoted in N. Y. Post, May 5, 1953.

When the court below sustained the Act and the Board's order, it upheld the premises of McCarthyism on which they are based. These are coerced conformity, suppression of peaceable assembly and advocacy, determination of guilt by legislative fiat, imputation of guilt by association, trial by a biased tribunal, judgment on the basis of irrational and vague standards, and acceptance of the testimony of professional perjurers. If these execrable policies may lawfully be applied to petitioner, they may be, and inevitably will be, extended to the people as a whole. Indeed, the techniques which the Act and the Board employed against the petitioner have only recently been used to indict four Democratic administrations and the present Republican administration for "twenty-two years of treason," to impugn the loyalty of two former presidents, and to impeach the integrity of the foreign service and the armed forces.

The issue which this case presents is not whether Communism will survive in America, but whether the Constitution will survive to protect the whole American people.

**II. This proceeding presents fundamental constitutional questions which have not been, but should be settled by this Court or which were decided by the court below in a way in conflict with the applicable decisions of this Court.**

**A. Whether the Act violates due process or is a bill of attainder because it predetermines, by legislative fiat, facts essential to the ultimate determination that petitioner is a "Communist-action" organization.**

Since the order of the Board deprives petitioner and its members of liberty and property, it may not be entered without a hearing. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123; *Morgan* v. *United States*, 304 U. S. 1. If any of the elements requisite to a finding that

petitioner is a "Communist-action" organization have been determined adversely to petitioner by legislative fiat rather than by a free adjudication of the facts, the due process requirement of a hearing has been violated. *Manley* v. *Georgia*, 279 U. S. 1; *Western and Atlantic Railroad* v. *Henderson*, 279 U. S. 639; *McFarland* v. *American Sugar Refining Co.*, 241 U. S. 79; *Tot* v. *United States*, 319 U. S. 463. Cf. *Moore* v. *Dempsey*, 261 U. S. 86; *Frank* v. *Mangum*, 237 U. S. 309; *Palko* v. *Connecticut*, 302 U. S. 319.

Under our analysis, the Act finds and removes from administrative adjudication all the facts essential to a determination against petitioner (see *supra*, pp. 14-16). But even if only one of the essential facts had been legislatively predetermined, due process would be violated.

1. One of these essential facts is, obviously, the existence of a world Communist movement having the attributes ascribed to it by section 2 of the Act. For by definition (Sec. 3(3)), a Communist action organization is one which is controlled by and advances the objectives of "the world Communist movement referred to in section 2." Yet the findings in Section 2 on the existence and nature of a world Communist movement are incorporated into Sections 3(3) and 13(e) as assumptions of fact which the Board is not authorized to reexamine, but is required to accept as the foundation for its decision.

This circumstance was acknowledged by the court below. It held that for the purposes of reviewing the sufficiency of the evidence, the court was required to accept the Congressional finding of "a world Communist movement whose purpose it is, by treachery, sabotage, or any other necessary means, to establish a Communist proletarian dictatorship throughout the world" (Op. 56).[57]

[57] The Board took the same position in its brief below. See *supra*, p. 15.

The court nevertheless held that this legislative determination was not a denial of due process, stating (Op. 55):

> "The rule, as we understand it, is that, if it appears Congress has power over the subject matter of a statute, and if the findings of fact are not baseless but are based on extensive investigation, the courts are to adopt these findings."

It is apparent that the court below relied on an inapplicable rule. Legislative findings of fact, if not unreasonable, are conclusive for the purpose of supporting the policy of a particular law where its constitutionality is at issue. But this principle does not permit legislative findings to take the place of proof in an adversary proceeding that a specific organization or person is within the scope of the statute and thus subject to liability.

If the court's proposition were sound, Congress by making the necessary findings, could order petitioner to register under the Act and could impose sanctions on its members without any hearing whatsoever. We submit that review by this Court is required to determine whether due process permits such imposition of liability by legislative fiat.

2. As we have also seen (*supra*, p. 15), Section 2 predetermines the existence in this country of a "Communist-action" organization having the major characteristics which, when supposedly found by the Board, determine the Board's decision. Nothing is left for the Board, therefore, but to supply the name of the organization which Congress had in mind as "the Communist-action organization in the United States." And the name itself was supplied in the legislative history of the Act, including the House and Senate reports accompanying the legislation (*supra*, p. 16). Thus the Board could not find that Petitioner was *not* the domestic "Communist-action" organization referred to in Section 2 without overruling Congress.[58]

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[58] This Court has flatly held that "the Communist-action organization in the United States" referred to in section 2(15) refers to the petitioner herein. *Carlson* v. *Landon*, 342 U. S. 524, 535, 544.

Finally, petitioner was identified by name as a "Communist-action" organization by Section 4 of the Communist Control Act, enacted while the Court of Appeals had this proceeding under advisement.

The court below, however, rejected the contention that the Act violates due process because of its built-in finding that petitioner is a Communist-action organization. Its ground was that "Petitioner is not mentioned" (Op. 39), meaning, apparently that petitioner is not mentioned by name in the text of the Act itself. We submit that the Court should review the question whether legislation which makes all necessary findings by fiat is valid merely because it does not name the accused in the text—even this omission being supplied in the legislative history and in subsequent legislation.

3. We urged below that the Act is invalid as a bill of attainder because it identifies petitioner as the object of the statutory sanctions and imposes punishment on petitioner and its members without a judicial trial, the Act providing only an administrative hearing as a prelude to liability. *Cummings* v. *Missouri*, 71 U. S. 277; *United States* v. *Lovett*, 328 U. S. 303; *Garner* v. *Board of Public Works*, 341 U. S. 716, 722. The court below rejected this contention (Op. 40) on the ground that the Act does not punish petitioner and its members for past conduct, but merely regulates their future conduct. However, the effect of a registration order is not to regulate petitioner's future conduct but to proscribe all of its activities, however innocent, and thus to punish it by destroying it altogether. Moreover, the order punishes petitioner's members by subjecting them to sanctions solely because of their membership and regardless of the fitness of the individual member, if judged on his merits, to enjoy the privileges which the Act denies him. This Court has consistently held that the deprivation of a privilege constitutes punishment where the grounds for the deprivation bear no reasonable relation

to the fitness of the individual to enjoy the privilege. *Cummings* v. *Missouri, supra; Ex parte Garland*, 71 U. S. 333; *Dent* v. *West Virginia*, 129 U. S. 114; *Hawker* v. *New York*, 170 U. S. 189.

Whether the sanctions of the Act are in fact punishment and whether the Act is therefore invalid as a bill of attainder are questions of fundamental importance which should be reviewed by this Court.

**B. Whether the Act violates due process because it authorizes a determination that an organization is a Communist-action organization on the basis of irrational and vague criteria.**

Legislation violates due process if it permits liability to be determined on the basis of criteria which are irrelevant to the ultimate issue or are too vague to supply an ascertainable standard of judgment. *Tot* v. *United States*, 319 U. S. 463; *Manley* v. *Georgia*, 279 U. S. 1; *Western and Atlantic R. R.* v. *Henderson*, 279 U. S. 639; *McFarland* v. *American Sugar Co.*, 241 U. S. 79; *Bailey* v. *Alabama*, 219 U. S. 219; *Burstyn* v. *Wilson*, 343 U. S. 495; *Winters* v. *New York*, 333 U. S. 507; *Niemotko* v. *Maryland*, 340 U. S. 268; *Kunz* v. *New York*; 340 U. S. 290; *Musser* v. *Utah*, 333 U. S. 95; *Stromberg* v. *California*, 283 U. S. 359; *Connally* v. *General Construction Company*, 269 U. S. 385.

Our previous analysis shows that the Act violates these principles. The standards which section 13(e) requires the Board to apply have no rational relation to the ultimate issue to be determined under Section 3(3) and are vague and indefinite (*supra*, pp. 16-18).[59]

[59] Messrs. John W. Davis, Charles Evans Hughes, Jr. and Seth W. Richardson advised the Senate Judiciary Committee that in their opinion the vagueness of the similar section of the Mundt-Nixon bill, the antecedent of the Act, rendered the entire bill unconstitutional. *Hearings before Senate Judiciary Committee*, 80th Cong., 2d Sess., on H. R. 5852, pp. 417, 421, 445.

The most striking instance of the irrationality of the Act is the fact that while Section 3(3) defines a Communist-action organization as one which promotes the seditious objectives attributed to the world Communist movement by Section 2, Section 13(e) authorizes the Board to issue a registration order without any proof whatsoever that the accused organization promotes seditious objectives. This fact was acknowledged below by the Board and accepted by the Court (*supra*, p. 17).

The court below attempted to meet the contention that Section 13(e) thus establishes an irrational system of proof, by stating (Op. 41-42):

> "The Party says that by the definition in Section 2 of the Statute the world Communist movement engages in espionage, treason, etc., whereas none of the eight 'tests' to be applied to a domestic organization involves any of those offenses; and that thus the whole of Section 13(e) is irrational. The argument misconceives both the text and the purpose of the section. The inquiry with which the statute as a whole is concerned is in two separate parts: (a) What is the world Communist movement? That is dealt with in section 2. (b) Is a certain domestic organization under the domination and control of that movement, and does it operate primarily to achieve its objectives? * * * The so-called 'tests' in section 13(e) are directed at the latter problem alone. Thus construed, as it obviously was intended to be, the section is apt and cogent."

This passage begs the question. If one of the issues of "the latter problem" is whether the domestic organization operates to achieve the objectives of the world Communist movement, all of which, as enumerated in Section 2, are seditious and unlawful, that issue cannot rationally be resolved against the organization by proof that it operates to achieve only benign and lawful objectives.

The court below shifted its position when it discussed the "directives and policies" test of Section 13(e)(1), stating (Op. 44):

> "The Party says that the 'directives and policies test' in Section 13(e)(1) is irrational. It says that the statutory definition of a Communist-action organization in Section 3(3) refers only to organizations which pursue objectives which are 'evil', whereas the test section refers to any objectives, good or bad.
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> * * * * * * *
>
> The crucial factor in the statute before us is the aim, spelled out in detail, of the world Communist movement to disestablish our system of government. Our government may well oppose the establishment of a totalitarian dictatorship of the sort described in the definition, even if such a dictatorship does not meet the definition of 'evil' or even if it has many beneficent features."

But if "the crucial factor in the statute" is the alleged aim of the world Communist movement to disestablish our system of government, an accused organization cannot rationally be found to be a "Communist-action" organization in the absence of proof that it is engaged in promoting that aim. Yet no such proof is required by Section 13(e) or by any other section.

Moreover, the "crucial factor in the statute" is not simply the aim of the postulated world Communist movement to disestablish our system of government, but to do so by violent and unlawful means (e.g., Sec. 2(6)(15)). Indeed, it is only the latter factor which can support the finding of Section 2(15) that the American agent of the postulated world Communist movement presents "a clear and present danger to the security of the United States." Accordingly, an organization which operates to bring about a change in the existing social order in this country by peaceable and constitutional means cannot be a Communist-action organization. Yet none of the standards of Section 13(e) requires proof that petitioner operates to bring about social

change through the use of violent or unconstitutional means. There is, therefore, no rational relation between the finding that it is a Communist-action organization and the evidence upon which the Act authorizes the Board to predicate the finding. The decision below sustaining the validity of Section 13(e) is contrary to the decisions of this Court invalidating legislation which predicated civil or criminal liability on the basis of irrational presumptions.[40]

The court below also stated (Op. 42) that Section 13(e) does not preclude the Board from considering relevant and material evidence not within the standards of the section. That assertion, if true, cannot save the Act. The fact that the Act authorizes the Board to decide on the basis of irrational standards is enough to invalidate it. *Bailey* v. *Alabama*, 219 U. S. 219, 235. Moreover, the Board rested its decision exclusively on the standards of 13(e).

**C. Whether the Act violates due process by establishing a Board which is necessarily biased, and has an interest in deciding, against petitioner, and whether petitioner was, in fact, denied a fair hearing.**

As we have shown (*supra*, pp. 18-20), the structure of the Act is such that the Board could not have decided in favor of petitioner without rendering itself *functus officio* and, in effect, repealing the Act. Moreover, the Board members had a personal interest in ruling against petitioner in order to keep their jobs, salaries, and appointment patronage.

The Act thus exerted relentless pressures upon the Board to decide against petitioner. These pressures were reinforced by the surveillance of the conduct of the proceeding by an agent of the Senate committee, hostile to petitioner,

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[40] The court below stated (Op. 43) that section 13(e) "is a catalog of some basic considerations. There are no statutory presumptions." Obviously, however, a statutory presumption consists in a grant of authority to a fact-finding body to infer and find the existence of an ultimate fact from proof of other facts. That is precisely the office of section 13(e).

which had pending before it the nominations of the Board members (*supra*, pp. 38-39).

The court below did not discuss petitioner's contention that it was denied due process by trial before a Board which was under irresistible pressure to decide against petitioner and had a personal interest in the outcome. *Tumey* v. *Ohio*, 273 U. S. 510; *United States ex rel. Accardi* v. *Shaughnessy*, 347 U. S. 260; *Wang Yang Sung* v. *McGrath*, 339 U. S. 33; *Fay* v. *New York*, 332 U. S. 261; *Morgan* v. *United States*, 304 U. S. 1.

The court below also failed to discuss petitioner's contention that the Board erred in refusing to disqualify Board Chairman Brown and Member McHale (both members of the hearing panel) for their unseemly conduct, during the administrative proceeding, in making public speeches about the case, in which they manifested bias and prejudgment. See *supra*, p. 39; *Berger* v. *United States*, 255 U. S. 22.

The Court should review the decision below to determine whether the affirmance of the Board's order conflicts with the cited decisions of the Court and with fundamental principles of procedural due process.

**D. Whether the Act violates due process by depriving petitioner's members of liberty and property merely by reason of their association, without proof of scienter and without according them a hearing.**

As we have seen (*supra*, pp. 8-9), under the Act, a final registration order against petitioner will bar its members from virtually all public and private employment, deprive them of other important privileges, and require their public listing as disloyal persons. The members suffer these onerous sanctions regardless of their personal innocence and lack of knowledge of the alleged character of petitioner. Furthermore, they are afforded no opportunity to demonstrate at a hearing that they are fit persons to enjoy the privileges denied them. Instead, the fact of member-

ship establishes a conclusive presumption of unfitness. In these respects, the Act seems clearly to violate due process under *Wieman* v. *Updegraff*, 344 U. S. 183, and *Adler* v. *Board of Education*, 342 U. S. 485. The Act also infringes the principle that guilt may not be imputed for association. *Schneiderman* v. *United States*, 320 U. S. 118; *Bridges* v. *Wixon*, 326 U. S. 135; *DeJonge* v. *Oregon*, 299 U. S. 353; *Herndon* v. *Lowry*, 301 U. S. 242.[60a]

The court below held that the scienter requirement of *Wieman* was satisfied on the grounds that (a) a member has knowledge of his membership; and (b), "The statute before us requires that before these sanctions apply a member must have 'knowledge or notice' that the organization has registered or been finally ordered to register" (Op. 26). These grounds are both irrelevant and untrue.

As *Wieman* makes abundantly clear, the scienter required by due process is knowledge that the organization has seditious purposes. The requirement is not satisfied by knowledge of membership or knowledge or notice that the organization has been governmentally condemned.[61]

Furthermore, in view of the vague criteria of membership established by Section 5 of the Communist Control Act, it is not correct that "members" have knowledge of their

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[60a] It is clear, and neither the Board nor the court below disputed, that petitioner has standing to challenge the Act for denying due process to petitioner's members. The sanctions imposed on the members directly and seriously injure petitioner. The test of standing is thus satisfied, since it requires only that the action challenged affect the interests of the complainant in a reasonably direct manner. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123; *Pierce* v. *Society of Sisters*, 268 U. S. 510; *Truax* v. *Raich*, 239 U. S. 33; *Buchanan* v. *Warley*, 245 U. S. 60; *Barrows* v. *Jackson*, 346 U. S. 249.

[61] Moreover, knowledge of the issuance of a registration order does not carry knowledge that the organization has even been found to have seditious purposes, in view of the holding of the court below that a registration order may be issued without proof of such purposes (see *supra*, p. 17).

"membership". And it is a misreading of the statute to assume that knowledge or notice of a registration order [42] is a prerequisite to the imposition of the sanctions. Under the Act, such knowledge or notice is necessary to support criminal prosecutions for applying for a forbidden job or a passport or for a member's failure to register himself if the organization failed to list him (Sec. 5(a), 6(a), 8(b), 15(a)(2)). But even this limited "scienter" is not necessary to the imposition of the civil sanctions and disabilities of the Act. For employers must deny a member employment, the government must withhold a passport from him, and, if he is an alien, the government must deport him and may not naturalize him, all without reference to any kind of knowledge or notice on his part. See Secs. 6(b) and 5(a)(2) of the Act, and Sections 241(a)(6)(E) and 313(a)(2) of the Immigration and Nationality Act.

Clearly the decision below on this issue conflicts with applicable decisions of this Court and with fundamental principles of due process.

**E. Whether the registration requirement of the Act violates due process by virtue of the fact that Section 5 of the Communist Control Act makes it impossible to determine who must be registered as members.**

The Act makes it necessary for petitioner, its officers, and others to determine who are members of petitioner. If the order becomes final, petitioner and its officers must register the names of all the members. Other individuals must determine whether they are members in order to know whether they may lawfully hold certain jobs or apply for passports and whether they must register themselves upon failure of the organization to register their names. All persons making these determinations must apply the criteria for membership in the Communist Party provided by

[42] Under section 14(k), notice of a registration order is given to members by publication in the Federal Register of the fact that the order has become final.

Section 5 of the Communist Control Act, if they are to avoid the criminal penalties provided in Section 15 of the Act.

But, as we have seen (*supra*, p. 7), application of the criteria of Section 5 requires a knowledge of facts which petitioner and its officers cannot have. In addition, the criteria are vague and irrational. Consequently, petitioner and its officers cannot determine the identity of the members whom they are required to name in the registration statement. A final order of the Board, therefore, will leave petitioner and its officers hopelessly caught by the astronomically cumulative criminal penalties for omitting names from the registration statement and for false listings.

Other individuals are in the dilemma that they cannot tell from the vague criteria of Section 5 whether they are members of petitioner and thus subject to the requirements and penalties of the Act.[63]

The Court of Appeals dismisses Section 5, as well as the 1954 Act as a whole, with the statement (Op. 48) that, "we think it has no application." As to Section 5 at least, this statement is plainly erroneous.

We submit that the effect of Section 5 on the registration provisions of the Act presents constitutional questions of the highest public importance which should be reviewed by this Court.

**F. Whether the Act is invalid because it violates the privilege against self-incrimination.**

Section 7(h) makes it the individual duty of the officers to register petitioner.[64] In the event there is no registra-

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[63] The situation is aggravated by the fact that none of the section 5 criteria are limited as to time, so that a person can be found to be presently a member on the basis of some incident of the remote past.

[64] Regulations of the Attorney General under Sec. 7 require the registration statement to be signed by the organization's principal officers and all the members of the governing Board. 28 C. F. R. 11.205.

tion by the organization or its officers, or if the registration statement omits the names of any members, the members must register themselves (Sec. 8). Failure to register as required is punishable by severe criminal penalties (Sec. 15).

The legislative scheme of the Act therefore culminates in an attempt to coerce confessions of membership in the Communist Party and participation in the criminal conspiracies described in Sections 2 and 4(a) of the Act. This is a crass violation of the privilege against self-incrimination. *Blau* v. *United States*, 340 U. S. 159.

Congress recognized the vulnerability of the Act on this ground by including a so-called immunity provision (Sec. 4(f)). That provision cannot save the Act, however, since the limited immunity it confers is not co-extensive with the privilege. *Counselman* v. *Hitchcock*, 142 U. S. 547; *United States* v. *Bryan*, 339 U. S. 323.

A majority of the court below held that the privilege is not available to petitioner's officers and that its assertion at this time is premature (Op. 17-25). Both of these grounds are fully answered in Judge Bazelon's dissenting opinion (Op. 81-89), and it is therefore unnecessary to retrace the argument here.

The question presented is obviously novel and important, and should be reviewed by this Court.

**G. Whether the Act, on its face and as applied, violates the First Amendment.**

1. This Court has long held that statutes affecting speech, press and assembly must be narrowly drawn to meet a substantive evil which the legislature has power to control. A statute penalizing conduct or advocacy which lies outside the area protected by the First Amendment is nonetheless invalid if it is so broad that it likewise abridges protected expression or assembly. *United States* v. *C.I.O.*,

335 U. S. 106; *Schneider* v. *Irvington*, 308 U. S. 147; *Thornhill* v. *Alabama*, 310 U. S. 88; *Cantwell* v. *Connecticut*, 310 U. S. 296, 308; *Jones* v. *Opelika*, 316 U. S. 584, 618 (dissenting opinion, adopted by the Court in *Jones* v. *Opelika*, 319 U. S. 103); *Saia* v. *New York*, 334 U. S. 558; *Winters* v. *New York*, 333 U. S. 507; *Stromberg* v. *California*, 283 U. S. 359; *DeJonge* v. *Oregon*, 299 U. S. 353; *Burstyn* v. *Wilson*, 343 U. S. 495; Cf. *Australian Communist Party* v. *Commonwealth*, 83 C. L. R. 1, 187-88, 225-27.

The Act violates this principle. Although its justification, stated in Section 2, is the alleged misconduct of "Communist-action" organizations, its controls are not limited to misconduct. Instead, as we have shown (*supra*, pp. 7-11), the Act and the order suppress all of petitioner's activities, including its admittedly extensive peaceable advocacy and assembly. As the President said in a special message to Congress, the Act attempts to "proscribe for certain groups such as the Communists, certain activities that are perfectly proper for everyone else" (H. R. Doc. No. 679, 81st Cong., 2d Sess., p. 6). Indeed, it is precisely peaceable conduct which the Act is designed to reach, since there is a plethora of other laws which punish seditious advocacy and provide for the registration of foreign agents.

In *American Communications Association* v. *Douds*, 339 U. S. 382, the Court sustained a limited control statute only because the legislation "did not restrain the activities of the Communist Party as a political organization" (at 404) or proscribe or severely burden membership in it. The Act does the very things condemned by *Douds*.

The court below acknowledged that the Act abridges First Amendment rights (Op. 11). It does not deny that a final registration order will outlaw petitioner (Op. 38-39). It states, however (Op. 39):

> "• • • If an organization is actually operating primarily to achieve the objectives of a foreign organization dedicated to the establishment of a totalitarian

> dictatorship in this country by other than constitutional processes, we perceive no constitutional obstacle to its outlawry."

This statement is plainly erroneous.[65] The facts assumed by the court would at most justify legislation penalizing the use or advocacy of "other than constitutional processes" for achieving the stated objective. They could not justify the proscription of peaceful advocacy and assembly by outlawing the organization.

The court below also stated (Op. 11):

> "The activities of a world Communist movement such as that described in this statute and of organizations in this country devoted to its objectives constitute a clear and present danger within the meaning of any definition of the point at which freedom of speech gives way to the requirements of government security."

This repeats the error of the previous excerpt. The fact, if it be one, that an organization is engaged in "dangerous" activities cannot warrant the suppression of its innocent and lawful advocacy and assembly. Moreover, the clear and present danger exception applies only to expression which, because of its content and under the circumstances of its dissemination, gives rise to danger. The Act, and the Board's order, however, restrain all of petitioner's future advocacy, regardless of its possible content and of the circumstances under which it may be disseminated.

The court below also held that the employment and passport sanctions of the Act are, when considered severally, reasonably related to the evil which Congress was attempting to reach and therefore do not violate the First Amendment (Op. 33-35). Undoubtedly, federal power exists to protect the government service and establishments vital to

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[65] It is also inapplicable, since, as the court below held, the Act does not require proof of the use or advocacy of unconstitutional means as a prerequisite to outlawry by a registration order (see *supra*, p. 17; *infra*, p. 64).

the national defense against espionage, sabotage and other criminal activities as well as to prohibit foreign travel for the effectuation of any such illegal enterprise. The Act, however, forecloses employment to a member and bars him from travel abroad notwithstanding his personal innocence, lack of criminal propensities and lack of guilty scienter (see *supra*, pp. 56-57). Furthermore, as the court below acknowledged, the Act does not require proof that either the organization, or any of its members has engaged in or advocated espionage, sabotage or other violent or unconstitutional means for the achievement of its political objectives (see *supra*, p. 17). It is clear, therefore, that the function of these sanctions, even when considered individually and apart from their setting in the Act as a whole, is not to protect the national security. Such protection, if needed, could have been provided by narrowly-drawn legislation addressed to that purpose. The Act's sanctions serve a different function, that of destroying the petitioner by denying its members their livelihood and liberties merely because of their membership.

(2) The Act imposes a prior restraint on protected speech, press and assembly. The Act and the order require petitioner to register as a criminal conspirator before it can engage in political advocacy. They also require petitioner to list all printing presses, mimeograph machines, etc., in its possession or that of its officers, members or groups in which it "has an interest" (Sec. 7(d)(6)).[60] Petitioner must also identify its publications and broadcasts with an invidious label whether or not it registers (Sec. 10). This requirement applies regardless of the content of the expression or the circumstances under which it occurs. Petitioner's exercise of the rights of speech and press is licensed not because its words are seditious or create a clear

[60] The court below ignores this amendment to the Act, characterized by the *Chicago Daily News* as "a part-way throwback to concepts of press licensing obsolete in the English-speaking world for centuries." 100 Cong. Rec. 14401.

and present danger, but solely because they emanate from petitioner.

The decision below therefore conflicts with this Court's condemnation of prior restraints on First Amendment rights. *Thomas* v. *Collins*, 323 U. S. 516, 540, expressly condemns "the device of requiring previous registration as a condition for exercising" the rights of free speech and assembly. See also *Burstyn* v. *Wilson*, 343 U. S. 495; *Lovell* v. *Griffin*, 303 U. S. 444; *Largent* v. *Texas*, 318 U. S. 418; *Hague* v. *C.I.O.*, 307 U. S. 496; *Cantwell* v. *Connecticut*, 310 U. S. 296; *Schneider* v. *Irvington*, 308 U. S. 147.

The court below distinguished *Thomas* v. *Collins* on the ground that "operation to achieve the objectives of a movement such as this statute describes is conduct sufficient to invoke Federal regulatory power" (Op. 14). The "objectives" referred to by the court are presumably the criminal and seditious objectives described in Section 2. Accordingly, the attempted distinction is fallacious, since the prior restraint of the Act is not limited to seditious advocacy, or even to advocacy by organizations which have been proved to have seditious objectives.

The court below equates the registration and labelling requirements of the Act with statutes requiring the registration of lobbyists and foreign agents and the identification of those who use the mails and the radio (Op. 32-33; 35-36). Those statutes, however, are non-discriminatory and non-invidious, whereas the Act's registration and labelling requirements are armband measures condemned in *American Communications Ass'n* v. *Douds, supra*, at 402. Moreover, in construing the statutes referred to by the court below, this Court has for constitutional reasons confined the controls to highly limited areas. *United States* v. *Harris*, 347 U. S. 612; *Viereck* v. *United States*, 318 U. S. 236. The Act is not, and cannot be, so confined.

(3) The Act imposes sanctions upon an organization and its members on the basis of evidence of lawful and peaceable political advocacy and views.

The standards of Section 13(e) focus on views and policies and their expression. Thus the first standard refers to the method of formulation and the purpose of policies, the second to "non-deviation" of views and policies, the fourth to teaching, and the fifth to reporting. The views and policies need not be seditious or even false. Nor does the section require proof that petitioner advocates violent or unconstitutional means for the effectuation of its policies.

Congress cannot control even the advocacy of violence in the absence of a clear and present danger situation. *Dennis* v. *United States*, 341 U. S. 494. Much less, therefore, can it punish an organization or its members upon evidence that the former advocates peaceable action, as to which no clear and present danger can arise.

The court below recognized (Op. 44-46) that none of the standards of Section 13(e) requires a showing of criminal activities or advocacy of violent or unconstitutional means. Nevertheless, the court states (Op. 44):

> "Our government may well oppose the establishment of a totalitarian dictatorship of the sort described in the definition, even if such dictatorship does not meet the definition of 'evil' or even if it has many beneficent features."

The issue in this case, however, is not whether the government may "oppose" a radical political change but whether it may impose sanctions for the advocacy of such change. If the First Amendment does anything, it prohibits the national government from abridging such advocacy so long, at least, as the means advocated are non-violent or no clear and present danger exists. *Stromberg* v. *California*, 283 U. S. 359; *Gitlow* v. *New York*, 268 U. S. 652, 673 (Holmes, J., dissenting); *Schneiderman* v. *United States*, 320 U. S.

118. The decision below is inconsistent with the principle established by these cases.

(4) Passing to the Act as applied, it is clear that the evidence on which the court below relied to sustain the ultimate finding of the Board consists of petitioner's views and policies. As we have seen, the court sustained the ultimate finding primarily on the basis of six factors. These deal exclusively with petitioner's adherence to Marxism-Leninism and its position on international questions (*supra*, pp. 33-34). Except as to "financial aid," the same thing is true of the evidence on which the court relied in sustaining the Board's findings under Section 13(e) which survived review (see *supra*, pp. 27-32). None of these views involve, or are found to involve, advocacy of violent or unconstitutional methods.

In essence, the court below sustained the registration order on the grounds that petitioner adheres to a school of political thought that believes in and works for "a classless, stateless world" and that petitioner's views on international questions are similar to those of the Soviet Union. Thus, applying the Act in accordance with its real purpose, the court sustained a death sentence against petitioner because it holds views that are presently unorthodox and unpopular.

If the decision below is allowed to stand, there remain no effective limitations on Congress' control over political expression. If Congress can punish "non-deviation" from Soviet views, it can penalize "non-deviation" from other views. In fact, the Communist-front provisions of the Act already punish "non-deviation" from petitioner's views (Sec. 13(f)). The decision below thus gives legal sanction to the pernicious current technique of condemning persons because some of their views "parallel" those of the Soviet Union or of Communists.[67]

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[67] Robert Maynard Hutchins, when chancellor of the University of Chicago, stated: "It is now fashionable to call anybody with whom you disagree a Communist or a fellow-traveller. So Branch Rickey

This proceeding outdoes the heresy trials of earlier times. Heretics were burned for believing doctrines held to be false and wicked. The Act, however, as applied by the Board and the court below, punishes political heretics for promulgating doctrines which concededly may be true and good. It creates the strangest and most virulent of heresies—"non-deviation," including "non-deviation" from the truth.

Clearly, the question whether the Act, on its face and as applied, violates the First Amendment requires review by this Court.

**III. The action of the court below in sustaining the order of the Board after striking two of the key findings on which it was based violates the Act and is in conflict with applicable decisions of this Court.**

As we have seen (*supra*, p. 24), the Board rested its decision that petitioner is a Communist-action organization on findings adverse to petitioner under each of the eight criteria of Section 13(e). Since the Board's ultimate conclusion was based on the totality of these eight findings, it cannot be said that the same conclusion would have been

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darkly hinted the other day that the attempt to eliminate the reserve clause in baseball contracts was the work of Communists. One who criticizes the foreign policy of the United States, or the draft, or the Atlantic Pact, or who believes that our military establishment is too expensive can be called a Fellow Traveller, for the Russians are of the same opinion. One who thinks that there are too many slums and too much lynching in America can be called a Fellow Traveller, for the Russians say the same. One who opposes racial discrimination or the Ku Klux Klan can be called a Fellow Traveller; for the Russians claim that they ought to be opposed. Anybody who wants any change of any kind in this country can be called a Fellow Traveller, because the Russians want change in this country, too . . . The miasma of thought control that is now spreading over the country is the greatest menace to the United States since Hitler." (Hearings of Illinois Seditious Activities Investigation Commission on University of Chicago and Roosevelt College, April 1949, pp. 20-21).

reached if any of the findings had been omitted or had been to the contrary effect.

The court below struck the findings of the Board under the "reporting" and "secret practices" criteria of Section 13(e) on the ground that they were not supported by a preponderance of the evidence (Op. 72-74). Accordingly, the premises on which the Board acted do not support its conclusion, since it based its order on the sum of eight findings, not on six. Moreover, two of the six surviving findings had little if any weight against petitioner.[68] Nevertheless, the court below affirmed the order of the Board, instead of remanding for administrative redetermination in the light of the findings which survived.

This action violates Section 14 of the Act, which permits affirmance of an order of the Board only if the findings *of the Board* are supported by a preponderance of the evidence. The decision below also conflicts with the decisions of this Court that an administrative order cannot be upheld unless the grounds on which the agency acted to sustain its action. If the agency's ultimate conclusion rests in part on invalid subsidiary findings of fact, the reviewing court must remand the proceeding for agency redetermination. This is the appropriate action even though the reviewing court is of the opinion that the agency action could have been supported by valid subsidiary findings. *National Labor Relations Board* v. *Virginia Electric & Power Co.*, 314 U. S. 469; *S.E.C.* v. *Chenery Corp.*, 318 U. S. 80; *F.P.C.* v.

[68] The Board found that "financial aid" and "instruction and training" were not currently engaged in by petitioner (R. 88, 92). It advised the court below that "the Board could not have placed great reliance" on the "financial aid" criterion (Respondent's Br. below, p. 101). The court below recognized that the "financial aid" and "instruction and training" criteria had no great materiality to the ultimate issue (Op. 46).

*Idaho Power Co.*, 344 U. S. 17; *Colorado-Wyoming Gas Co.* v. *F.P.C.*, 324 U. S. 626.[69]

The decision below establishes a precedent for future cases arising under the Act that the reviewing court will proceed as though it were the administrative agency and the Board its trial examiner. We submit that the decision represents an important departure from basic principles of administrative law which requires review by this Court.

**IV. The decision below determines important questions concerning the interpretation and application of the Act. Some of these have not been, but should be, settled by this Court, and others were decided in a manner which conflicts with applicable decisions of this Court.**

**A. Whether the order of the Board and the decision below violate the Act for the reason that they rest on alleged conduct of petitioner which, if it ever occurred, was discontinued prior to the date of the Act.**

As we have seen (*supra*, p. 24), the Act makes it the duty of the Board to determine whether an accused organization is a Communist-action organization at the time of the proceeding. Moreover, the Board was precluded from basing its order upon practices of petitioner which antedated the Act by the principle which favors the prospective construction of legislation and by constitutional considerations. *White* v. *United States*, 191 U. S. 545, 552; *Shreveport* v. *Cole*, 129 U. S. 36; *Cummings* v. *Missouri*, 71 U. S. 277; *Pierce* v. *Carskadon*, 83 U. S. 234; *Burgess* v. *Salmon*, 97 U. S. 381.

Accordingly, the Board was required to base its findings and order upon current conduct of the petitioner. Peti-

[69] The action of the court below is also in conflict with its own decisions. *Democrat Printing Co.* v. *F. C. C.*, 202 F. 2d 298; *Mississippi River Fuel Corp.* v. *F. P. C.*, 163 F. 2d 433, 449.

tioner's practices prior to the date of the Act were relevant, if at all, only to the extent that they served to show or explain the purpose or character of post-Act activities. *Federal Trade Commission* v. *Cement Institute*, 333 U. S. 683, 705.[70]

There was no relevant post-Act evidence which could rationally support a registration order. The Board and the Court below compensated for this deficiency of proof by treating as determinative evidence of matters in the remote past which had been long abandoned, as, for example, petitioner's affiliation before 1940 with the Communist International. And findings unfavorable to petitioner were made and sustained on the "financial aid" and "instruction and training" standards of Section 13( even though these practices, if ever engaged in, were found by both the Board and the court below to have been discontinued well before enactment of the Act (see *supra*, pp. 25-26).

The Board rationalized its reliance on evidence of petitioner's practices prior to the date of the Act by invoking a vague presumption of "continuance" (R. 130). It nowhere identified the pre-Act evidence on which it relied as the foundation of the presumption or the nature of the pre-Act conduct presumed to have continued.[71] Moreover, continuance cannot be presumed in the face of petitioner's uncontradicted denials (Op. 51-52; R. 1211-27, 1235-41, 1282-84, 1288-91). "At most," a presumption of continuance "is but a rebuttable presumption which cannot be weighed in the balance as against evidence." *Sherman Inv. Co.* v.

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[70] This decision states (at 706) that evidence of past transactions is not admissible even for this limited purpose where, as here, the effect of the proceeding is "to punish or to fasten liability on respondents for past conduct."

[71] The irrationality of the Board's approach is illustrated by the fact that it found that foreign instruction and training stopped in 1936 (R. 90, 92), some fourteen years before the Act. If there is an applicable "presumption," it should be one of discontinuance, not of continuance.

*United States*, 199 F. 2d 504, 507 (8th Cir.). Nor can continuance be presumed in the face of such changes in circumstances as petitioner's disaffiliation from, and the subsequent dissolution of, the Communist International. See 2 Wigmore on Evidence (3d ed.), Sec. 437. Neither can it be presumed that conduct permissible at the time of occurrence continued after passage of legislation imposing sanctions for such conduct. *Federal Trade Commission* v. *Cement Institute, supra*; *Wolf* v. *United States*, 259 Fed. 388 (8th Cir.); *Haywood* v. *United States*, 268 Fed. 795 (8th Cir.).

The court below also invoked a presumption of continuance. It found that "in the years prior to 1940 the Communist Party USA was dominated and controlled by the world Communist movement" because during that period petitioner was affiliated with the Communist International and bound by its decisions (Op. 61-3). It then held that petitioner's past affiliation with the Communist International was decisive of its present status as a Communist-action organization, notwithstanding its own findings that the petitioner disaffiliated from the International in 1940 and that the International was dissolved in 1943 (Op. 64). The court's theory was that the past conduct of an organization is material to its present nature in the absence of "affirmative evidence of a departure from the established past" (Op. 63). It found that petitioner's disaffiliation from the Communist International and the latter's dissolution did not constitute such a "departure," stating:

> "To demonstrate a changed nature in the Party USA, some assertion of a change in substantive belief and program would have to be made" (Op. 64).
>
> * * * * * * *
>
> "If the Communist Party USA does not adhere to the basic ultimate objective of Marxism-Leninism [i.e. 'a classless, stateless world'], some vivid evidence to that effect should be readily available * * *. But this record contains no such evidence" (Op. 66).

The Act, however, relates to an organization which is *currently* under foreign control. Obviously, control cannot be established by proof of voluntary adherence to doctrine. The court acknowledged that the Communist International, which it asserted once controlled petitioner, was dissolved in 1943. By the court's own admission, therefore, nothing now remains but voluntary continued adherence to doctrine. Nevertheless, the court presumed the continuance of the control from petitioner's failure to repudiate the doctrine. This is a palpable non sequitur and a violation of the Act.

*United States* v. *Dennis*, 183 F. 2d 201 (2d Cir.), goes further than any of the other authorities in the significance it attaches to evidence of conduct prior to the period in issue. But even *Dennis* recognizes (at 231): "It is *toto coelo* a different question whether we are treating them [acts performed prior to the critical period] as *media concludendi* or as the *factum* itself." Contrary to *Dennis*, both the Board and the Court treated pre-Act conduct as "the *factum* itself."

The principles stated and applied by the Board and the court below as to the function of pre-Act evidence violate the Act and conflict with principles established by decisions of this Court and by other Circuits.

**B. Whether the Board and the court below otherwise erroneously construed and applied the criteria of Section 13(e) of the Act.**

The construction and application by the Board and the court below of the evidentiary criteria of section 13(e) present novel questions of major importance to the administration of the Act.

The common denominator of the standards of Section 13(e), as construed by the Board and the court below, is that they can be satisfied by proof of an organization's adherence to Marxism-Leninism and a similarity of its views

on various international questions to those of the Soviet Union (*supra*, pp. 27-34). This becomes apparent from a closer examination of the application given to the "directives and policies," "non-deviation," "discipline," and "allegiance" criteria.[72] This application is untenable even under the purposefully loose terms of 13(e).

*"Directives and policies."* The Report and the court's opinion reveal that there was no evidence whatsoever that petitioner receives directives from the Soviet Union.[73] The Board however, found that the "directives" standard was satisfied primarily on the basis that the body of Communist literature on its face constitutes a series of "directives" from the Soviet Union to petitioner (*supra*, pp. 27-28). The court below sustained the Board's finding (Op. 70-1).

The thesis that a century-old, constantly evolving system of political thought, developed by thinkers of many nations and based on a comprehensive view of man and nature, constitutes a series of Soviet "directives" is absurd. Its absurdity is underscored by the Board's and the court's characterization of the doctrine as an "amorphous amalgam" permitting "a wide flexibility of tactics," "applicable under an endless variety of circumstances," and having an overall policy of doing "what is expedient under the given circumstances" (*supra*, p. 28).

Obviously, Marxism-Leninism cannot be a "directive" within the meaning of Section 13(e)(1). Nor can voluntary adherence to and application of its principles make the adherent subject to foreign control within the mean-

[72] As to the remaining criteria, the court struck the Board's findings on "reporting" and "secret practices" (*supra*, p. 24), and both the Board and the court acknowledged that the findings on "financial aid" and "training" rested exclusively on remote evidence and have little weight (*supra*, p. 67).

[73] The Board found that prior to petitioner's disaffiliation from the Communist International in 1940, decisions and resolutions of that body were "directives" to petitioner (R. 11). The court apparently shared that view (Op. 71).

ing of Section 3(3). In holding otherwise, the Board and the court below violated the Act and applied it in a manner prohibited by the First and Fifth Amendments.

*"Non-deviation."* The standard of Section 13(e)(1) relates to "non-deviation" of views. The dictionary definition of "deviation" is "variation from the common way, from an established standard, position, etc." (Webster's *New International Dictionary*). Accordingly, deviation or non-deviation cannot occur unless there is a *pre-existing* standard or position from which it is possible to deviate.

The evidence showed that petitioner and the Soviet Union held similar views on a series of international issues. However, no showing was made or attempted that the Soviet view on any of these issues antedated petitioner's view. Nevertheless, both the Board and the court held that the non-deviation standard was satisfied, on the ground that the date sequence of the views was irrelevant (*supra*, p. 29). This holding is not only contrary to the plain language of the Act, but is also irrational. For it rests findings of foreign control on a similarity of views even though the alleged agent adopted its views in advance of the adoption of similar views by the alleged foreign principal.

The Board and the court below made still further irrational applications of the "non-deviation" standard. If non-deviation of views is to have any significance as proof of foreign agency, clearly it must be limited to views which are peculiar to the alleged principal. It would be absurd to infer domination of one person by another from the fact that both believe that the sum of two and two is four. Nevertheless, the Board and the court held that the non-deviation test was satisfied on the basis of views which were widely held by non-Communists, including in some instances the United States government, and which were demonstrably true or reasonable (*supra*, p. 29).

Moreover, "non-deviation" is at best tenuous circumstantial evidence of domination and control. Nevertheless, the

hearing panel refused to allow the petitioner to rebut any inference from the similarity of its views and those of the Soviet Union by showing that the similarity was attributable, not to control of petitioner by the Soviet Union, but to the independent application by each of a system of thought held by all Communists. The Board, after affirming this irrational ruling of the panel, blandly found that the evidence failed to establish the fact that petitioner was thus prevented from proving (*supra*, p. 30).

Finally, it was obviously irrational for the Board to rely on perfectly legitimate views on political questions, some of which were in fact adopted as the official policy of the United States government, as one of the bases for the ultimate conclusion that petitioner operates to promote the seditious objectives attributed to the world Communist movement by Section 2 (see *supra*, p. 30).

*"Discipline."* The Board's adverse finding under the "discipline" standard rested, and was affirmed, on instances of petitioner's discipline of certain members, concerning which there is no evidence or suggestion of foreign intervention, and on the Communist principle of democratic centralism, which relates only to the internal management of an organization, and thus has no bearing on foreign control (*supra*, p. 32). By predicating the finding on the fact that petitioner and other Communist parties practice the principle of democratic centralism, the Board and the court below assimilated the "discipline" criterion to their version of the "non-deviation" standard. Petitioner was held subject to foreign discipline, and hence under foreign domination and control, because both it and the Communist Party of the Soviet Union, like the Communists of all countries, believe that members of their parties should be bound to strict adherence to majority decisions.

*"Allegiance."* The Board's adverse finding on "allegiance," and the court's affirmance of the finding, rest primarily on the Marxist-Leninist literature which was con-

sidered in *Schneiderman* v. *United States*, 320 U. S. 118, and which, this Court held, did not support a finding that adherence to Marxism-Leninism is incompatible with attachment to the principles of the Constitution and being well disposed to the good order and happiness of the United States (*supra*, p. 32).

Manifestly, the Board and the court violated the Act in their construction and application of the standards of Section 13(e), did nothing to rescue the section from invalidity by confining it within rational limits, and contravened the *Schneiderman* decision. This Court should review the decision below to correct these errors and to prevent their repetition in future cases arising under the Act.

**C. Whether the Board and the court below erroneously construed and applied the Act's definition of the world Communist movement.**

We have already seen (*supra*, p. 15) that the court below held that the findings of Section 2 of the Act with reference to the existence and nature of a world Communist movement are conclusive upon the Board and the courts.[74] Nevertheless, the court reviewed and sustained the finding of the Board that, on the evidence, "there exists a world Communist movement substantially as described in section 2 of the Act" (Op. 61).

It is clear that the Board and the court below erroneously construed and applied Section 2 in concluding that the presence in various countries of the world of Communist parties which adhere to a common ideology establishes the existence of the world Communist movement described in that section (*supra*, pp. 34-36).

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[74] The Board straddled the question. It first stated (R. 4) that it was "desirable" to make findings as to the world Communist movement. Then it stated (R. 130) that it was unnecessary to decide whether such findings are required by the Act inasmuch as it had already made them.

If this Court concludes that the existence of the world Communist movement described in Section 2 was a matter for determination by the Board, it is important that it review the affirmance below of the Board's finding.[75] For the entire structure of the Act and its justification for the sanctions on petitioner, its members, other organizations and their members is predicated on the validity of the finding.[76]

**D. Whether the court below violated section 14 of the Act by denying petitioner's motion for leave to adduce additional evidence.**

As we have seen (*supra*, p. 40), petitioner's motion for leave to adduce additional evidence showed that three of the Attorney General's professional witnesses, Crouch, Johnson and Matusow, upon whose testimony the Board relied for material findings of fact, had committed perjury in other proceedings[77] and that because of their publicly demonstrated untrustworthiness the Attorney General had ceased to employ them as witnesses. As we have also seen (*ibid.*), the Board itself recognized in *Brownell* v. *Labor*

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[75] If, as we and the court below interpret the Act, this matter is not a subject for administrative adjudication, then the Act is palpably unconstitutional as fiat legislation (*supra*, pp. 47-51), and review is required for that reason.

[76] Section 2 paraphrases Hitler who declared: "The Communist Party was a section of a political movement which had its headquarters abroad and was directed from abroad . . . We look on Bolshevism as a world peril for which there must be no toleration." *Nazi Conspiracy and Aggression*, U. S. Gov't Printing Office, 1946, vol. 1, p. 246. The United States was once the subject of "findings" like those which section 2 makes about the Soviet Union. Thus, Count Metternich charged in 1820 that, "These United States * * * have cast blame and scorn on the institutions of Europe most worthy of respect . . . fostering revolution wherever they show themselves . . . they lend new strength to the apostles of sedition, and reanimate the courage of every conspirator." Quoted in Dexter Perkins, *Hands Off! A History of the Monroe Doctrine*, Boston, 1941, pp. 56-57.

[77] Matusow subsequently admitted that his testimony in this proceeding was perjurious (see *supra*, p. 41).

*Youth League*, that the facts stated in petitioner's motion with reference to Matusow make him unworthy of any credence whatsoever.

The Board nevertheless opposed petitioner's motion[18] and the court below denied it without opinion (R. 2082). The action of the court in so doing violates Section 14 of the Act. Section 14 requires the allowance of a motion to adduce additional evidence upon a showing that such evidence is material—i.e. that it might change the result reached by the agency. Clearly, the testimony in this proceeding of the three informers in question was material since, as is apparent from the face of the Report, the Board relied extensively on their testimony in making its subsidiary findings of fact. The additional evidence proffered by petitioner would have completely destroyed or at least seriously impaired the credibility of this material testimony. Obviously, therefore, the additional evidence was itself material.

The decision below not only violates Section 14 but is inconsistent with the decision of this Court applying a similar section of the National Labor Relations Act. *NLRB v. Indiana and Michigan Electric Co.*, 318 U. S. 9.

Furthermore, petitioner's motion presents an issue of great public importance concerning the testimony of professional informers. The reckless use by the Department of Justice of these informers in "security" cases is compromising the administration of justice. It has aroused widespread apprehension and alarm, particularly in the light of current revelations of the untrustworthiness of testimony which the government has bought and paid for. As has recently been stated (N. Y. Times editorial, July 8, 1954):

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[18] Cf. the recent televised statement by the Attorney General that when one of the government's informer witnesess is found to be unreliable, "then it is the government's obligation to follow up to see that he is punished and that anybody who has been hurt by his testimony, if it's false, is given a new chance." New York World-Telegram, March 28, 1955.

> "If the Department of Justice feels it essential to use informers in its anti-Communist prosecutions under the law, it has the unmistakable duty to follow up relentlessly any indication that they may not be telling the truth. As the law enforcement agency of our government, the Department of Justice has a primary obligation to maintain its own integrity and that of its agents."

When the Department of Justice and administrative agencies are derelict in this obligation, the courts should be scrupulous to enforce it by insisting, at a minimum, that the evidence of perjury be heard and considered. The failure of the court below to take this minimal action should be reviewed if the abuse of the judicial process through hired informers is to be curbed and the liberties of individuals and organizations safeguarded against false testimony.

**E. Whether the findings of the Board are unsupported by the preponderance of the evidence, and whether the Report of the Board and the opinion of the court below demonstrate on their face the insufficiency of the evidence.**

Section 14(a) of the Act provides that upon review the Board's findings as to the facts are conclusive only if supported by the preponderance of the evidence. The court below found that the order was supported by the preponderance of the evidence (Op. 76).

As we have seen, the authors of the Act realized that relevant evidence was not available to prove that petitioner is a Communist-action organization. They therefore designed the standards of section 13(e) to guarantee the issuance of a registration order upon irrelevant evidence which they believed was available (*supra*, pp. 16-18). It developed at the hearing, however, that the Attorney General was unable to produce even the irrelevant evidence on which the Act's sponsors had counted.

It was for this reason that, as we have seen and as appears from the face of the Report, the Board was compelled to exaggerate the irrationalities of section 13(e), to impute sinister significance to patently legitimate conduct, to distort the century-old body of Communist theory into "directives" from the Soviet Union, to rely on evidence of remote practices admittedly long discontinued, to utilize protected political expression as "evidence" of seditious foreign agency, and otherwise to substitute prejudice and prejudgment for proof. For the same reason, the Board relied on the testimony of the Attorney General's professional informer witnesses notwithstanding their demonstrated lack of veracity (*supra*, p. 22).

Nevertheless, the court below affirmed the order of the Board. It did so even though it struck two of the key findings on which the order was based, on the ground that they were not supported by the preponderance of the evidence. The court's affirmance was based on what it called six underlying "basic facts," which do not satisfy the standards of section 13(e) or the 3(3) definition (*supra*, pp. 33-34).

Review of the preponderance questions is demanded not only because of the manifest errors of the Board and the court below and because of the unprecedented effect of the order in outlawing a political party. It is also required because the finding against petitioner concludes the rights of other organizations. The Act contemplates that once the petitioner is finally found to be a Communist-action organization, that issue cannot be relitigated by organizations accused of being Communist-front or infiltrated. And so the Board has recently held. In issuing its first registration order against an organization accused of being a Communist-front, it held that "the prior determination by the Board that the Communist Party is a Communist-action organization is conclusive and applicable in this proceeding without further proof." Report of the Board, *Brownell* v. *Labor Youth League*, No. 102-53, Feb. 15, 1955, pp. 54-55.

any officer or employee of the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

(d) Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $10,000, or imprisonment for not more than ten years, or by both such fine and such imprisonment, and shall, moreover, be thereafter ineligible to hold any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

(e) Any person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after the commission of such offense, notwithstanding the provisions of any other statute of limitations: *Provided*, That if at the time of the commission of the offense such person is an officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, such person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after such person has ceased to be employed as such officer or employee.

(f) Neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute. The fact of

the registration of any person under section 7 or section 8 of this title as an officer or member of any Communist organization shall not be received in evidence against such person in any prosecution for any alleged violation of subsection (a) or subsection (c) of this section or for any alleged violation of any other criminal statute.

EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS

SEC. 5. (a) When a Communist organization, as defined in paragraph (5) of section 3 of this title, is registered or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful—

(1) For any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(A) in seeking, accepting, or holding any nonelective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

(B) to hold any nonelective office or employment under the United States; or

(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility; or

(E)[3] to hold office or employment with any labor organization, as that term is defined in section 2(5) of the National Labor Relations Act, as amended (29 U. S. C. 152), or to represent any employer in

[3] Added by sec. 6 of the Communist Control Act of 1954, 68 Stat. 777.

any matter or proceeding arising or pending under that Act.

(2) For any officer or employee of the United States or of any defense facility, with knowledge or notice that such organization is so registered or that such order has become final—

(A) to contribute funds or services to such organization; or

(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of subparagraph (1) of this subsection.

(b) The Secretary of Defense is authorized and directed to designate and proclaim, and from time to time revise, a list of facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall cause such list as designated and proclaimed, or any revision thereof, to be promptly published in the Federal Register, and shall promptly notify the management of any facility so listed; whereupon such management shall immediately post conspicuously, and thereafter while so listed keep posted, notice of such designation in such form and in such place or places as to give reasonable notice thereof to all employees of, and to all applicants for employment in, such facility.

(c)[4] As used in this section, the term "member" shall not include any individual whose name has not been made public because of the prohibition contained in section 9(b) of this title.

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[4] Repealed by sec. 7(c) of the Communist Control Act of 1954, 68 Stat. 778.

## Denial of Passports to Members of Communist Organizations

Sec. 6. (a) When a Communist organization as defined in paragraph (5) of section 3 of this title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

(2) to use or attempt to use any such passport.

(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.

(c)[5] As used in this section, the term "member" shall not include any individual whose name has not been made public because of the prohibition contained in section 9(b) of this title.

## Registration and Annual Reports of Communist Organizations

Sec. 7. (a) Each Communist-action organization (including any organization required, by a final order of the Board, to register as a Communist-action organization) shall, within the time specified in subsection (c) of this section,

[5] See footnote 4.

register with the Attorney General, on a form prescribed by him by regulations, as a Communist-action organization.

(b) Each Communist-front organization (including any organization required, by a final order of the Board, to register as a Communist-front organization) shall, within the time specified in subsection (c) of this section, register with the Attorney General, on a form prescribed by him by regulations, as a Communist-front organization.

(c) The registration required by subsection (a) or (b) shall be made—

(1) in the case of an organization which is a Communist-action organization or a Communist-front organization on the date of the enactment of this title, within thirty days after such date;

(2) in the case of an organization becoming a Communist-action organization or a Communist-front organization after the date of the enactment of this title, within thirty days after such organization becomes a Communist-action organization or a Communist-front organization, as the case may be; and

(3) in the case of an organization which by a final order of the Board is required to register, within thirty days after such order becomes final.

(d) The registration made under subsection (a) or (b) shall be accompanied by a registration statement, to be prepared and filed in such manner and form as the Attorney General shall by regulations prescribe, containing the following information:

(1) The name of the organization and the address of its principal office.

(2) The name and last-known address of each individual who is at the time of filing of such registration statement, and of each individual who was at any time

during the period of twelve full calendar months next preceding the filing of such statement, an officer of the organization, with the designation or title of the office so held, and with a brief statement of the duties and functions of such individual as such officer.

(3) An accounting, in such form and detail as the Attorney General shall by regulations prescribe, of all moneys received and expended (including the sources from which received and the purposes for which expended) by the organization during the period of twelve full calendar months next preceding the filing of such statement.

(4) In the case of a Communist-action organization, the name and last-known address of each individual who was a member of the organization at any time during the period of twelve full calendar months preceding the filing of such statement.

(5) In the case of any officer or member whose name is required to be shown in such statement, and who uses or has used or who is or has been known by more than one name, each name which such officer or member uses or has used or by which he is known or has been known.

(6) A listing, in such form and detail as the Attorney General shall by regulation prescribe, of all printing presses and machines including but not limited to rotary presses, flatbed cylinder presses, platen presses, lithographs, offsets, photo-offsets, mimeograph machines, multigraph machines, multilith machines, duplicating machines, ditto machines, linotype machines, intertype machines, monotype machines, and all other types of printing presses, typesetting machines or any mechanical devices used or intended to be used, or capable of being used to produce or publish printed matter or material, which are in the possession, custody, ownership, or control of the Communist-action

or Communist-front organization or its officers, members, affiliates, associates, group, or groups in which the Communist-action or Communist-front organization, its officers or members have an interest.[6]

(e) It shall be the duty of each organization registered under this section to file with the Attorney General on or before February 1 of the year following the year in which it registers, and on or before February 1 of each succeeding year, an annual report, prepared and filed in such manner and form as the Attorney General shall by regulations prescribe, containing the same information which by subsection (d) is required to be included in a registration statement, except that the information required with respect to the twelve-month period referred to in paragraph (2), (3), or (4) of such subsection shall, in such annual report, be given with respect to the calendar year preceding the February 1 on or before which such annual report must be filed.

(f)(1) It shall be the duty of each organization registered under this section to keep, in such manner and form as the Attorney General shall by regulations prescribe, accurate records and accounts of moneys received and expended (including the sources from which received and purposes for which expended) by such organization.

(2) It shall be the duty of each Communist-action organization registered under this section to keep, in such manner and form as the Attorney General shall by regulations prescribe, accurate records of the names and addresses of the members of such organization and of persons who actively participate in the activities of such organization.

(g) It shall be the duty of the Attorney General to send to each individual listed in any registration statement or annual report, filed under this section, as an officer or mem-

[6] Added by P. L. 557, 83d Cong., 2d Sess., 68 Stat. 586.

ber of the organization in respect of which such registration statement or annual report was filed, a notification in writing that such individual is so listed; and such notification shall be sent at the earliest practicable time after the filing of such registration statement or annual report. Upon written request of any individual so notified who denies that he holds any office or membership (as the case may be) in such organization, the Attorney General shall forthwith initiate and conclude at the earliest practicable time an appropriate investigation to determine the truth or falsity of such denial, and, if the Attorney General shall be satisfied that such denial is correct, he shall thereupon strike from such registration statement or annual report the name of such individual. If the Attorney General shall decline or fail to strike the name of such individual from such registration statement or annual report within five months after receipt of such written request, such individual may file with the Board a petition for relief pursuant to section 13(b) of this title.

(h) In the case of failure on the part of any organization to register or to file any registration statement or annual report as required by this section, it shall be the duty of the executive officer (or individual performing the ordinary and usual duties of an executive officer) and of the secretary (or individual performing the ordinary and usual duties of a secretary) of such organization, and of such officer or officers of such organization as the Attorney General shall by regulations prescribe, to register for such organization, to file such registration statement, or to file such annual report, as the case may be.

REGISTRATION OF MEMBERS OF COMMUNIST-ACTION ORGANIZATIONS

SEC. 8. (a) Any individual who is or becomes a member of any organization concerning which (1) there is in effect a final order of the Board requiring such organization to

register under section 7(a) of this title as a Communist-action organization, (2) more than thirty days have elapsed since such order has become final, and (3) such organization is not registered under section 7 of this title as a Communist-action organization, shall within sixty days after said order has become final, or within thirty days after becoming a member of such organization, whichever is later, register with the Attorney General as a member of such organization.

(b) Each individual who is or becomes a member of any organization which he knows to be registered as a Communist-action organization under section 7(a) of this title, but to have failed to include his name upon the list of members thereof filed with the Attorney General, pursuant to the provisions of subsections (d) and (e) of section 7 of this title, shall, within sixty days after he shall have obtained such knowledge, register with the Attorney General as a member of such organization.

(c) The registration made by any individual under subsection (a) or (b) of this section shall be accompanied by a registration statement to be prepared and filed in such manner and form, and containing such information, as the Attorney General shall by regulations prescribe.

KEEPING OF REGISTERS; PUBLIC INSPECTION; REPORTS TO PRESIDENT AND CONGRESS

SEC. 9. (a) The Attorney General shall keep and maintain separately in the Department of Justice—

(1) a "Register of Communist-Action Organizations", which shall include (A) the names and addresses of all Communist-action organizations registered under section 7, (B) the registration statements and annual reports filed by such organizations thereunder, and (C) the registration statements filed by individuals under section 8; and

(2) a "Register of Communist-Front Organizations", which shall include (A) the names and addresses of all Communist-front organizations registered under section 7, and (B) the registration statements and annual reports filed by such organizations thereunder.

(b) Such registers shall be kept and maintained in such manner as to be open for public inspection: *Provided*, That the Attorney General shall not make public the name of any individual listed in either such register as an officer or member of any Communist organization until sixty days shall have elapsed after the transmittal of the notification required by section 7(g) to be sent to such individual, and if prior to the end of such period such individual shall make written request to the Attorney General for the removal of his name from any such list, the Attorney General shall not make public the name of such individual until six months shall have elapsed after receipt of such request by the Attorney General, or until thirty days shall have elapsed after the Attorney General shall have denied such request and shall have transmitted to such individual notice of such denial, whichever is earlier.

(c) The Attorney General shall submit to the President and to the Congress on or before June 1 of each year (and at any other time when requested by either House by resolution) a report with respect to the carrying out of the provisions of this title, including the names and addresses of the organizations listed in such registers and (except to the extent prohibited by subsection (b) of this section) the names and addresses of the individuals listed as members of such organizations.

(d) Upon the registration of each Communist organization under the provisions of this title, the Attorney General shall publish in the Federal Register the fact that such organization has registered as a Communist-action organization, or as a Communist-front organization, as the case

may be, and the publication thereof shall constitute notice to all members of such organization that such organization has so registered.

USE OF THE MAILS AND INSTRUMENTALITIES OF INTERSTATE OR FOREIGN COMMERCE

SEC. 10. It shall be unlawful for any organization which is registered under section 7, or for any organization with respect to which there is in effect a final order of the Board requiring it to register under section 7, or determining that it is a Communist-infiltrated organization,[7] or for any person acting for or on behalf of any such organization—

(1) to transmit or cause to be transmitted, through the United States mails or by any means or instrumentality of interstate or foreign commerce, any publication which is intended to be, or which it is reasonable to believe is intended to be, circulated or disseminated among two or more persons, unless such publication, and any envelope, wrapper, or other container in which it is mailed or otherwise circulated or transmitted, bears the following, printed in such manner as may be provided in regulations prescribed by the Attorney General, with the name of the organization appearing in lieu of the blank: "Disseminated by ————————, a Communist organization"; or

(2) to broadcast or cause to be broadcast any matter over any radio or television station in the United States, unless such matter is preceded by the following statement, with the name of the organization being stated in place of the blank: "The following program is sponsored by ————————, a Communist organization".

[7] Reference to Communist-infiltrated organizations added by sec. 8(a) of the Communist Control Act of 1954, 68 Stat. 778.

DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS

SEC. 11. (a) Notwithstanding any other provisions of law, no deduction for Federal income-tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 or determining that it is a Communist-infiltrated organization.[8]

(b) No organization shall be entitled to exemption from Federal income tax, under section 101 of the Internal Revenue Code, for any taxable year if at any time during such taxable year (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 or determining that it is a Communist-infiltrated organization.[9]

SUBVERSIVE ACTIVITIES CONTROL BOARD

SEC. 12. (a) There is hereby established a board, to be known as the Subversive Activities Control Board, which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board shall be members of the same political party. Two of the original members shall be appointed for a term of one year, two for a term of two years, and one for a term of three years, but their successors shall be appointed for terms of three years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Board.

[8] See footnote 7.

[9] See footnote 7.

Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) Any vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum. The Board shall have an official seal which shall be judicially noticed.

(c) The Board shall at the close of each fiscal year make a report in writing to the Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees of the Board, and an account of all moneys it has disbursed.

(d) Each member of the Board shall receive a salary of $15,000 a year,[10] shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.

(e) It shall be the duty of the Board—

(1) upon application made by the Attorney General under section 13(a) of this title, or by any organization under section 13(b) of this title, to determine whether any organization is a "Communist-action organization" within the meaning of paragraph (3) of section 3 of this title, or a "Communist-front organization" within the meaning of paragraph (4) of section 3 of this title; and

(2) upon application made by the Attorney General under section 13(a) of this title, or by any individual under section 13(b) of this title, to determine whether any individual is a member of any Communist-action organization registered, or by final order of the Board required to be registered, under section 7(a) of this title; and

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[10] Originally $12,500. Raised to present figure by Act of July 12, 1952. 66 Stat. 590, 50 U. S. C. Supp. 791(d).

(3) upon any application made under subsection (a) or subsection (b) of section 13A of this title, to determine whether any organization is a Communist-infiltrated organization.[11]

(f) Subject to the civil-service laws and Classification Act of 1949, the Board may appoint and fix the compensation of a chief clerk and such examiners and other personnel as may be necessary for the performance of its functions.

(g) The Board may make such rules and regulations, not inconsistent with the provisions of this title, as may be necessary for the performance of its duties.

(h) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out its functions.

REGISTRATION PROCEEDINGS BEFORE BOARD[12]

SEC. 13. (a) Whenever the Attorney General shall have reason to believe that any organization which has not registered under subsection (a) or subsection (b) of section 7 of this title is in fact an organization of a kind required to be registered under such subsection, or that any individual who has not registered under section 8 of this title is in fact required to register under such section, he shall file with the Board and serve upon such organization or individual a petition for an order requiring such organization or individual to register pursuant to such subsection or section, as the case may be. Each such petition shall be verified under oath, and shall contain a statement of the facts upon which the Attorney General relies in support of his prayer for the issuance of such order.

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[11] Added by sec. 9(a) of the Communist Control Act of 1954, 68 Stat. 778.

[12] "Registration" added by sec. 9(b) of the Communist Control Act of 1954, 68 Stat. 778.

(b) Any organization registered under subsection (a) or subsection (b) of section 7 of this title, and any individual registered under section 8 of this title, may, not oftener than once in each caler lar year, make application to the Attorney General for the cancellation of such registration and (in the case of such organization) for relief from obligation to make further annual reports. Within sixty days after the denial of any such application by the Attorney General, the organization or individual concerned may file with the Board and serve upon the Attorney General a petition for an order requiring the cancellation of such registration and (in the case of such organization) relieving such organization of obligation to make further annual reports. Any individual authorized by section 7(g) of this title to file a petition for relief may file with the Board and serve upon the Attorney General a petition for an order requiring the Attorney General to strike his name from the registration statement or annual report upon which it appears.

(c) Upon the filing of any petition pursuant to subsection (a) or subsection (b) of this section, the Board (or any member thereof or any examiner designated thereby) may hold hearings, administer oaths and affirmations, may examine witnesses and receive evidence at any place in the United States, and may require by subpena the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed relevant, to the matter under inquiry. Subpenas may be signed and issued by any member of the Board or any duly authorized examiner. Subpenas shall be issued on behalf of the organization or the individual who is a party to the proceeding upon request and upon a statement or showing of general relevance and reasonable scope of the evidence sought. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. Witnesses summoned shall be

paid the same fees and mileage paid witnesses in the district courts of the United States. In case of disobedience to a subpena, the Board may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear (and to produce documentary evidence if so ordered) and give evidence relating to the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person shall be held liable in any action in any court, State or Federal, for any damages resulting from (1) his production of any documentary evidence in any proceeding before the Board if he is required, by a subpena issued under this subsection, to produce the evidence; or (2) any statement under oath he makes in answer to a question he is asked while testifying before the Board in response to a subpena issued under this subsection, if the statement is pertinent to the question.

(d)(1) All hearings conducted under this section shall be public. Each party to such proceeding shall have the right to present its case with the assistance of counsel, to offer oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. An accurate stenographic record shall be taken of the testimony of each witness, and a transcript of such testimony shall be filed in the office of the Board.

(2) Where an organization or individual declines or fails to appear at a hearing accorded to such organization or individual by the Board pursuant to this section, the

Board may, without further proceedings and without the introduction of any evidence, enter an order requiring such organization or individual to register or denying the application of such organization or individual, as the case may be. Where in the course of any hearing before the Board or any examiner thereof a party or counsel is guilty of misbehavior which obstructs the hearing, such party or counsel may be excluded from further participation in the hearing.

(e) In determining whether any organization is a "Communist-action organization", the Board shall take into consideration—

(1) the extent to which its policies are formulated and carried out and its activities performed, pursuant to directives or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 of this title; and

(2) the extent to which its views and policies do not deviate from those of such foreign government or foreign organization; and

(3) the extent to which it receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization; and

(4) the extent to which it sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movement; and

(5) the extent to which it reports to such foreign government or foreign organization or to its representatives; and

(6) the extent to which its principal leaders or a substantial number of its members are subject to or

recognize the disciplinary power of such foreign government or foreign organization or its representatives; and

(7) the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it fails to disclose, or resists efforts to obtain information as to its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method); (ii) its members refuse to acknowledge membership therein; (iii) it fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its meetings are secret; and (v) it otherwise operates on a secret basis; and

(8) the extent to which its principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization.

(f) In determining whether any organization is a "Communist-front organization", the Board shall take into consideration—

(1) the extent to which persons who are active in its management, direction, or supervision, whether or not holding office therein, are active in the management, direction, or supervision of, or as representatives of, any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(2) the extent to which its support, financial or otherwise, is derived from any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(3) the extent to which its funds, resources, or personnel are used to further or promote the objectives of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(4) the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2.

(g) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order requiring such organization to register as such under section 7 of this title; or

(2) that an individual is a member of a Communist-action organization (including an organization required by final order of the Board to register under section 7(a)), it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order requiring him to register as such under section 8 of this title.

(h) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an

order denying his petition for an order requiring such organization to register as such under section 7 of this title; and send a copy of such order to such organization; or

(2) that an individual is not a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an order denying his petition for an order requiring such individual to register as such member under section 8 of this title; and send a copy of such order to such individual.

(i) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an order requiring him to cancel the registration of such organization and relieve it from the requirement of further annual reports; and send a copy of such order to such organization; or

(2) that an individual is not a member of any Communist-action organization, or (in the case of an individual listed as an officer of a Communist-front organization) that an individual is not an officer of a Communist-front organization, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an order requiring him to (A) strike the name of such individual from the registration statement or annual report upon which it appears or (B) cancel the registration of such individual under section 8, as may be appropriate; and send a copy of such order to such individual.

(j) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order denying its petition for the cancellation of its registration and for relief from the requirement of further annual reports; or

(2) that an individual is a member of a Communist-action organization, or (in the case of an individual listed as a officer of a Communist-front organization) that an individual is an officer of a Communist-front organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order denying his petition for an order requiring the Attorney General (A) to strike his name from any registration statement or annual report on which it appears or (B) to cancel the registration of such individual under section 8, as the case may be.

(k) When any order of the Board requiring registration of a Communist organization becomes final under the provisions of section 14(b) of this title, the Board shall publish in the Federal Register the fact that such order has become final, and publication thereof shall constitute notice to all members of such organization that such order has become final.

PROCEEDINGS WITH RESPECT TO COMMUNIST-INFILTRATED ORGANIZATIONS

SEC. 13A.[13] (a) Whenever the Attorney General has reason to believe that any organization is a Communist infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In any proceeding so instituted, two or more affiliated organizations may be named as joint respondents. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board or any court shall be expedited to the greatest practicable extent.

(b) Any organization which has been determined under this section to be a Communist-infiltrated organization may, within six months after such determination, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-infiltrated organization.

(c) Each such petition shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

(d) The provisions of subsections (c) and (d) of section 13 shall apply to hearings conducted under this section, except that upon the failure of any organization named as a party in any petition filed by or duly served

[13] Added by sec. 10 of the Communist Control Act of 1954, 68 Stat. 778.

upon it pursuant to this section to appear at any hearing upon such petition, the Board may conduct such hearing in the absence of such organization and may enter such order under this section as the Board shall determine to be warranted by evidence presented at such hearing.

(e) In determining whether any organization is a Communist-infiltrated organization, the Board shall consider—

(1) to what extent, if any, the effective management of the affairs of such organization is conducted by one or more individuals who are, or within two years have been, (A) members, agents, or representatives of any Communist organization, and Communist foreign government, or the world Communist movement referred to in section 2 of this title, with knowledge of the nature and purpose thereof, or (B) engaged in giving aid or support to any such organization, government, or movement with knowledge of the nature and purpose thereof;

(2) to what extent, if any, the policies of such organization are, or within three years have been, formulated and carried out pursuant to the direction or advice of any member, agent, or representative of any such organization, government, or movement;

(3) to what extent, if any, the personnel and resources of such organization are, or within three years have been, used to further or promote the objectives of any such Communist organization, government, or movement;

(4) to what extent, if any, such organization within three years has received from, or furnished to or for the use of, any such Communist organization, government, or movement any funds or other material assistance;

(5) to what extent, if any, such organization is, or within three years has been, affiliated in any way with

any such Communist organization, government, or movement;

(6) to what extent, if any, the affiliation of such organization, or of any individual or individuals who are members thereof or who manage its affairs, with any such Communist organization, government, or movement is concealed from or is not disclosed to the membership of such organization; and

(7) to what extent, if any, such organization or any of its members or managers are, or within three years have been, knowingly engaged—

(A) in any conduct punishable under section 4 or 15 of this Act or under chapter 37, 105, or 115 of title 18 of the United States Code; or

(B) with intent to impair the military strength of the United States or its industrial capacity to furnish logistical or other support required by its armed forces, in any activity resulting in or contributing to any such impairment.

(f) After hearing upon any petition filed under this section, the Board shall (1) make a report in writing in which it shall state its findings as to the facts and its conclusions with respect to the issues presented by such petition, (2) enter its order granting or denying the determination sought by such petition, and (3) serve upon each party to the proceeding a copy of such order. Any order granting any determination on the question whether any organization is a Communist-infiltrated organization shall become final as provided in section 14(b) of this Act.

(g) When any order has been entered by the Board under this section with respect to any labor organization or employer (as these terms are defined by section 2 of the National Labor Relations Act, as amended, and which are organizations within the meaning of section 3 of the

Subversive Activities Control Act of 1950), the Board shall serve a true and correct copy of such order upon the National Labor Relations Board and shall publish in the Federal Register a statement of the substance of such order and its effective date.

(h) When there is in effect a final order of the Board determining that any such labor organization is a Communist action organization, a Communist-front organization, or a Communist-infiltrated organization, such labor organization shall be ineligible to—

(1) act as representative of any employee within the meaning or for the purposes of section 7 of the National Labor Relations Act, as amended (29 U. S. C. 157);

(2) serve as an exclusive representative of employees of any bargaining unit under section 9 of such Act, as amended (29 U. S. C. 159);

(3) make, or obtain any hearing upon, any charge under section 10 of such Act (29 U. S. C. 160); or

(4) exercise any other right or privilege, or receive any other benefit, substantive or procedural, provided by such Act for labor organizations.

(i) When an order of the Board determining that any such labor organization is a Communist-infiltrated organization has become final, and such labor organization theretofore has been certified under the National Labor Relations Act, as amended, as a representative of employees in any bargaining unit—

(1) a question of representation affecting commerce, within the meaning of section 9(c) of such Act, shall be deemed to exist with respect to such bargaining unit; and

(2) the National Labor Relations Board, upon petition of not less than 20 per centum of the employees

in such bargaining unit or any person or persons acting in their behalf shall under section 9 of such Act (notwithstanding any limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the selection of a representative thereof for collective bargaining purposes, and (B) to determine whether the employees thereof desire to rescind any authority previously granted to such labor organization to enter into any agreement with their employer pursuant to section 8(a) (3)(ii) of such Act.

(j) When there is in effect a final order of the Board determining that any such employer is a Communist-infiltrated organization, such employer shall be ineligible to—

(1) file any petition for an election under section 9 of the National Labor Relations Act, as amended (29 U. S. C. 157), or participate in any proceeding under such section; or

(2) make or obtain any hearing upon any charge under section 10 of such Act (29 U. S. C. 160); or

(3) exercise any other right or privilege or receive any other benefit, substantive or procedural, provided by such Act for employers.

JUDICIAL REVIEW

SEC. 14. (a) The party aggrieved by any order entered by the Board under subsection (g), (h), (i), or (j) of section 13, or subsection [14] (f) of section 13A, may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia, within sixty days from the date of service upon it of such order, a written petition praying that the order of the Board be

[14] Matter between commas added by section 11 of the Communist Control Act of 1954, 68 Stat. 780.

set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the Board shall certify and file in the court a transcript of the entire record in the proceeding, including all evidence taken and the report and order of the Board. Thereupon the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides. The findings of the Board as to the facts, if supported by the preponderance of the evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by the preponderance of the evidence shall be conclusive, and its recommendations, if any, with respect to action in the matter under consideration. If the court shall set aside an order issued under subsection (j) of section 13 it may, in the case of an organization, enter a judgment canceling the registration of such organization and relieving it from the requirement of further annual reports, or in the case of an individual, enter a judgment requiring the Attorney General (A) to strike the name of such individual from the registration statement or annual report on which it appears, or (B) cancel the registration of such individual under section 8, as may be appropriate. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in title 28, United States Code, section 1254.

(b) Any order of the Board issued under section 13, or subsection (f) of section 13A,[15] shall become final—

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals; or

(4) upon the expiration of ten days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Board be affirmed or the petition for review dismissed.

PENALTIES

SEC. 15. (a) If there is in effect with respect to any organization or individual a final order of the Board requiring registration under section 7 or section 8 of this title—

(1) such organization shall, upon conviction of failure to register, to file any registration statement or annual report, or to keep records as required by section 7, to be punished for each such offense by a fine of not more than $10,000, and

(2) each individual having a duty under subsection (h) of section 7 to register or to file any registration statement or annual report on behalf of such organiza-

[15] See footnote 14.

tion, and each individual having a duty to register under section 8, shall, upon conviction of failure to so register or to file any such registration statement or annual report, be punished for each such offense by a fine of not more than $10,000, or imprisonment for not more than five years, or by both such fine and imprisonment.

For the purposes of this subsection, each day of failure to register, whether on the part of the organization or any individual, shall constitute a separate offense.

(b) Any individual who, in a registration statement or annual report filed under section 7 or section 8, willfully makes any false statement or willfully omits to state any fact which is required to be stated, or which is necessary to make the statements made or information given not misleading, shall upon conviction thereof be punished for each such offense by a fine of not more than $10,000, or by imprisonment for not more than five years, or by both such fine and imprisonment. For the purposes of this subsection—

(1) each false statement willfully made, and each willful omission to state any fact which is required to be stated, or which is necessary to make the statements made or information given not misleading, shall constitute a separate offense; and

(2) each listing of the name or address of any one individual shall be deemed to be a separate statement.

(c) Any organization which violates any provision of section 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000. Any individual who violates any provision of section 5, 6, or 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

SEC. 16. Nothing in this title shall be held to make the provisions of the Administrative Procedure Act inapplicable to the exercise of functions, or the conduct of proceedings, by the Board under this title.

EXISTING CRIMINAL STATUTES

SEC. 17. The foregoing provisions of this title shall be construed as being in addition to and not in modification of existing criminal statutes.

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## 2. Immigration and Nationality Act

Pertinent provisions of sections 22 and 25 of the Subversive Activities Control Act have been carried forward in the Immigration and Nationality Act, 66 Stat. 163, adopted June 27, 1952, 8 U. S. C., secs. 1182, 1251, 1424, 1451, as follows:

SEC. 212. (a) Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

* * * * * * *

(28) Aliens who are, or at any time have been, members of any of the following classes:

* * * * * * *

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organi-

zation (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization.

SEC. 241. (a) Any alien in the United States (including any alien crewman) shall, upon the order of the Attorney General, be deported who—

* * * * * * *

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

* * * * * * *

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization.

SEC. 313. (a) Notwithstanding the provisions of section 405(b), no person shall hereafter be naturalized as a citizen of the United States—

* * * * * * *

(2) . . . (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 7 of the Subversive Activities Control Act of 1950; or (H) who, regardless of whether he is within any of the other provisions of this section, is a member of or

affiliated with any Communist-front organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization.

SEC. 340. * * * (c) If a person who shall have been naturalized after the effective date of this Act [16] shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 313, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

[16] The introductory clause of section 25(d) of the Act reads "If a person who shall have been naturalized after January 1, 1951 * * *"

## V. The original "recess" appointments of the members of the Board present a constitutional question as to their validity which has not been, but should be, determined by this Court.

As we shall show, the presidential "recess" appointments of the five original members of the Board, on October 23, 1950, were invalid because made in violation of art. 2, sec. 2, cl. 3 of the Constitution. There was, therefore, no lawfully constituted Board prior to August 9, 1951, when the Senate confirmed three of the appointees. Consequently, the acts of the alleged Board members prior to that date in denying petitioner's pre-hearing motions (R. 1, n. 1) and in conducting the hearing were nullities.

The facts with reference to the appointments of the Board members were as follows: Congress passed the Act over the President's veto on September 23, 1950 and adjourned on the same day pursuant to a concurrent resolution that it reconvene on November 27, 1950. The President made the "recess" appointments of the alleged Board members on October 23, 1950. On November 27, 1950, he transmitted nominations of these persons to the Senate. On January 2, 1951 the 81st Congress adjourned *sine die* without acting on the nominations. The nominations were resubmitted to the Senate of the 82nd Congress which took no action upon them until August 9, 1951, when it confirmed three of the appointees (Op. 47).[79]

Art. 2, sec. 2, cl. 3 provides:

> "The President shall have Power to fill up all vacancies that may happen during the Recess of the Senate by granting Commissions which shall expire at the end of their next Session."

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[79] One of the other appointees had previously resigned and the nomination of the fifth was never acted upon by the Senate.

The term "vacancies" as used in this clause refers to those occurring by reason of death, resignation, promotion or removal. No vacancy "happens" in the constitutional sense when an office is newly created by law. Moreover, even if the vacancies on the Board "happened," they arose simultaneously with the passage of the Act while the Senate was in session and therefore did not happen "during the Recess." *Schenck* v. *Peay*, 21 Fed. Cas. 672; *People* v. *Forquer*, 1 Ill. 104; Story, *Commentaries on the Constitution*, sec. 1559; Cooley, *Principles of Constitutional Law*, p. 104; Morganston, *The Appointing and Removal Power of the President of the United States*, Sen. Doc. 172, 70th Cong., 2d Sess., p. 136.[80]

Furthermore, "the Recess," referred to in art. 2, sec. 2, cl. 2, means the recess *sine die* following an annual or extraordinary session of Congress. It does not include the period following an adjournment to a day certain such as the period of the adjournment of the 81st Congress from September 23 to November 27, 1950. 23 Ops. A.G. 599 (by Attorney General Knox).

Finally, if the adjournment of Congress from September 23 to November 27, 1950 was in fact "the Recess," then the sitting of the Senate that commenced on the latter date must have been its "next Session." *Case of the District Attorney*, 7 Fed. Cas. 731, 744. Consequently, the appointments expired on January 2, 1951 when the "next session" ended upon the *sine die* adjournment of the 81st Congress.

The subsequent confirmation of three of the appointments did not cure their original invalidity but simply gave the appointees title to their offices from the date of confirmation. *United States* v. *Kirkpatrick*, 6 U. S. 244, 248.

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[80] Two opinions of the Attorney General hold that the President has no authority to make recess appointments to newly created offices. 2 Ops. A. G. 333, 4 Ops. A. G. 362. Three opinions hold that he has such authority. 12 Ops. A. G. 455; 18 Ops. A. G. 28; 19 Ops. A. G. 261.

Petitioner asserted the invalidity of the appointments at the inception of this proceeding by a motion addressed to the Board (Tr. 61) and in an injunction proceeding in the District Court. *Communist Party of the United States of America* v. *McGrath*, 96 F. Supp. 47, 48. Both the Board (Tr. 113) and the District Court (at 47) denied relief on the grounds of prematurity, holding that the issue should properly await determination upon review of the Board's order.[81]

The court below by-passed the constitutional questions presented by the "recess" appointments on the grounds (1) that the effect of any invalidity was "minimal" because most of the hearing occurred after confirmation, and (2) that in any event the appointees can be regarded as trial examiners (Op. 48).

However, the effect of the invalidity of the appointments cannot be measured by the relative amount of testimony taken before and after confirmation. The court disregarded the fact that key pre-trial motions were denied by the usurpers (Tr. 113-17), who also made precedent-setting rulings on the admissibility of evidence at the inception of the hearing.

The court's suggestion that the unconfirmed appointees can be regarded as trial examiners is palpably untenable in the face of the provisions for the appointment, tenure, compensation and assignment to cases of these officers prescribed by Section 11 of the Administrative Procedure Act (5 U. S. C. 1010) and made applicable to this proceeding by Section 16 of the Act.

The effect of the judicial denials of petitioner's initial challenge of the appointments as premature and of its renewed challenge as tardy is to deprive litigants of any rem-

[81] Petitioner dismissed the injunction proceeding after this Court had denied its application for a stay of the proceedings before the Board pending an appeal from the order of the statutory court denying an injunction (340 U. S. 950).

edy against usurpations of administrative office. We submit that the constitutional questions presented are important, novel and appropriately raised[82] and should be reviewed by this Court.

## CONCLUSION

This case presents constitutional questions of the utmost importance to the future of the nation. Moreover, the decision below erroneously interprets and applies the Act and contravenes fundamental and long-established principles of law. All of the questions presented demand review by this Court. The writ of certiorari should be granted.

Respectfully submitted,

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[82] The validity of a recess appointment to an office newly created by Congress has been before this Court in only one case. There, the question was raised by habeas corpus, and the matter was disposed of on the ground that title to office cannot be attacked collaterally. *Ex Parte Ward*, 173 U. S. 452.

# APPENDIX A

## The Judgment of the Court Below.

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

OCTOBER TERM, 1954

No. 11,850

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD,
Respondent.

ON PETITION FOR REVIEW OF ORDER OF THE SUBVERSIVE ACTIVITIES CONTROL BOARD

Before: PRETTYMAN, BAZELON, and DANAHER,
*Circuit Judges.*

### JUDGMENT AND DECREE

This case came on to be heard on the transcript of the record from the Subversive Activities Control Board, and was argued by counsel.

IN CONSIDERATION WHEREOF, it is ordered, adjudged and decreed by this Court that the order of the Subversive Activities Control Board on review herein be, and it is hereby, affirmed.

Dated: December 23, 1954.

Per CIRCUIT JUDGE PRETTYMAN.

Separate dissenting opinion by Circuit Judge Bazelon.

# APPENDIX B—STATUTES INVOLVED

## 1. Subversive Activities Control Act.

The Internal Security Act of 1950, 64 Stat. 987, 50 U. S. C. 781 ff., as amended, provides in part as follows:

AN ACT

To protect the United States against certain un-American and subversive activities by requiring registration of Communist organizations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Internal Security Act of 1950".

## TITLE I—SUBVERSIVE ACTIVITIES CONTROL

SECTION 1. (a) This title may be cited as the "Subversive Activities Control Act of 1950."

(b) Nothing in this Act shall be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect.

### NECESSITY FOR LEGISLATION

SEC. 2. As a result of evidence adduced before various committees of the Senate and House of Representatives, the Congress hereby finds that—

(1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement

whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization.

(2) The establishment of a totalitarian dictatorship in any country results in the suppression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and results in the maintenance of control over the people through fear, terrorism, and brutality.

(3) The system of government known as a totalitarian dictatorship is characterized by the existence of a single political party, organized on a dictatorial basis, and by substantial identity between such party and its policies and the government and governmental policies of the country in which it exists.

(4) The direction and control of the world Communist movement is vested in and exercised by the Communist dictatorship of a foreign country.

(5) The Communist dictatorship of such foreign country, in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment of, and utilizes, in various countries, action organizations which are not free and independent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.

(6) The Communist action organizations so established and utilized in various countries, acting under such control, direction, and discipline, endeavor to carry out the objective of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most powerful existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as ~~an~~ agency by which people govern themselves.

(7) In carrying on the activities referred to in paragraph (6), such Communist organizations in various countries are organized on a secret, conspiratorial basis and operate to a substantial extent through organizations, commonly known as "Communist fronts", which in most instances are created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership. One result of this method of operation is that such affiliated organizations are able to obtain financial and other support from persons who would not extend such support if they knew the true purposes of, and the actual nature of the control and influence exerted upon, such "Communist fronts".

(8) Due to the nature and scope of the world Communist movement, with the existence of affiliated constituent elements working toward common objectives in various countries of the world, travel of Communist members, representatives, and agents from country to

country facilitates communication and is a prerequisite for the carrying on of activities to further the purposes of the Communist movement.

(9) In the United States those individuals who knowingly and willfully participate in the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement.

(10) In pursuance of communism's stated objectives, the most powerful existing Communist dictatorship has, by the methods referred to above, already caused the establishment in numerous foreign countries of Communist totalitarian dictatorships, and threatens to establish similar dictatorships in still other countries.

(11) The agents of communism have devised clever and ruthless espionage and sabotage tactics which are carried out in many instances in form or manner successfully evasive of existing law.

(12) The Communist network in the United States is inspired and controlled in large part by foreign agents who are sent into the United States ostensibly as attaches of foreign legations, affiliates of international organizations, members of trading commissions, and in similar capacities, but who use their diplomatic or semidiplomatic status as a shield behind which to engage in activities prejudicial to the public security.

(13) There are, under our present immigration laws, numerous aliens who have been found to be deportable, many of whom are in the subversive, criminal, or immoral classes who are free to roam the country at will without supervision or control.

(14) One device for infiltration by Communists is by procuring naturalization for disloyal aliens who

use their citizenship as a badge for admission into the fabric of our society.

(15) The Communist movement in the United States is an organization numbering thousands of adherents, rigidly and ruthlessly disciplined. Awaiting and seeking to advance a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States by force and violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparation by Communist organizations in other countries have aided in supplanting existing governments. The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the United States and to the existence of free American institutions, and make it necessary that Congress, in order to provide for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the existence of such world-wide conspiracy and designed to prevent it from accomplishing its purpose in the United States.

DEFINITIONS

SEC. 3. For the purposes of this title—

(1) The term "person" means an individual or an organization.

(2) The term "organization" means an organization, corporation, company, partnership, association, trust, foun-

dation, or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together for joint action on any subject or subjects.

(3) The term "Communist-action organization" means—

(a) any organization in the United States (other than a diplomatic representative or mission of a foreign government accredited as such by the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement as referred to in section 2 of this title; and

(b) any section, branch, fraction, or cell of any organization defined in subparagraph (a) of this paragraph which has not complied with the registration requirements of this title.

(4) The term "Communist-front organization" means any organization in the United States (other than a Communist-action organization as defined in paragraph (3) of this section) which (A) is substantially directed, dominated, or controlled by a Communist-action organization, and (B) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title.

(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Com-

munist movement referred to in section 2 of this title, and (B) is serving, or within three years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however,* That any labor organization which is an affiliate in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist movement, shall be presumed prima facie not to be a "Communist-infiltrated organization."[1]

(5) The term "Communist organization" means any Communist-action organization, Communist-front organization, or Communist-infiltrated organization.[2]

(6) The term "to contribute funds or services" includes the rendering of any personal service and the making of any gift, subscription, loan, advance, or deposit, of money or of anything of value, and also the making of any contract, promise, or agreement to contribute funds or services, whether or not legally enforcible.

(7) The term "facility" means any plant, factory or other manufacturing, producing or service establishment, airport, airport facility, vessel, pier, water-front facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division, or department of any of the foregoing. The term "defense facility" means any facility designated and proclaimed by the Secretary of Defense pursuant to section 5(b) of this title and

[1] Added by sec. 7(a) of the Communist Control Act of 1954, 68 Stat. 777.

[2] As amended by sec. 7(b) of the Communist Control Act of 1954, 68 Stat. 778.

included on the list published and currently in effect under such subsection, and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation.

(8) The term "publication" means any circular, newspaper, periodical, pamphlet, book, letter, post card, leaflet, or other publication.

(9) The term "United States", when used in a geographical sense, includes the several States, Territories, and possessions of the United States, the District of Columbia, and the Canal Zone.

(10) The term "interstate or foreign commerce" means trade, traffic, commerce, transportation, or communication (A) between any State, Territory, or possession of the United States (including the Canal Zone), or the District of Columbia, and any place outside thereof; or (B) within any Territory or possession of the United States (including the Canal Zone), or within the District of Columbia.

(11) The term "Board" means the Subversive Activities Control Board created by section 12 of this title.

(12) The term "final order of the Board" means an order issued by the Board under section 13 of this title, which has become final as provided in section 14 of this title.

(13) The term "advocates" includes advises, recommends, furthers by overt act, and admits belief in; and the giving, loaning, or promising of support or of money or anything of value to be used for advocating any doctrine shall be deemed to constitute the advocating of such doctrine.

(14) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventu-

ally a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist movement.

(15) The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(16) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(17) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be conclusively presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(18) "Advocating the economic, international, and governmental doctrines of world communism" means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(19) "Advocating the economic and governmental doctrines of any other form of totalitarianism" means advocating the establishment of totalitarianism (other than world communism) and includes, but is not limited to, advocating the economic and governmental doctrines of fascism and nazism.

CERTAIN PROHIBITED ACTS

SEC. 4. (a) It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship, as defined in paragraph (15) of section 3 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of, any foreign government, foreign organization, or foreign individual: *Provided, however,* That this subsection shall not apply to the proposal of a constitutional amendment.

(b) It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government or an officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employee shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information.

(c) It shall be unlawful for any agent or representative of any foreign government, or any officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title, knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from

### 3. The Communist Control Act of 1954

The Communist Control Act of 1954, 68 Stat. 775, 50 U. S. C. 481-44, provides in part as follows:

FINDINGS OF FACT

SEC. 2. The Congress hereby finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately

must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

PROSCRIBED ORGANIZATIONS

SEC. 3. The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are hereby terminated: *Provided, however,* That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended.

SEC. 4. Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the pur-

pose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended, as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

SEC. 5. In determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person:

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;

(3) Has made himself subject to the discipline of the organization in any form whatsoever;

(4) Has executed orders, plans, or directives of any kind of the organization;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization;

(10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

* * * * * * [17]

SEC. 12. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the title, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

[17] The omitted sections amend the Subversive Activities Control Act.

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# Supreme Court of the United States

**OCTOBER TERM, 1955**

**No. 48**

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner,*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

## BRIEF FOR PETITIONER

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# Supreme Court of the United States

OCTOBER TERM, 1955

No. 48

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

## BRIEF FOR PETITIONER

### Opinions Below

The opinion of the Court of Appeals has not yet been reported. It appears at R. 2078.[1] The Report of the Subversive Activities Control Board (hereafter called the Board) has been published as Sen. Doc. No. 41, 83d Cong., 1st Sess. It appears at R. 1.

[1] "R." refers to the printed record. "Tr." refers to the transcript of the proceedings before the Board, which has been filed with the Court by order of the court below and pursuant to Rule 21(3). "A.G. Ex." refers to an exhibit offered by the Attorney General in the proceeding before the Board. "C.P. Ex." refers to an exhibit offered in that proceeding by the petitioner herein.

## Jurisdiction

The Court has jurisdiction under section 14(a) of the Subversive Activities Control Act of 1950,[2] 64 Stat. 987, 1001, 50 U. S. Code, sec. 793(a), and 28 U. S. Code, sec. 1254.

## Statutes Involved

The pertinent provisions of the Subversive Activities Control Act, as amended, the Immigration and Nationality Act, and the Communist Control Act of 1954, are set forth in the Appendix.

## Questions Presented

1. Whether the provisions of the Act relating to Communist-action organizations and their members, by themselves and as supplemented by section 5 of the Communist Control Act, are unconstitutional on their face or as applied in this case.

2. Whether the Board and the court below erroneously interpreted and applied the evidentiary criteria of section 13(c) of the Act.

3. Whether the order of the Board and the decision below are erroneous because they rest on alleged conduct of petitioner which admittedly had been discontinued prior to the enactment of the Act.

4. Whether the Board and the court below applied the Act in violation of the First Amendment.

5. Whether the court below, having set aside or invalidated key findings on which the Board based its order, erred

[2] The Subversive Activities Control Act, as amended, is hereafter referred to as the Act. It is Title I of the Internal Security Act of 1950.

in failing to remand the proceeding for administrative redetermination.

6. Whether petitioner was denied a fair hearing because the members of the Board were subjected to and influenced by extra-legal pressures to decide against it, and because of the refusal of the Board to disqualify two of its members upon petitioner's affidavits of bias and prejudice.

7. Whether the order of the Board should have been set aside because the administrative hearing was conducted in part by "recess" appointees whose appointments were invalid or had expired under article 2, section 2, clause 3 of the Constitution.

8. Whether it appears from the face of the Report of the Board and the decision below that the findings of the Board were not supported by the preponderance of the evidence.

9. Whether the court below and the Board erroneously interpreted and applied the Act's definition of "world Communist movement".

10. Whether the findings and order of the Board are unsupported by the preponderance of the evidence.

11. Whether the denial by the court below of petitioner's motion to adduce additional evidence violated section 14 of the Act and was an abuse of discretion.

## Preliminary Statement

This case presents for review a decision of the Court of Appeals (Judge Bazelon dissenting) affirming an order of the Board that the petitioner register as a Communist-action organization under section 7 of the Act. It raises questions of first impression concerning the constitutionality of the Act and its application by the Board and the court below.

These questions are of far-reaching public importance. The Act imposes an unparalleled regimentation of speech, press and assembly. It establishes a pervasive censorship over all dissenting expression. It suppresses voluntary association and collective activity for constitutionally protected objectives. It outlaws organizations for peaceful political opposition. It denies individuals their livelihood and otherwise punishes them for innocent association. It prohibits foreign travel and penalizes communication abroad for lawful purposes. In the name of anti-Communism, it is an enabling act for the establishment of a totalitarian state.

Inevitably, the Act employs police state techniques to achieve its police state objective. It revives the despotic principle of legislative determination of guilt. It establishes arbitrary and irrational standards of proof. It provides for adjudication by a biased administrative tribunal whose sole function is to implement the predetermined verdict. It coerces self-incrimination.

The impact of the Act as a whole upon American liberties is greater than its separate invasions of constitutional rights. In the totality of its provisions, the Act has no legislative counterpart in our history. Ostensibly, its target is the Communist Party and the system of political thought which it represents. But Communists are only its first victims. The Act authorizes the proscription of every organization which does not conform to authoritarian standards of political orthodoxy, and the punishment of its members as heretics. Its terms and the principles which it establishes deny the protection of the First Amendment to all Americans and impose a system of thought control upon the whole people.

The police state character of the Act has been widely recognized. For more than two years, popular opposition blocked the enactment of proposals for such legislation

advanced by the House Committee on Un-American Activities.[3]

President Truman sharply condemned the Act, first in a message to the Congress while it was being debated, and then in a veto message. Nevertheless, Congress passed the Act over the President's veto in the repressive atmosphere which accompanied the outbreak of the Korean War.

In his first message, the President stated (H. R. Doc. No. 679, 81st Cong., 2d Sess., pp. 5-6):

> "Once a government is committed to the principle of silencing the voice of opposition, it has only one way to go, and that is down the path of increasingly repressive measures, until it becomes a source of terror to all its citizens and creates a country where everyone lives in fear.
>
> "We must, therefore, be on our guard against extremists who urge us to adopt police state measures. Such persons advocate breaking down the guarantees of the Bill of Rights in order to get at the Communists. They forget that if the Bill of Rights were to be broken down, all groups, even the most conservative, would be in danger from the arbitrary power of the government.

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[3] The opponents included the A.F. of L., C.I.O., Brotherhood of Railroad Trainmen, National Farmers Union, Society of Friends, American Unitarian Association, National Fraternal Council of Negro Churches, American Civil Liberties Union, Americans for Democratic Action, American Association of University Professors, National Association for the Advancement of Colored People, Council for Social Action of Congregational Christian Churches, United Council of Church Women, American Jewish Congress, Women's International League for Peace and Freedom, National Council of Jewish Women, American Veterans Committee, National Community Relations Advisory Council, many distinguished individuals, more than twenty major newspapers, and numerous local groups. Hearings before House Committee on Un-American Activities, H.R., 81st Cong., 2d Sess., on H.R. 3903 and 7595; Hearings before the Committee on the Judiciary, Sen., 80th Cong., 2d Sess., on H.R. 5852; Cong. Rec. 81st Cong., 2d Sess., pp. A6135, A6220-21, A6724-26, A7397, A7266, A7275-81; see R. 185.

> "Legislation is now pending before the Congress which is so broad and vague in its terms as to endanger the freedoms of speech, press and assembly protected by the first amendment. Some of the proposed measures would, in effect, impose severe penalties for normal political activities on the part of certain groups, including Communists and Communist Party-line followers. This kind of legislation is unnecessary, ineffective, and dangerous."

In his veto message, the President added (H. R. Doc. No. 708, 81st Cong., 2d Sess., p. 5):

> "Unfortunately, these [registration] provisions are not merely ineffective and unworkable. They represent a clear and present danger to our institutions."

This proceeding directly involves the constitutional rights of Communists. But, as the President said in his veto message (*id.*, pp. 6-7):

> "Obviously, if this law were on the statute books, the part of prudence would be to avoid saying anything that might be construed by someone as not deviating sufficiently from the current Communist-propaganda line. And since no one could be sure in advance what views were safe to express, the inevitable tendency would be to express no views on controversial subjects."

Events since the passage of the Act have more than confirmed the fears expressed by President Truman. The anti-Communist drive of which the Act is a part has not only claimed thousands of non-Communists as its immediate victims, but is devastating freedom of expression and association for all.

The Board's application of the Act magnified its unconstitutional features and set a pattern for the wholesale repression of American liberties.

The disposition of this case will determine whether traditional American liberties, already severely restricted, will survive.

## Statement of the Case

The Act was enacted on September 23, 1950. On November 22, 1950, the Attorney General filed with the Board a petition for a registration order against the petitioner herein (R. 143). Evidence was taken before a panel of Board members, originally three in number, reduced to two when Congress adjourned without action on the nomination of the panel chairman (R. 1).

On April 20, 1953, the Board issued its order (R. 138) and an accompanying Report (R. 1) in which, as required by section 13(j) of the Act, it stated its findings. In the Report, the Board made findings adverse to the petitioner herein under each of the eight standards provided by section 13(e) of the Act as a guide to Board decision. On the totality of these findings, the Board made its ultimate finding that the petitioner herein is a Communist-action organization as defined by section 3(3) of the Act.

We discuss the evidence and the findings of the Board at appropriate points in the argument (*infra*, Parts Two and Four).

In the course of the argument we also discuss the pressures exerted on the Board by the Senate Judiciary Committee and the refusal of the Board to disqualify two Board members on affidavits of bias and prejudice, filed by petitioner in accordance with section 7(a) of the Administrative Procedure Act, 5 U. S. C. 1006(a), made applicable to the proceeding by section 16 of the Act. (See *infra*, pp. 178-85.)

The court below set aside two of the eight key findings on which the Board had based its order on the ground that they were not supported by a preponderance of the evidence. Moreover, under the court's interpretation of the Act, the Board made erroneous use of a third key finding. (See *infra*, pp. 175-77.) Nevertheless, the court affirmed the Board's order.

While the proceeding was pending before the court below, petitioner moved pursuant to section 14 of the Act for leave to adduce additional evidence before the Board. By this motion petitioner offered to prove that subsequent to the conclusion of the proceeding before the Board two of the Attorney General's principal witnesses had committed perjury in other proceedings; that a third had admitted a course of perjury; and that public disclosures of their untrustworthiness had caused the Attorney General to cease to employ these persons as witnesses. The motion was denied by the court without opinion, Judge Bazelon not participating. (See *infra*, pp. 212-16.)

## Summary of Argument

### ONE

The Act is unconstitutional on its face.

I. A. The Act is an outlawry statute, not a disclosure measure. It inflicts intolerably severe sanctions and consequences upon an organization ordered to register and upon its members. It requires the organization to defame itself and its members as participants in a foreign-controlled seditious conspiracy and quarantines them. The members are deprived of rights to public and private employment, of naturalized citizenship, and of the right to travel abroad. These sanctions apply whether or not registration occurs. Registration is incompatible with survival and, moreover, is made impossible by the vague and loose definition of "membership" in petitioner contained in section 5 of the Communist Control Act. Failure to register, however, is punishable by severe criminal penalties. Thus the effect of a registration order is to destroy or outlaw the organization whether or not it attempts to comply with the registration requirement.

The Act is not, and was not meant to be, a disclosure statute. Disclosure legislation does not impose destructive

penalties on those who comply by registering, nor does it make registration a self-exposure to onerous criminal and civil penalties created by the legislation itself.

B. 1. The legislative history of the Act shows that it was intended to outlaw petitioner as a criminal organization without proof that it is such. The legislative history shows:

(a) The sponsors of the legislation intended to outlaw petitioner (and subsequently other organizations) by requiring it to register as a seditious foreign agent.

(b) There already existed laws requiring foreign agents and seditious organizations to register, as well as punishing seditious activity and advocacy. But these laws could not serve the purpose because they required proof of violation. Such proof, as the authors of the legislation, the Congressional committees, and the Attorney General were aware and stated, was not available against petitioner.

(c) On the other hand, the sponsors of the legislation recognized that it would be unconstitutional for a law to specify the petitioner by name as an organization required to register as a seditious foreign agent.

The Act represents the sponsors' attempt to resolve this dilemma. In order to avoid its first horn—the invalidity of a legislative verdict of guilt against petitioner by name—the Act provides that the identity of the guilty organization shall be determined administratively. In order to avoid the second horn—the absence of evidence of guilt—the Act rigs the administrative procedure by three devices: (1) it predetermines the case by legislatively making the findings of fact prerequisite to entry of a registration order against petitioner; (2) it sets up vague and irrational standards of proof for the administrative adjudication; (3) it creates as the adjudicative body a Board which is necessarily biased against petitioner and has an interest in deciding against it.

2. The predetermination device has three aspects.

Under section 3(3), a Communist-action organization is defined as one which (a) is substantially controlled by the foreign power which controls "the world Communist movement referred to in section 2" and (b) operates primarily to advance the objectives of that movement "as referred to in section 2." Accordingly, there can be a Communist-action organization only if there is a world Communist movement of the character described in section 2. However, as the court below held and the Board conceded, neither the Board nor the reviewing court is authorized to determine the existence and nature of such a movement. Instead, these "facts" are found legislatively in section 2 and are then incorporated into section 3(3) as assumptions of fact which the Board and the courts must accept. Moreover, these essential "facts" are also presupposed by the criteria of section 13(e), which the Board is obliged to apply in making its decision.

Secondly, section 2 makes findings on other elements of the section 3(3) definition. These include findings that there is a Communist-action organization in the United States, that "the Communist movement in the United States" is that organization, and that it has characteristics which delineate a Communist-action organization under the criteria of section 13(e). The Board could not make contrary determinations without overruling Congress and the findings which justify the Board's creation.

Thirdly, Congress even predetermined the specific identification of petitioner as the domestic Communist-action organization. This appears from the debates and the reports and from the fact that the section 2 description of the Communist-action organization in the United States contains verbatim excerpts from Judge Hand's description of petitioner in the *Dennis* case. This Court in *Carlson* v. *Landon* held that section 2 refers to petitioner.

3. The device of irrational and vague standards is employed in section 13(e), which provides eight criteria for the Board to consider in making its decision. As the court below held and the Board admitted, none of these criteria (which were the only ones applied by the Board) is relevant to the objectives component of section 3(3)—i.e., that a Communist-action organization advances the objectives attributed by section 2 to the world Communist movement, all of which are seditious. The 13(e) criteria do not call for proof that the organization advances any seditious objectives, much less those specific seditious objectives attributed to the world Communist movement. As to the foreign control component of the section 3(3) definition, the tests supplied by 13(e) are nebulous, circumstantial, and largely irrelevant. This becomes plain when each is examined.

Section 13(e) thus perverts the function of the orthodox legislative enumeration of guides for administrative determination. Instead of giving more definite content to a generalized ultimate standard, it unsettles the definite ultimate standard of section 3(3) and authorizes petitioner's conviction of one thing on proof of another.

4. The third device of the Act is its creation of a Board which is necessarily biased against petitioner and whose members have a personal interest, financial and otherwise, in deciding against petitioner.

The Board's sole function is to identify Communist-action organizations, their members, Communist-front organizations, and (since enactment of the Communist Control Act) Communist-infiltrated organizations. By definition, there can be no front or infiltrated organizations in the absence of an action organization. The only Communist-action organization envisaged by the Act is the petitioner, as both the Attorney General and the Board have recognized. The Board, therefore, could not decide in favor of petitioner without rendering itself *functus officio*, and, in effect, repealing the Act. Irresistible pressure was thus generated

by the Act upon the agency to decide in the only way which would preserve the Act and the agency—i.e., against petitioner.

Moreover, the members of the Board had a personal interest in ruling against petitioner so as to preserve further business for themselves. By ruling otherwise they would lose their jobs, salaries, and appointment patronage. The Board's staff had a similar job interest in seeing that the order was adverse to petitioner.

II. The Act violates the due process prohibition against fiat legislation. Since the order of the Board deprives petitioner and its members of liberty and property it may not constitutionally be entered without a hearing. If any of the elements requisite to a determination of liability are found legislatively, rather than in the hearing, due process is violated. The Act contravenes this principle of due process in two respects.

First, as was decided below and conceded by the Board, there has been a legislative predetermination of the existence, objectives and nature of the world Communist movement, which is binding on the Board and the courts. Under section 3(3), the facts concerning the world Communist movement are adjudicative facts essential to proof of the ultimate issue. Therefore due process requires that petitioner be allowed to litigate these facts. Yet the Act precludes it from doing so.

Secondly, as already seen, the Act not only legally predetermines the facts concerning the world Communist movement, but also finds the existence of a domestic organization having the characteristics of a Communist-action organization and identifies petitioner as that organization. While findings as to these facts are ostensibly left to administrative determination, obviously the Board is under compelling pressure not to overrule the Congressional findings. In fact, therefore, the Act removes these issues from

independent adjudication. Hence due process is violated in this respect as well.

III. The Act is invalid as a bill of attainder, which is by definition a legislative act inflicting punishment without a judicial trial. This is true even disregarding the fact that the Act by legislative fiat determines petitioner's guilt and identifies petitioner and its members as objects of its sanctions. The Act gives only an administrative hearing, not a judicial trial. Administrative hearings satisfy constitutional requisites for the purpose of "regulation", but a judicial hearing is a constitutional prerequisite to the infliction of "punishment". The Act is, therefore, a bill of attainder if it "inflicts punishment".

The Act and the registration order do impose "punishment", as distinguished from "regulation", on the organization and its members, who are identified by the registration order. Since the Act makes registration an impossible course, there can be no "regulation" through disclosure. The cumulative impact of the the Act prevents an organization ordered to register from engaging in any activity, however, innocent, and does not merely confine it to non-deleterious conduct. It imposes a death sentence, and this is obviously penal. The sanctions against the organization and its members, when examined individually, are also of a punitive, not regulatory, nature. Their sole function is to inflict injury rather than to serve a public interest by restricting activity to permissible limitations, and the disabilities imposed on members have no reasonable relation to the fitness of the members to utilize or enjoy the privileges of which they are deprived.

IV. Section 13(e) establishes rules of evidence which authorize the Board to infer that an organization is a Communist-action organization from the fact that it engages in some or all of eight practices. As already seen, these practices are not relevant to the ultimate issues defined by section 3(3). The presumptions established by 13(e) therefore violate due process.

Congress' power to prescribe rules of evidence and presumptions is limited by the due process principles that there must be a rational connection between the fact to be proved and the fact presumed, and that the presumption must not be conclusive. The Act violates both these principles. The Act is invalid if only because of the single irrationality that although one component of the section 3(3) definition is that a Communist-action organization advances the seditious objectives attributed by section 2 to the world Communist movement, section 13(c) admittedly authorizes issuance of a registration order without any proof that the accused organization promotes those objectives.

In addition, the vagueness of section 13(c) permits decision according to the subjective prejudices of the Board, and thus violates due process and constitutes an invalid delegation of legislative power.

V. As already seen, the Board could not have decided in favor of petitioner without rendering itself *funcius officio* and, in effect, repealing the Act. Moreover, the Board members had a job interest in ruling against petitioner. The Act thus violates the due process requirements of a fair hearing, before an impartial tribunal, which has no interest in the event.

VI. The Act imposes severe sanctions and disabilities on petitioner's members. Since these directly affect and injure petitioner, petitioner has standing to challenge their constitutionality.

The sanctions on the members violate due process because (1) they are imposed for association, not for personal misconduct; (2) they apply regardless of the individuals' lack of knowledge of the organization's claimed illicit purposes; (3) they establish a conclusive disqualification and do not permit a member to prove that he is a fit person to enjoy the privileges of which he is deprived; (4) they

are arbitrary and have no real and substantial relation to any legitimate federal objective.

VII. If the Board's order becomes final, petitioner and its officers must determine the names of petitioner's members in order to list them in the registration statement required by the Act. Other persons must determine whether they are members of petitioner in order to know whether they may lawfully hold certain jobs, apply for passports, and obtain naturalization, and whether they must register themselves upon failure of the organization to list their names in a registration statement.

If criminal liability is to be avoided, those required to determine membership must do so in accordance with section 5 of the Communist Control Act, which sets forth the criteria for determining membership in petitioner. Section 5, however, prescribes such vague and irrational criteria that it is impossible for petitioner, its officers or others to determine the identity of petitioner's "members". Moreover, the application of these criteria requires a knowledge of facts which petitioner and its officers cannot have or obtain. These facts clearly appear from examination of section 5 as a whole and of the criteria separately.

Section 5 thus unsettles and invalidates the Act as a whole, including the registration requirements.

VIII. The Act violates the privilege against self-incrimination since a registration order against petitioner compels admissions of membership or office-holding in the Communist Party and of participation in the alleged criminal conspiracy described in section 2 of the Act.

The immunity conferred by section 4(f) does not extend to all matters which the compelled admissions in a registration statement concern. Hence the immunity is not coextensive with the constitutional privilege and cannot save the Act.

The rule that the privilege is not available against compulsion to produce an organization's records does not apply. The Act requires the preparation and filing of original statements. These statements need not even be derived from records. Furthermore, the rule as to records applies where incrimination may result from the contents of the records. Here the incriminating admission consists in the act of signing the registration statement, which identifies the signer as an officer of petitioner.

Adjudication of the question of privilege is not premature in this proceeding. It cannot await an assertion of the privilege by petitioner's officers, for the Act allows them no opportunity or place to assert the privilege prior to prosecution for not registering. Furthermore, a claim of the privilege in advance of prosecution would itself be incriminating by identifying the claimant as an officer of petitioner. If the privilege, as it must, is to be available against prosecution as well as conviction, this proceeding provides the only opportunity for its assertion.

IX. The most fundamental vice of the Act is its violation of the First Amendment.

A. A statute penalizing conduct outside of the area protected by the First Amendment may not be so broad as to abridge protected expression or assembly as well. The Act infringes this principle of economy. Its controls are not limited to the regulation or exposure of the alleged seditious and criminal activity described in section 2. Instead, it suppresses all of petitioner's activity, including its admittedly extensive peaceable advocacy and assembly. It is precisely such protected conduct and expression which the Act is designed to reach.

The Act also violates the principle that government may not intervene in the political process by imposing special disabilities on any political group.

The constitutional principles which the Act violates have been applied specifically to the Communist Party and its

members, in holdings of the Court that peaceable assembly and advocacy of Communists could not be abridged even if it were assumed that the Party engaged in illicit advocacy and activity.

The invalidity of the Act was foreshadowed by *American Communications Association* v. *Douds*, which recognizes that Congress may not outlaw petitioner or impose onerous burdens on membership in it.

The Act is not rescued by the section 2 finding that "the Communist organization in the United States * * * presents a clear and present danger." Determination of a clear and present danger is a judicial function, to be made on a case by case basis in the light of the particular expression and the circumstances of its utterance. Legislation of a future, permanent clear and present danger is a contradiction in terms. Furthermore, the clear and present danger exception is confined to advocacy within the exception. It cannot be applied to an organization as a whole, so as thereby to allow suppression of its peaceable advocacy.

Even if the major sanctions of the Act are abstracted from their setting, each violates the First Amendment. The government employment sanction applies to non-sensitive jobs and excludes considerations of scienter, personal innocence and fitness. The sanction with respect to employment in "defense facilities" has the same defects. It is also invalid because it delegates unfettered and unreviewable authority to the Secretary of Defense to designate any private enterprise as a "defense facility". The provision that it is unlawful for employees of the government or of "defense facilities" to contribute to a Communist organization applies without regard to the purpose or use of the contribution, and prohibits subscription to any publication of the organization regardless of the publication's nature and contents. The sanction against trade-union employment is not limited to the area of interstate commerce and applies to non-sensitive and even menial jobs. The passport sanction prohibits travel for legitimate purposes. The denaturalization sanction causes forfeiture of citizenship

solely for association, no matter how innocent. The provision requiring labelling of mail and broadcasts abridges press and speech regardless of the content of the expression.

B. The Act imposes a prior restraint on First Amendment rights by requiring registration and labelling as a condition to the exercise of rights of advocacy, press, and assembly. This is clearly invalid under *Thomas* v. *Collins*.

The registration statement requires a public listing of members. Yet anonymity of membership in unpopular groups, and especially in minority parties, is indispensable to freedom of political action. Subjection of a minority party to discriminatory "disclosure" requirements destroys the electoral process.

C. The Act also violates the First Amendment because it imposes its sanctions on the basis of protected advocacy and views. The evidentiary standards of section 13(e) focus on views, expressions, and policies. These views, policies and expressions need not be dangerous, much less creative of a clear and present danger. They may be objectively true and in the interests of the American people. The Act thus imposes a political censorship, creating the strangest and most virulent of all heresies, "non-deviation", including "non-deviation" from the truth.

The sanctions on members of the organization are invalid because they penalize innocent association. Section 5 of the Communist Control Act carries the vices of the Act still further by utilizing protected expression and association to identify persons who are to be victimized as "members" of petitioner.

If the Act is sustained, there remain no effective limitations on Congress' control over political expression and association.

## TWO

The Board and the court below applied the Act erroneously and in violation of the Constitution.

I. A. A detailed examination of the Board's application of each of the standards of 13(e) shows that the Board violated the Act by employing irrational interpretations of 13(e) and by relying on irrelevant matters.

B. The court below sustained the ultimate finding of the Board on the basis of six factors, which sum up to the facts that petitioner believes in the principles of Communism, advocates the ultimate objective of a classless, stateless world, calls itself the Communist Party of the United States, and has adopted views on certain questions of foreign policy which are similar to views of the Soviet Union. None of these facts has any tendency to prove the criteria of section 13(e) or the ultimate issue under section 3(3).

II. The Board's order and the decision below violate the Act because they rest on alleged conduct of petitioner which, if it ever took place, had been discontinued prior to enactment of the Act.

The issue under the Act was whether petitioner was a Communist-action organization at the time of the administrative proceeding, or, in any event, after September 23, 1950, the enactment date of the Act. Evidence of conduct prior to that date was relevant only so far as it explained the significance and purpose of post-Act activity.

The Board's Report indiscriminately commingles discussion of a few alleged contemporary practices with discussion of alleged episodes of the remote past, mostly relating to the period before 1940 when petitioner was affiliated with the Communist International.

The Report cites no evidence of post-Act conduct which can conceivably support a registration order. As to two of the eight standards of section 13(e) ("financial aid" and "training"), the Report concedes that there is no post-Act evidence. As to a third ("reporting"), none of the evidence relied on by the Board relates to the post-Act period. The Report itself shows that these three practices, if ever engaged in, were discontinued long before enactment of the Act. As to the remaining five standards, the post-Act evidence relied on by the Board consists of a handful of absurdly irrelevant incidents and writings.

The six factors which the court below regarded as determinative likewise do not involve relevant post-Act conduct. The only current matters to which they refer are petitioner's adherence to the ultimate objective of a classless, stateless world and its advocacy of various international policies similar to those supported by the Soviet Union.

The Board and the court below invoked a presumption of continuance to compensate for the absence of current evidence. Continuance cannot be presumed in the face of petitioner's uncontradicted testimony and of such changed circumstances as petitioner's disaffiliation from the Communist International and the latter organization's dissolution. Nor can it be presumed that conduct which was permissible when it occurred continued after enactment of legislation imposing sanctions for such conduct.

III. The Board rested, and the court below affirmed, the registration order primarily on the basis of petitioner's advocacy respecting current issues and its adherence to the principles of Marxism-Leninism. In so doing the Board and the court magnified the vice inherent in the Act that it violates the First Amendment by imposing sanctions for peaceable advocacy and association.

There is no suggestion that petitioner advocates anything but peaceable means to win acceptance of its immediate objectives. Moreover, petitioner's views and advocacy concerning current international and domestic issues present no danger of any evil against which the government may act. Accordingly, the reliance by the Board and the court below on petitioner's peaceable advocacy on current issues requires reversal.

Reversal is also required by the reliance of the Board and the court below on petitioner's adherence to the principles of Marxism-Leninism. The Board's assertion that Marxism-Leninism advocates the violent overthrow of the government is contrary to the evidence and to *Schneiderman* v. *United States,* and was not accepted by the court below. Moreover, the registration order does not merely abridge the right to advocate violent overthrow but suppresses all of petitioner's advocacy. Even advocacy of violent overthrow can be abridged only upon a finding of clear and present danger, and no such finding was made. The thrust of the Report and the opinion below is that petitioner should be ordered to register merely because it believes in the principles of Communism. The First Amendment, however, prohibits imposition of sanctions for belief.

IV. Of the Board's eight key findings on the standards of 13(e), the court below invalidated two—those on "reporting" and "secret practices"—as not supported by the evidence. In addition, the court below held that the "nondeviation" criterion of section 13(e)(2) has no relevance to the "objectives" component of the section 3(3) definition. Yet the Board used its finding on "non-deviation" to support its conclusion on the objectives component, as well as on the foreign control component.

The Board's ultimate conclusion was based on the totality of its eight findings under section 13(e). Two having been invalidated, and a third having been held to have been erroneously applied, it is apparent that the premises on

which the Board acted do not support its ultimate conclusion and order. Moreover, of the five findings which survived, two had little if any weight against petitioner.

The affirmance below thus violates section 14 of the Act, which permits affirmance of a registration order only if the findings of the Board are supported by a preponderance of the evidence. It also contravenes the established principle that an administrative order cannot be sustained except upon the grounds on which it was predicated. It was the duty of the court below to remand the case for administrative redetermination in the light of the court's action regarding three key findings.

## THREE

I. Petitioner was denied a fair hearing because of extra-legal pressures applied to members of the Board and the personal bias and prejudice of the Board members. Two Board members should have disqualified themselves on the basis of affidavits of bias and prejudice.

A. The members of the Board were given so-called recess appointments by the President on October 23, 1950. These appointments were held in abeyance by the Senate Judiciary Committee until July 30, 1951. Accordingly, for many months during the pendency of the administrative proceeding the tenure of the Board members was subject to the pleasure of a committee which had reported to Congress that petitioner is a Communist-action organization. During this period, witnesses for the Attorney General reported on the conduct of the proceeding by the Board members to an employee of the Judiciary Committee. Board member LaFollette recognized the existence of the pressures generated in this fashion. These pressures prevented petitioner from receiving a fair hearing.

B. During the course of the hearing, Board member McHale, a member of the panel taking the evidence, made

a speech before the Women's National Democratic Club in which she discussed the proceeding and expressed prejudgment on issues in the case.

After issuance of the panel's recommended decision, and while the proceeding was pending before the full Board, Board chairman Brown and the Board's general counsel, appeared on a radio and television forum, commented on the evidence, expressed satisfaction with the recommended decision, and stated their conviction that petitioner is a Communist-action organization.

McHale and Brown thus acted with gross impropriety and exhibited bias and prejudice against petitioner. The Board erred in refusing to disqualify them on the basis of affidavits of bias and prejudice filed by petitioner.

II. The original appointments to the Board were made in violation of the Constitution, and the acts of the Board members prior to Senate confirmation of their appointments were invalid.

A. The original appointments were made as recess appointments, to the offices which were newly created by enactment of the Act. "Vacancies" do not "happen" under Article 2, sec. 2, cl. 2 of the Constitution in offices newly created by law. And even if "vacancies happened" in the Board upon passage of the Act, they did not happen "during the Recess of the Senate."

B. Furthermore, the appointments were made during an adjournment of the Senate to a day certain. The adjournment was not "the Recess" as used in Section 2, which refers to the sine die recess between sessions. Hence the original appointments were also invalid because when made there were no vacancies during "the Recess."

C. If the adjournment was "the Recess," then it follows that the reconvening of Congress on November 27, 1950 was the beginning of the "next session." In that case, the appointments expired when the "next session" ended with

the sine die adjournment of Congress on January 2, 1951. Hence the appointees to the Board did not hold office from January 2, 1951 until August 9, 1951, when their appointments were confirmed by the Senate.

D. The invalidity of the appointments requires setting aside of the Board's order. The attack on the validity of the appointments is direct, and the point was seasonably raised.

## FOUR

I. It appears from the face of the Report and the decision below that the findings of the Board are not supported by a preponderance of the evidence, as required by section 14(a). The Report and the opinion below show: (1) There was no relevant post-Act evidence adverse to petitioner. (2) Two of the Board's key findings were set aside by the court as not supported by the evidence; a third was improperly applied under the court's holding; and petitioner was entitled to favorable findings under three of the 13(e) criteria. (3) There was no relevant evidence to support findings adverse to petitioner under any of the 13(e) criteria as properly construed. (4) The evidence relied on by the Board and the court below does not support the finding that there is a world Communist movement as defined by section 2. (5) The six "basic facts" on which the court below affirmed are irrelevant to both the section 3(3) definition and the 13(e) criteria. (6) The Board's ultimate conclusion rested solely on its findings under 13(e), which, as the court below held, have no relevance to the objectives component of the 3(3) definition. Accordingly, the ultimate finding as to that component is not supported either by the evidence or by subsidiary findings.

II. The Board's finding as to the existence and nature of "the world Communist movement," if authorized by the Act, is not supported by the evidence. Section 2 defines that movement in terms of organizational form, source of control, objectives, and means. There is no evidence to establish any one of these elements as described in section 2, and the Report cites none.

The court below found that there is a world Communist movement in the sense that there are Communist parties in various countries which base their program and activities on a common economic and political outlook and work toward the ultimate achievement of a common social goal—a universal, classless, stateless society. This is not the movement described by section 2.

III. The findings of the Board are based on incompetent and discredited testimony and on misrepresentation of the evidence. The record discloses that the Attorney General's witnesses were unworthy of credence and that their testimony in this proceeding was shot through with fabrications. The Board relied on testimony proven to be false and in some cases repudiated or withdrawn by the witness himself. It ignored all testimony of the Attorney General's witnesses which was favorable to petitioner.

The Board's reliance on incompetent and discredited testimony and its misrepresentation of testimony appears from a comparison of the record with the Report's findings on five subjects which are given major significance in the Report: petitioner's disaffiliation from the Communist International; the reconstitution of the Communist Party; force and violence; financial aid; and representatives of the Communist International.

The Board applied a double standard, rejecting the testimony of petitioner's witnesses even when corroborated and uncontradicted, while eagerly accepting and exaggerating the false testimony of the Attorney General's unreliable witnesses.

IV. The court below erred in denying petitioner's motion for leave to adduce additional evidence. This motion, filed pursuant to section 14, showed that after conclusion of the administrative hearing two of the Attorney General's principal witnesses committed perjury in other proceedings, and a third admitted a course of perjury. The Board

had in numerous instances rested material findings adverse to petitioner on the testimony of these three witnesses.

Under section 14, the hearing must be reopened if proffered new evidence is material. This standard was met by petitioner's motion.

## ARGUMENT

## PART ONE

## THE ACT IS UNCONSTITUTIONAL ON ITS FACE

### I. The True Nature of the Act

The Act polices freedom of association and suppresses political non-conformity. In order to conceal its true nature it masquerades under false colors.

The Act poses as a registration or disclosure measure. In fact no organization could survive its kind of "registration," nor does the Act contemplate that any organization will register under it. Instead, the Act is designed to outlaw the Communist Party, and to punish its officers and members solely for their association. The outlawry of petitioner also supplies a foundation for a similar proscription of other organizations, including trade unions, as "Communist-front" or "Communist-infiltrated" organizations.

The Act purports to accord the petitioner a hearing. In fact the hearing is a sham. The Act predetermines petitioner's guilt, establishes spurious standards of proof, and creates a biased tribunal to announce the built-in verdict.

#### A. The Act Is an Outlawry Statute

The Act provides for administrative proceedings before the Board, upon petitions of the Attorney General, to determine whether or not accused organizations shall be

required to register as Communist-action or Communist-front organizations (sec. 13). The Communist Control Act of 1954 added provisions authorizing the Board, on petition of the Attorney General, to declare trade unions to be "Communist-infiltrated" (3(4A) and 13A of the Act, added by sec. 7 of the Communist Control Act). Such organizations are not required to register, but are deprived of the benefits of the National Labor Relations Act, as amended. The three types of organizations are collectively referred to as "Communist organizations" (sec. 3(5)).

Provision is made for judicial review of the Board's orders by the Court of Appeals and on certiorari by this Court. On review, the Board's findings are conclusive only if supported by the preponderance of the evidence. (Sec. 14.)

A Communist-action organization is defined as one "which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement as referred to in section 2 of this title" (sec. 3(3)).

Thus the definition of a Communist-action organization is tied into findings made in section 2 of the Act, which supply the only definition of "the world Communist movement." Section 2 finds, among other things, that this movement is controlled by the Communist dictatorship of a foreign country and operates through the medium of a world-wide Communist organization. It finds that the movement seeks to overthrow capitalist governments by treacherous and terroristic methods and to establish in their place totalitarian dictatorships subservient to the foreign dictatorship.

A Communist-front organization is defined as an organization which is substantially dominated or controlled by a Communist-action organization and is primarily operated

for the purpose of giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement (sec. 3(4)).

A Communist-infiltrated organization is defined as one which (a) is substantially dominated or controlled by an individual or individuals who are, or within three years have been, engaged in giving support to a Communist-action organization, a Communist foreign government, or the world Communist movement, and (b) is serving, or within three years has served, as a means for giving aid or support to any such organization, government, or movement, or for the impairment of the military or industrial strength of the United States (sec. 3(4A)).

A Communist-action organization is required to register as such with the Attorney General. The registration statement must show the names and addresses of the organization's officers and members during the preceding year, give a detailed accounting of all moneys received and expended, including the source of its revenues and the purposes of its exenditures, and list all printing and duplicating facilities. Annual reports must be filed to keep the registration up to date. The registration statement is open for public inspection. (Sec. 7.)

When a registration order against a Communist-action organization becomes final, as it does on exhaustion of judicial review (sec. 14(b)), its officers have an individual duty to register the organization and to list its members (sec. 7(h)). Members not so listed are under a duty to register themselves after an administrative determination of their membership (secs. 8, 13(a)). Failure to comply with these duties is punishable by imprisonment up to five years, fine up to $10,000, or both. These penalties are potentially astronomical, since each day of failure to register constitutes a separate offense. Any falsity in a registration statement is punishable by a similar penalty. Here too astronomical accumulation is made possible because

each misstatement and each omission is a separate offense. (Sec. 15.)

The listing or self-listing of members of petitioner in compliance with a registration order has been made an impossible task by section 5 of the Communist Control Act. That section enumerates thirteen criteria for determining "membership" in the Communist Party. These are dependent on facts of which the petitioner and its officers can have no knowledge, and are so vague that no one can determine who are "members." (See *infra*, pp. 75-82.)

The entry of a final registration order against a Communist-action organization automatically subjects the organization and its members to crippling sanctions. *These sanctions apply whether or not the organization registers.*

The sanctions are the following:

(1) The organization must label publications and literature which if distributes by mail or in interstate or foreign commerce as being disseminated by a Communist organization, which is by definition a participant in the foreign-controlled seditious conspiracy described in section 2. Its radio and television broadcasts must be announced as sponsored by a Communist organization. These requirements apply without regard to the nature and content of the publications and broadcasts. (Sec. 10.)

(2) It is unlawful for members of the organization to hold non-elective federal employment, employment in any privately owned "defense facility," or office or employment in labor unions; nor may they represent employers in matters arising under the National Labor Relations Act (sec. 5, as amended by sec. 6 of the Communist Control Act). A defense facility is any establishment listed by the Secretary of Defense on his ex parte determination that the security of the United States requires such listing (secs. 3(7), 5(b)).

Accordingly, what employment is open to members of the organization, and, for that matter, whether any employment at all is open to them, rests in the unreviewable fiat discretion of the Secretary of Defense.

(3) Government employees and employees of defense facilities are prohibited from contributing funds or services to the organization, and even from subscribing to any of its publications (secs. 5(a)(2) and 3(6)). Accordingly, the ex parte determination of the Secretary of Defense limits, or may virtually eliminate, the sources from which the organization can obtain funds or services or find readers of its publications.

(4) It is unlawful for members of the organization to apply for or use passports (sec. 6).

(5) Aliens who are or ever have been members of the organization are excluded from admission into the United States, and if already in the country must be deported. An alien may not be naturalized if he was a member of the organization within ten years preceding the filing of his naturalization petition. Naturalized citizens who join or affiliate with the organization within five years after naturalization are subject to revocation of citizenship.[4]

(6) Contributions to the organization are not tax deductible, and the organization itself is denied tax exemptions (sec. 11).

The prohibitions described in the first four paragraphs above are enforceable by criminal penalties of up to five years imprisonment and $10,000 fine (sec. 15).

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[4] Originally contained in secs. 22 and 25 of the Act, these sanctions have been carried forward by secs. 212(a)(28)(E), 241(a)(6)(E), 313(a)(2)(G) and 340(c) of the Immigration and Nationality Act, 66 Stat. 163, 8 U.S.C. 1182, 1251, 1424, 1451.

The sanctions on members apply regardless of their personal innocence or lack of knowledge of the organization's alleged illegal or conspiratorial actions or purposes, and though their activities are confined to constitutionally protected areas.[4a]

The registration order has still other consequences, as follows:

(1) Any person who signs or whose name is listed on a registration statement as an officer or member of, or a contributor to, the organization is in jeopardy of prosecution under the extravagantly vague provisions of section 4(a) of the Act, as well as under the Smith Act and a host of other criminal laws.[5] A registration order, therefore, commands the officers of the organization to incriminate themselves and to become informers on the members. If the officers fail to register the organization, the members are faced with an impossible alternative. If they register, they expose themselves to onerous civil penalties and invite prosecution under the Smith Act and other statutes. If they do not register, they are subject to prosecution for their failure.

(2) The registration order officially brands the organization, its members and contributors, as participants in the seditious conspiracy defined in section 2, and subjects them to public opprobrium and ensuing social and economic reprisals.

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[4a] The sanctions against Communist-front organizations and their members differ from the foregoing only in a few ameliorating details.

[5] Section 4(a) of the Act makes it criminal to conspire "to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship" under foreign control. And see *infra*, p. 34, ftn. 8, for a list of other federal criminal statutes which might be invoked against members of a registered organization.

(3) The registration order makes it dangerous for other organizations or persons to associate with the proscribed organization or its members or to support by constitutionally protected means social, economic or political ideas advocated by it. For under the Act's evidentiary criteria of front and infiltrated organizations, an organization which has any dealings with or expresses views similar to those of a Communist-action organization or its members, is itself in danger of being condemned as a front or infiltrated organization (secs. 13(f), 13A(e)). Moreover, under the sweeping criteria of section 5 of the Communist Control Act, any person who has any contact or dealings with the Communist Party or its members may thereby be determined to be a member of the Party, become liable to register as such, incur the other penalties for membership, and jeopardize the status of any organization to which he belongs. (See *infra*, pp. 75-82.) A registration order, therefore, quarantines the organization, depriving it of access to the people and the people of access to the ideas it propagates.

The total impact of the Act is such, therefore, that if the organization registers, it destroys itself and jeopardizes the livelihood and liberty of its members.[6]. If a member registers, he destroys himself. On the other hand, if there is no registration, the organization, its officers and members are subject to severe criminal penalties which cumulate for each day of non-registration. A registration order, therefore, affords an illusory choice between suicide by registration or governmental execution for non-registration.

The character of the Act as an outlawry statute is underscored by the daily cumulative penalties of section 15 for failure to register. This failure is not an ordinary crime

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[6] Furthermore, the organization and its officers incur astronomical criminal penalties for the inevitable "false statements" and "omissions" in the list of members, which are induced by section 5 of the Communist Control Act. See *infra*, pp. 75-82.

which cumulative criminal penalties might deter. It is a course of elementary self-preservation to avoid ruinous consequences. Since self-preservation must have primacy, the threat of cumulative penalties cannot induce self-destruction by registration. The role of the cumulative penalties, therefore, is to exact life-sentences as the price of attempted self-preservation.

The Court has recognized that the effect of an adverse listing by the Attorney General, unaccompanied by the sanctions of the Act, is virtually to destroy the listed organization. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123, 139, 142, 161, 175.

The assertion that the Act is a disclosure statute is outright hypocrisy. No legitimate disclosure legislation imposes destructive penalties on those who comply with it by registering. Nor does it make the act of registration a self-exposure to onerous criminal and civil liabilities created by the legislation itself.

The registration order, therefore, does not, and was not intended to, result in registration. Its function is to lay a foundation for mass punishment of members of the petitioner and other condemned organizations. Far from accomplishing disclosure, it compels concealment, the only sanctuary left to the organization and its members.[7]

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[7] The Attorney General has acknowledged that the registration order in this case, if sustained, will result in the outlawry or destruction of petitioner. Hearings before Subc. No. 1 of Comm. on Judiciary, H.R. 83rd Cong., 2nd Sess., April 12, 1954, p. 137; and public statement of Attorney General Brownell quoted in 100 Cong. Rec. 14401 (daily pagination). Attorney General Clark, testifying on the Mundt bill, the ancestor of the Act and a far less stringent measure, described the bill as one of "several proposed bills which seek to outlaw communism and the Communist Party." Hearings on Proposed Legislation to Curb or Control the Communist Party of the United States, Subc. on Legislation of Comm. on Un-American Activities, H.R. 80th Cong., 2d Sess., on H.R. 4422 and 4581, p. 17 (hereafter cited as House Hearings).

## B. The Act Predetermines Petitioner's Guilt

### 1. The Legislative History.

The Act purports to require the registration of Communist-action organizations and their members as participants in a foreign-controlled conspiracy to commit espionage, sabotage, treason, violent revolution, etc., on behalf of a foreign power. The activities claimed to supply justification for the registration requirement are already punishable under numerous federal criminal statutes,[8] or if not, could easily be made so. The Act thus establishes a mechanism to prosecute accused persons not for their alleged crimes, but for their failure to register themselves as criminals. The only rational explanation for this shift of the locus of punishment from the crime itself to failure to register as a criminal is that the Act seeks to punish Communists as criminal conspirators even though they are not and cannot be proved to be such. The legislative history and the scheme of the Act show that such is its purpose and effect.[9]

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[8] E.g., the following sections of 18 U.S. Code: 2153-2156 (sabotage); 793-798 (espionage); 2383 (inciting rebellion or insurrection); 2384 (seditious conspiracy); 2385 (advocating forceful overthrow of government); 2381 (treason); 2382 (misprision of treason); 951 (failure to register as foreign agent); 957 (possession of property of a foreign government for use in violating U.S. statute); 2387-2388 (undermining loyalty, discipline or morale of the armed forces); 2386 (failure to register by organizations engaged in civilian military activity, subject to foreign control, affiliated with foreign government, or seeking to overthrow government by force); 1361-1364 (damaging federal property or communications); 1381 (enticing desertion and harboring deserters); 2390 (enlistment to serve against United States).

[9] The bill enacted was the Senate rewrite, sponsored by Senator McCarran, of H.R. 9490, 81st Cong., 2d Sess. (Wood bill). The antecedent bills were: H.R. 4422, 80th Cong., 1st Sess. (Mundt bill); H.R. 5852, 80th Cong., 2d Sess. (Mundt-Nixon bill); H.R. 3342, 81st Cong., 1st Sess. (Nixon bill); S. 1194 and S. 1196, reported out as S. 2311, 81st Cong., 1st Sess. (Mundt-Ferguson-Johnston bill); S. 4037, 81st Cong., 2d Sess. (McCarran bill); H.R.

The legislative history of the Act discloses the following:

(1) The sponsors of the legislation were bent on outlawing the Communist Party by requiring it to register as a foreign agent. The first ancestor of the Act, the Mundt bill (H.R. 4422, 80th Cong., 1st Sess.), would have required the Communist Party by name to register as a foreign agent without judicial or quasi-judicial determination of the facts.[10] However, the Congress was informed by Attorney General Clark and various constitutional authorities, testifying before the legislative sub-committee of the House Committee on Un-American Activities, that this singling out of the Communist Party by name was probably unconstitutional as fiat legislation violating the due process and bill of attainder clauses. (House Hearings, pp. 19-20, 113, 115, 117, 209-11, 256, 432, 493-95.)

Because of these warnings, the Committee on Un-American Activities rejected the crude approach of the Mundt

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7595, 81st Cong., 2d Sess (Nixon bill). Applicable committee reports are: H. Rep. 3112, 81st Cong., 1st Sess. (Conference Report on H.R. 9490); H. Rep. 1844, 80th Cong., 2d Sess. (on H.R. 5852); Sen. Rep. 1358, 81st Cong., 1st Sess. (on S. 2311); H. Rep. 2980, 81st Cong., 2d Sess. (on H.R. 9490); Sen. Rep. 2369, 81st Cong., 2d Sess. (on S. 4037). Applicable hearings are: Before Subcommittee on Legislation of Committee on Un-American Activities, H.R., 80th Cong., 2d Sess., on H.R. 4422 and H.R. 4581 (Feb., 1948); Before Committee on Judiciary, Sen., 80th Cong., 2d Sess., on H.R. 5852 (May 1948); Before Committee on Judiciary, Sen., 81st Cong., 1st Sess., on S. 1196 (April-June, 1949); Before Committee on Un-American Activities, H.R., 81st Cong., 2d Sess., on H.R. 3903 and H.R. 7595 (March, 1950).

[10] Section 1 of the Mundt bill provided: "That notwithstanding the provisions of any other law any person who is a member of the Communist Party or of any organization, association, or other combination of individuals which is dominated, directed or controlled by the Communist Party, shall be required to register with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal." Mr. Mundt later proposed that his bill be amended, for purposes of administrative convenience, to require registration by the Party itself, rather than by the individual members. House Hearings, p. 4. The bill is quoted in these hearings at p. 2.

bill and reported the Mundt-Nixon bill (H.R. 5852, 80th Cong., 2d Sess.), which first proposed the scheme of an administrative proceeding to determine registerable organizations. Representative Nixon, chairman of the legislative sub-committee of the Un-American Activities Committee and co-author of the bill, explained to the Senate Judiciary Committee the reason for the change (emphasis added):

> "We felt also that the Mundt bill, in its original form, was not the proper approach to the problem for two reasons. In the first place, the bill specifically named the Communist Party of the United States and attempted to build its definitions around the name of the party. From having heard the witnesses before our committee, we came to the conclusion that naming the Communist Party by name and attempting to build the entire registration provisions around such a definition was an unconstitutional approach and *consequently the committee attempted to find a legislative device for meeting the problem in a constitutional manner.* . . .
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> "Our committee realizes that it would be a very dangerous thing to bring to the Congress and to the Senate a measure which went too far and which ran a great risk of being held unconstitutional by the Supreme Court because we realize that the Communists would make great capital of such a holding. For that reason alone our committee was particularly careful to attempt to find a constitutional answer to this problem. That is the reason that we do not name the Communist Party." [11]

The House and Senate Committees also informed the Congress in their reports on the bill which became the Act:

> "To make membership in a specifically designated existing organization illegal *per se* would run the risk of being held unconstitutional on the ground that such an action was legislative fiat." (H. Rep. No. 2980, 81st Cong., 2d Sess., on H.R. 9490, p. 5; Sen. Rep. No. 1358, 81st Cong., 1st Sess., on S. 2311, p. 9.)

[11] Hearings before Senate Committee on the Judiciary, 80th Cong., 2d Sess., on H.R. 5852, pp. 40, 45-46 (hereafter cited as Senate Hearings).

Accordingly, constitutional doubts alone prevented the authors of the Act from identifying the Communist Party by name, and led them, in Mr. Nixon's words, to attempt "to find a legislative device for meeting the problem in a constitutional manner."

The legislative history of the Act reveals the nature of "the problem" with which the authors of the Act were confronted. It shows that Congress knew that the Communist Party could not fairly be proved to be engaged in a seditious conspiracy or controlled by a foreign power. The "problem," therefore, was how to order it to register as such an organization without proof of guilt and without specifically naming it. The Act is the "legislative device" to solve this "problem."

The problem was first disclosed to the Congress by Attorney General Clark. In the same testimony in which he cast doubt on the validity of legislation which would specifically name the petitioner, the Attorney General advised that there already existed laws which required registration of foreign agents and punished advocacy of violence, but that they could not be employed against the Communist Party or its membership because the government could not prove a case under them. Justifying the failure to use such existing legislation against the Communist Party or its members, Mr. Clark explained:

(a) As to the failure to use the Smith Act, which prohibits advocacy of the overthrow of the government by force and membership in a group which so advocates:

> "By means of this statute, we are able to prosecute, provided we are able to obtain proof of force or violence. . . . Adequate proof against the individual in this regard is most difficult to adduce. In fact, the dignitaries of the American Communist Party have each denied that they have any aim or purpose to overthrow the Government by force or violence. Because of the shifting program and the character of the Party line, which can adjust itself to suit almost any limita-

tion, we have found it more practical, effective, and much more speedy to proceed under other Federal statutes." (House Hearings, p. 21).

(b) As to the failure to prosecute the Communist Party for not registering under the Voorhis Act, which requires registration of organizations subject to foreign control or having the purpose of overthrowing the United States government by force;

"In order to force a registration or to prosecute any organization for failing to register under the act, we must prove in one or more of the combinations described in the act that the purpose or aim or one of the purposes or aims of the organization is to overthrow by force or violence the Government of the United States, or that the organization is engaged in civilian military activity prohibited by the statute or is subject to foreign control.

"The fact is that the description of activities which make it obligatory for an organization to register is enough to brand the organization as subversive. As soon as the Voorhis Act was passed, . . . the Communist Party changed its constitution for the purpose of disaffiliating, as the announcement put it at the time, from the Communist International in order to avoid registering under what the party called the Voorhis Blacklist act. . . .

"You have asked me what, in my opinion, is the true character and aim of the Communist Party in the United States, Mr. Chairman. The ultimate question, however, is not what my opinion may be, but what proof exists to successfully prosecute an individual or organization under the above statutes. Although the Voorhis Act has been on the books since 1940, no Attorney General has directed a prosecution under it." (*Ibid.*)

(c) As to failure to prosecute the Communist Party or its members for not registering under the Foreign Agents Registration Act, as amended:

"By the provisions of this act, agents of foreign principals are required to file a registration statement

with the Attorney General and to label political propaganda disseminated by them. The terms of the act are sufficiently broad to require registration by members of the Communist Party; provided, of course, that proof is available that they are operating in this country as agents of a foreign principal. This is a difficult task. . . ." (*Id.*, pp. 21-22).

The sponsors of the legislation, accepting the Attorney General's testimony, informed Congress that the Act was necessary because the Communist Party could not be proved, by accepted legal standards, to be a seditious foreign agent. The Senate Committee stated that the Act was required by the "inadequacy" of existing legislation. It explained:

> "Congress has passed several laws which were directed specifically at curbing the subversive activities of communism in the United States, but they have proved largely ineffectual in accomplishing their purpose. As has been cited above, the Attorney General on February 5, 1948, testified before a committee of Congress that present laws were inadequate to deal with the subversive activities of the Communist threat in the United States.[12] There have been no significant additions to statutory law in this field since that date." (Sen. Rep. No. 1358, *supra*, p. 7).[13]

The House Committee Reports contain passages to the same effect as to the "inadequacy of existing legislation" (H. Rep. No. 2980, *supra*, p. 2; H. Rep. No. 1844, *supra*, p. 5), and Mr. Nixon made a similar explanation when testifying before the Senate Committee (Senate Hearings, *supra*, pp. 41-43).

In summary, therefore, the legislative history discloses the following:

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[12] The reference is to the testimony of Mr. Clark which we have just reviewed.

[13] The Report goes on to explain the "inadequacy" of each of the "present laws" along the lines of Attorney General Clark's testimony.

(1) The sponsors of the legislation were bent on outlawing the Communist Party (and subsequently other organizations) by requiring it to register as a seditious foreign agent.

(2) There already existed legislation requiring foreign agents and seditious organizations to register, as well as punishing seditious activity and advocacy. But this legislation could not serve the purpose because it required proof of violation, and such proof was not available against the Communist Party.

(3) On the other hand, the Communist Party could not be legislatively required by name to register as a seditious foreign agent, for all authorities agreed that this would be unconstitutional.

The Act represents the sponsors' attempt to resolve this dilemma. In order to avoid its first horn—the invalidity of a legislative verdict of guilt against petitioner by name—the Act provides that the name of the guilty party shall be determined administratively. In order to avoid the second horn of the dilemma—the absence of proof of guilt—the Act rigs the administrative procedure to insure that the petitioner will be ordered to register regardless of the evidence. This it accomplishes by three devices: (1) The Act predetermines the case by itself making the findings of fact prerequisite to entry of a registration order against petitioner. (2) The Act sets up standards of proof for the administrative adjudication which are so vague and irrelevant to the ultimate issue as to permit the administrative agency to execute the legislative verdict by making a determination of guilt without proof of guilt. (3) The Act creates as the adjudicative body a Board which is necessarily biased and prejudiced against the petitioner and which has an interest in deciding against it.

2. The Device of Legislative Predetermination of the Facts Essential to Guilt.

(1) Under the Act, certain facts essential to guilt have been found legislatively and as a matter of law are removed from administrative adjudication by the Board. These are the "facts" as to the existence and nature of the world Communist movement.

Section 3(3) defines Communist-action organization as an organization which is substantially controlled by the foreign power or organization "controlling the world Communist movement referred to in section 2" and which operates primarily to advance the objectives of the "world Communist movement as referred to in section 2." Accordingly, there can be a Communist-action organization in the United States only if there is a world Communist movement of the character described in section 2. However, the existence and nature of the world Communist movement are not issues left to adjudication by the Board. Instead, these "facts" are found by Congress in section 2.[14] The findings are then incorporated into section 3(3) in the form of assumptions of fact which the Board is not authorized to re-examine, but is required to accept as the foundation for its decision.

The correctness of these legislative findings regarding the world Communist movement is also assumed by the

[14] Section 2 represents the world Communist movement as "A world-wide revolutionary movement," controlled by the "Communist dictatorship" of a foreign country. It asserts that the purpose of this movement "is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization." Section 2 further finds that the foreign Communist dictatorship establishes and utilizes Communist-action organizations in various countries which "promote the objectives of such movement by conspiratorial and coercive tactics" and "by bringing about the overthrow of existing governments by any available means, including force, if necessary."

eight criteria which section 13(e) requires the Board to apply in deciding whether an accused organization is a Communist action organization. Seven of the eight criteria require the Board to act on the assumption that a world Communist movement exists and has the characteristics found in section 2.[15]

Accordingly, under the Act the Board is not free to decide that there is no world Communist movement, or that if there is one it is not controlled by a foreign government or does not have the sinister objectives and methods attributed to it by section 2. The Act does not contemplate Board determination of these issues. Moreover, the Board could not decide them in the negative without overruling the Congressional findings which are part of the definition and violating the standards which the Act requires it to apply.

The court below and the Board agreed with us that the section 2 findings on the existence and nature of the world Communist movement are binding upon the Board and the courts, and that these matters were not subjects for adjudication (R. 2132-33; Resp. Br. below, pp. 61-63).

(2) In addition, section 2 legislatively makes findings on the existence and identity of a domestic Communist-action organization. Since these are on the same issues which are ostensibly to be determined by the Board, the Act thereby predetermines the Board's decision.

In the first place, section 2 finds that there is an organization in the United States which is a Communist-action

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[15] Thus the first of the evidentiary standards of 13(e) is "the extent to which" an accused organization's policies are formulated and its activities performed pursuant to directives or to effectuate the policies "of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement, referred to in section 2." All the remaining standards, except 13(e)(7), refer back to "such foreign government or foreign organization" or "such world Communist movement."

organization. Sections 2(5) and 2(6) find that the foreign Communist dictatorship establishes and utilizes Communist-action organizations in various countries. Section 2(12) finds that there is a foreign-controlled "Communist network in the United States." Section 2(15) finds that "the Communist movement in the United States" is an organization, and that "*the* Communist organization in the United States" (emphasis added) endangers the security of the United States.

In addition, section 2 finds that "the Communist organization in the United States" has the major characteristics which, when supposedly found to exist by the Board, determine the Board's decision. Section 2(6) predetermines the Board's finding under section 13(e)(1) that the Communist organization in the United States operates under the direction of the foreign Communist power and to effectuate its policies. Section 2(5) predetermines the Board's finding under 13(e)(6) that members of the domestic Communist organization are under foreign discipline. Section 2(7) predetermines the Board's finding under 13(e)(7) that the domestic Communist organization utilizes secret practices to promote its objectives and conceal its true character. And section 2(9) predetermines the Board's finding under 13(e)(8) that members of the domestic organization have transferred their allegiance from the United States to the foreign power.

By legislative fiat, section 2 thus predetermines virtually all of the elements requisite for the entry of a registration order, including the supposed existence, nature, objectives and foreign control of a world Communist movement, and the existence, purposes and characteristics of an organization which it finds to be the domestic agent of that movement. Unlike the predetermination with regard to a world Communist movement, the findings as to the claimed domestic agent of the movement are not expressly incorporated into the definition and the evidentiary standards, so that the latter issues are ostensibly open for administrative

determination. But this difference is not significant. For it would be fatuous to expect the Board to overrule legislative findings on the identical issues it is supposed to determine. This is particularly true because these findings furnish the justification for the enactment of the legislation and the establishment of the Board. Moreover, they are prefaced by Congress' assertion that they were made "As a result of evidence adduced before various committees of the Senate and House of Representatives."

(3) Congress, then, found that there *is* a Communist organization in the United States, that it *is* the agent and operates to carry out the seditious objectives of a destructive world Communist movement, which *is* controlled by a foreign power. Obviously, therefore, Congress left only one thing for the Board to find. The Board's sole function was to supply the name of the particular organization which Congress had in mind when it referred in section 2(15) to "the Communist organization in the United States."

As to this there can be no earthly doubt. Petitioner denies the truth of the findings of section 2. But it is beyond question that by these findings Congress referred to, and meant, the Communist Party of the United States, the petitioner here. Indeed, as we have seen, only qualms as to constitutionality kept Congress from identifying the petitioner by name. The evidence adduced before various committees of Congress, on which the findings purport to rest, dealt with the petitioner by name; the legislation was recommended as a weapon against the petitioner by name; and the reports and debates dealt with the petitioner by name. Moreover, section 2(15) of the Act refers to a *single* "Communist organization in the United States," and if the petitioner is not the organization meant by Congress, it is obvious that there is none which can possibly be identified as such.

If after all this there could remain any lingering doubt that Congress intended to and did identify the petitioner

as the Communist-action organization in the United States, two further circumstances would dispel it. Section 2(15), in describing "the Communist organization in the United States," contains verbatim excerpts from Judge Hand's description of the petitioner in *United States* v. *Dennis*, 183 F. 2d 201, 212, 213. And the House and Senate reports accompanying the legislation advised Congress, in identical language, that the petitioner is a Communist-action organization within the meaning of the section 3(3) definition. The reports stated:

> "There is incontrovertible evidence of the fact that the Communist Party of the United States is dominated by such totalitarian dictatorship and that it is one of the principal instrumentalities used by the world Communist movement in its ruthless and timeless endeavor to advance the world march of Communism." [16]

This Court flatly ruled in *Carlson* v. *Landon*, 342 U. S. 524, 535, 544, that section 2(15) of the Act in mentioning "the Communist movement in the United States" refers to the petitioner herein.

Accordingly, even the particularized identification of the petitioner as the organization against which the first registration order should be issued was likewise legislatively predetermined. The Board could not have found that petitioner was not the domestic Communist organization referred to in section 2 without overruling Congress.

Nothing is clearer than that the Act is fiat legislation as much as Representative Mundt's original proposal which would have required the Communist Party by name to register as a foreign agent.[17]

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[16] House Rep. No. 2980, *supra*, pp. 1-2; Sen. Rep. No. 1358, *supra*, p. 5. The same passage appears in the House Committee Report on the Mundt-Nixon bill. House Rep. No. 1844, *supra*, p. 3.

[17] While this case was pending in the court below, Congress adopted the naked fiat of the Mundt bill by enacting section 4 of the Communist Control Act, which declares the petitioner by name to be a Communist-action organization.

3. The Device of Irrational and Vague Standards.

Section 13(e) is the second device employed by the Act to guarantee that a registration order would be issued against petitioner without the necessity for proof that it is a Communist-action organization. That section directs the Board to take eight criteria into consideration in making its determination. These, singly and collectively, have no reasonable relation to the ultimate facts to be established. Instead, they furnish irrelevant and vague standards which permit the Board to give a spurious rationalization to the legislative finding against petitioner.

(a) By the section 3(3) definition, a Communist-action organization is distinguished by two characteristics: (1) foreign control, and (2) advancement of the objectives attributed by section 2 to the world Communist movement, all of which are seditious. However, none of the criteria of section 13(e) (which were the only criteria applied by the Board) has any relevance whatsoever to the advancement of seditious objectives, and still less to those attributed by section 2 to the world Communist movement. Only three of the eight standards of 13(e) ("directives and policies," "non-deviation," and "secret practices") have anything to do with objectives, and none of these requires proof that the objectives referred to are those attributed to the world Communist movement or are seditious.

The court below (R. 2118, 2121, 2122), and the Board in its brief below (p. 72), agreed that the standards of section 13(e) have no relevance to the issue of whether an accused organization operates to advance the evil objectives described in section 2.[18]

Accordingly, section 13(e) admittedly authorized the Board to find that petitioner advances the seditions objectives described in section 2, without proof of that fact.

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[18] The Board stated (Br. 72): "Whether the individual foreign controlled policies are good or evil is irrelevant."

(b) As to foreign control, which is the first component of the section 3(3) definition, the situation is hardly better. On that issue, the tests supplied by 13(e) are nebulous, circumstantial, and largely irrelevant. This becomes plain when each is examined.

*"Directives and policies."* Section 13(e)(1) directs the Board to consider "the extent to which" the accused organization formulates and carries out its policies or performs its activities "pursuant to directives or to effectuate the policies" of the foreign government which directs and controls the world Communist movement described in section 2.

At first blush this seems to be merely a more involved statement of the 3(3) definition. But, as we have already seen, it is acknowledged that neither this nor the other tests are relevant to the second component of the definition, and in fact this standard does not require proof of the seditious objectives described in section 2.[19] Furthermore, section 3(3) states the two elements of a Communist-action organization in the conjunctive. Section 13(e)(1), however, refers to the elements of foreign control and objectives in the disjunctive. Accordingly, it authorizes the Board to infer foreign control from the fact that the alleged agent advances objectives which are not peculiar to the alleged principal, but which may be shared by, and may benefit, non-Communist individuals and governments, including our own. This is plainly irrational. Yet it is just what the Board did under this section (see *infra*, pp. 133-37).

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[19] Section 3(3) defines a Communist-action organization as one which operates to advance the seditious objectives ascribed to the world Communist movement and the Soviet Union by section 2. Section 13(e)(1), however, does not require the Board to consider whether the organization seeks to effectuate the alleged seditious Soviet objectives. Instead, it directs the Board to consider only whether the accused organization seeks to effectuate any policies of the Soviet Union, irrespective of their content.

*"Non-deviation."* Section 13(e)(2) directs the Board to consider "the extent to which" the accused organization's views and policies "do not deviate from those of" the Soviet Union. The section does not confine the inquiry to Soviet views and policies on particular matters. Accordingly, evidence of non-deviation with respect to any of the countless subjects on which the Soviet Union has expressed a view becomes proof of foreign domination and control and of a purpose to advance the seditious objectives ascribed to the world Communist movement by section 2.

This test is irrational in several respects.

(1) It permits the advancement of the seditious objectives described in section 2 to be established by proof of "non-deviation" from views and policies which are either unrelated to the national interest or are in fact calculated to promote the welfare of the United States and its people. The court below acknowledged that this standard has no relevancy to the objectives element of the section 3(3) definition, asserting that "the point" of the test is "foreign domination" (R. 2122).

(2) Identity of views cannot be a rational criterion of Soviet control if the views involved are not peculiarly characteristic of the Soviet Union, if they are widely held by non-Communists, if they are demonstrably true, or if they are independently arrived at. Yet the standard ignores these factors. Under this obscurantist test, the stigma of foreign control and sedition can be avoided only by adopting views which are demonstrably false if the Soviet Union has adopted views which are demonstrably true. In the area where views may reasonably differ, the stigma can be avoided only by mechanically opposing any position taken by the Soviet Union, regardless of its merits, thus subjecting oneself to Soviet control in reverse.[20]

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[20] As we later point out (*infra*, pp. 140-44), the Board applied all the irrational features of the non-deviation test, predicating guilt on views which concededly may be in the national interest, demonstrably true, widely held, and independently arrived at.

"*Financial Aid.*" Section 13(e)(3) directs the Board to consider "the extent to which" an accused organization "receives financial or other aid, directly or indirectly, from or at the direction of the foreign government or organization that directs, dominates and controls the world Communist movement described in section 2."

It is obvious that a contribution to a cause which the contributor deems worthy of support does not thereby subject the recipient to the "direction, domination or control" of the contributor. Nor does it make the recipient the agent of the contributor "to advance the objectives" of the latter, let alone to advance specific seditious objectives. History and experience provide many examples of aid by governmental and non-governmental bodies to organizations which they do not "dominate or control" and which operate to promote their own objectives, not those of the donor. Similarly, it is well known that bad people contribute to good causes, and vice versa.

This is not, of course, to deny the obvious truth that the giving or withholding of financial assistance may be a lever by which the contributor secures and exercises control of the recipient and shapes the latter's policies to conform with its own. In that case, the relevant consideration is not the bare fact of aid, but the terms and conditions, if any, on which it is given. But, as the court below acknowledged (R. 2123), section 13(e)(3) does not direct the Board to consider the relevant factor of terms and conditions, but focuses exclusively on the irrelevant factor of aid.[21]

"*Instruction and Training.*" Section 13(e)(4) directs the Board to consider "the extent to which" an accused organization "sends members or representatives to any foreign

[21] By the logic of section 13(e)(3), the foreign aid programs of the United States are proof of the charge that it "dominates and controls" other governments. Those who make this charge (which our government denies) do not base it on the irrelevant factor of financial aid, but on the terms and conditions attached to the aid.

country for instruction or training in the principles, policies, strategy or tactics" of the world Communist movement, as described in section 2.

This test is irrational because it does not require a showing that the accused organization is obliged to or does conform to what is taught.

*"Reporting."* Section 13(e)(5) directs the board to consider "the extent to which" an accused organization "reports to" the Soviet Union or the foreign organization which assertedly controls the world Communist movement. This test is irrational because it makes "reporting" proof of foreign control without regard to the nature and content of the "report," the purpose for which it was given, or its use, if any, by the recipient. Labor, business, religious, scientific, cultural and political organizations customarily receive reports at their gatherings as a means of exchanging and sharing knowledge, experiences, and ideas. Under the preposterous theory of this subsection, those who report at such gatherings furnish evidence that they are "dominated and controlled" by the sponsoring organization.

*"Discipline."* Section 13(e)(6) directs the Board to consider "the extent to which" the organization's "principal leaders or a substantial number of its members are subject to or recognize the disciplinary power" of the alleged foreign principal. This standard permits the condemnation of the organization upon proof of the disciplinary status or subjective attitude of some of its leaders or members, notwithstanding that they may be an unrepresentative or dissenting minority and that the organization itself is completely independent.[22]

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[22] In condemning a similar clause in the Mundt-Nixon bill, the antedecedent of the act, Mr. John W. Davis wrote the Senate Judiciary Committee in response to its request for his comments: "But assume, if you will that the organization contains some members or even some 'leaders' who * * * recognize the disciplinary power of such foreign government * * * how many or what proportion of such

*"Secret Practices."* Section 13(e)(7) directs the Board to consider "the extent to which" the accused organization conceals the identity of its members and the contents of its records, and otherwise operates on a secret basis "for the purpose of concealing foreign direction, domination or control, or of expediting or promoting its objectives."

This test is incapable of rational application. It makes "secret practices" relevant only if employed for the purpose of concealing foreign control or promoting the organization's objectives. The first of these purpose limitations involves circular reasoning, since foreign control is one of the ultimate facts to be established under section 3(3). Obviously, a standard whose application requires proof of an ultimate fact cannot be used to determine the existence of the ultimate fact. As to the second purpose limitation, if the reference is to promotion of the objectives attributed to the world Communist movement by section 2, then the same circuity exists. If, on the other hand, "objectives" embraces all possible organizational purposes, then the secrecy test has no rational relation to the ultimate fact to be proved.

*"Allegiance."* Section 13(e)(8) directs the Board to consider "the extent to which" the accused organization's "principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations" to the Soviet Union or the foreign organization which allegedly controls the world Communist movement.

The "allegiance" test is completely subjective. It directs an inquiry into a pure state of mind. Moreover, the section assumes the facts prerequisite to the state of mind into which the Board is to inquire. It does not direct the

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individuals are to be held sufficient to color the entire organization? What is to be the status of a dissenting member, a minority of members or even a majority who do not hold such views? Are they and the organization to be condemned on the principle of *noscitur a sociis*, i.e., guilt by association?" Senate Hearings, *supra*, p. 421.

Board to determine whether any of the organization's leaders or members owe obligations to the Soviet Union or a foreign organization. It assumes that they do owe such obligations and confines the Board's inquiry to the question whether the leader or members "consider" these obligations subordinate to their allegiance to the United States. Furthermore, this section, like that on "discipline," imputes to the organization the state of mind of its "principal leaders or a substantial number of its members" although they may be an unrepresentative or dissenting minority and though the organization itself is completely loyal.

(c) The standards of section 13(e) are vague, as well as irrational. The Act nowhere indicates whether a registration order must be supported by adverse findings under all eight standards, or whether something less is sufficient. In this connection it is significant that the Mundt-Nixon bill, which was the antecedent of the Act, directed the Board to consider "some or all" of the evidentiary standards which it contained. The vagueness of this language was criticized as unconstitutional by Mr. Charles Evans Hughes, Jr., who was invited by the Senate Judiciary Committee to comment on the pending measure (Senate Hearings, *supra*, p. 417). Mr. Seth Richardson, who later served as the first Chairman of the Board, commented in response to the Committee's invitation that this language "leaves the measure of the envelopment of the particular organization in any of the activities noted, to depend largely on the particular cast of mind of whatever person the bill proposes shall reach the conclusion" (*id.*, p. 445). It was apparently to avoid these criticisms that the words "some or all" were omitted from the bill as enacted. Clearly, however, this omission does not cure the defect, but only adds ambiguity to uncertainty.

The obscurity which thus envelops section 13(e) is made even more impenetrable by the phrase "the extent to which,"

which prefaces each of the eight standards. In commenting on this phrase, which appeared in the original Mundt-Nixon bill, Mr. John W. Davis stated: "Or take the introductory phrase itself as used throughout—'the extent to which, etc.'—what are the limits which these words envisage? To how great an extent, how customary a practice, how definite, pervasive, or continuous a policy? There would seem to be no room here for the application of any doctrine of *de minimis*." Mr. Davis concluded that the vagueness and uncertainty of the standards of the Mundt-Nixon Bill vitiated the entire bill. (*Id.*, pp. 420-22.)

The foregoing examination of section 13(e) shows that it perverts the function of the orthodox legislative enumeration of factors to be taken into account by an administrative agency in reaching its determination. The legitimate role of such an enumeration is to give definite content to a generalized ultimate standard.[23] In the Act, however, the ultimate standards established by section 3(9) are definite and meaningful, so that no implementation by subsidiary criteria or guides is required. The sole function of the irrational and vague standards of 13(e) is to authorize petitioner's conviction of one thing on proof of another.

4. The Device of a Biased Tribunal.

In addition to predetermining the essential findings and establishing vague and irrational standards of proof, the Act establishes a Board which is necessarily under compelling pressure to decide against petitioner and whose members have a personal stake, financial and otherwise, in so deciding.

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[23] For examples of legislation in which legislative guides were employed to give more definite content to generalized ultimate standards, see the statutes involved in *Yakus* v. *United States*, 321 U. S. 414; *Opp Cotton Mills, Inc.* v. *Administrator*, 312 U. S. 126; *Hampton, Jr. & Co.* v. *United States*, 276 U. S. 394; *Sunshine Anthracite Coal Co.* v. *Adkins*, 310 U. S. 381.

The Board is set up as a permanent agency, which originally had the sole function of identifying Communist-action organizations, their members, and Communist-front organizations. Since Communist-front organizations are by definition tools of a Communist-action organization, they can exist only if the Board finds that there is an action organization.[24]

The Act and its legislative history contemplate the existence in the United States of only one Communist-action organization, the petitioner (see *supra*, p. 44). And even if Congress had considered that there might be more than one, it is certain that it believed petitioner to be the principal organization of that character.

It is clear, therefore, that if the Board had decided that the petitioner was not a Communist-action organization, it would have prevented the Act from being applied to any organization at all. For there would be no other organization which could be charged with being a Communist-action organization and there could be no Communist-front organization.

This fact has been recognized by the Attorney General and the Board itself. Although the case against the petitioner was pending before the Board for over two years, the Attorney General instituted no proceeding during that time against any other organization. Yet only two days after the Board issued its decision against the petitioner, the Attorney General filed twelve petitions with the Board, all charging that the organizations named were Communist-front organizations controlled by the petitioner as a Communist-action organization. In the five years that the Act has been in existence, only one organization, the petitioner, has been charged before the Board with being a Communist-action organization.

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[24] After the registration order was issued, the Communist Control Act gave the Board the additional function of identifying Communist-infiltrated organizations. The definition of the latter also presupposes the existence of a Communist-action organization (sec. 3(4A)).

The first two chairmen of the Board both advised Congressional appropriation committees that the continued functioning of the Board depended entirely upon the entry of a registration order against petitioner. The first chairman of the Board advised the appropriations committee:

> "Now, of course, the fundamental agency that covers all of these 130 organizations [on the Attorney General's list of 'subversive organizations'] is the Communist Party because they are all splinter groups from the Communist Party, and if the Communist Party is not found to be subversive then this splinter group cannot be so found." [25]

The second chairman of the Board informed the committee (emphasis supplied):

> "The Attorney General advises that some 25 petitions will be filed with the Board during the balance of this fiscal year *in the event that the Board's final decision orders the Communist Party so to register.*" [26]

Thus it appears that the Board was told, in *ex parte* conversation with the only litigant empowered to initiate proceedings before it, that it would get additional business only if it decided for that litigant in the pending case against petitioner.

The following colloquy regarding the case against petitioner also occurred between a member of the appropriations sub-committee and the second chairman of the Board:

> "Mr. Cotton: The case is of paramount importance, upon which the whole structure rests, and without which there can be no structure.
>
> "Mr. Brown: Yes." [27]

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[25] Hearings before Subcommittee of Committee on Appropriations, H.R., 81st Cong., 2d Sess., on Second Supplemental Appropriations Bill for 1951, p. 263.

[26] Hearings on Independent Offices Appropriations for 1954 before Subcommittee of Committee on Appropriations, H.R., 83rd Cong., 1st Sess., p. 188 (Feb. 23, 1953), and see also at pp. 190, 196-198.

[27] Id., pp. 198-199. For testimony to the same effect given by Mr. Brown a year earlier, see Hearings on Independent Offices Appro-

The "structure," of course, was the Board and the Act.

As its chairmen recognized, the Board, therefore, could not have decided in favor of the petitioner without rendering itself *functus officio* and, in effect, repealing the Act. It is inconceivable that an administrative agency would have the temerity to frustrate the will of Congress by repealing the Act which created it. Accordingly, irresistible pressure was exerted on the agency to decide in the only way which would preserve the Act and the agency—that is, against the petitioner.

The pressure on the Board to preserve itself and the Act by deciding against petitioner was intensified by considerations of personal interest. The members of the Board had to rule against petitioner if they were to have any further business and thus keep their jobs, salaries, and the appointment patronage available to them as heads of an agency. The Board's staff, including those employees who assisted the Board in analyzing the record and preparing the decision, had a similar job interest in seeing that the order was adverse to petitioner.

## II. The Act Violates the Due Process Prohibition Against Fiat Legislation

Since the order of the Board deprives petitioner and its members of liberty and property, it may not constitutionally be entered without a hearing. *Joint Anti Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123; *Morgan* v. *United States*, 304 U. S. 1. If any of the elements requisite to a determination of liability are found legislatively, rather than by means of the hearing, the due process clause has been violated. *Manley* v. *Georgia*, 279 U. S. 1; *Western and Atlantic Railroad* v. *Henderson*, 279

priations for 1953 before Subcommittee of Committee on Appropriations, H.R., 82d Cong., 2d Sess., pp. 245, 248 (Jan. 16, 1952).

U. S. 639; *McFarland* v. *American Sugar Refining Co.*, 241 U. S. 79; *Tot* v. *United States*, 319 U. S. 463.

The Act violates due process because in two respects it legislatively determines elements essential to the issuance of a registration order against petitioner.

(1) As we have seen, it is uncontroverted that there has been a legislative predetermination of the existence, objectives and nature of a world Communist movement, which is binding on the Board and the courts. The court below so decided, and the Board conceded this to be the case in its brief (*supra*, p. 42).

The court below held (R. 2132) that this legislative predetermination was not a violation of due process for the reason that:

> "The rule, as we understand it, is that, if it appears Congress has power over the subject matter of a statute, and if the findings of fact are not baseless but are based on extensive investigation, the courts are to adopt these findings."

It is apparent, however, that the court relied on an inapplicable "rule." The principle to which it referred is applicable only to "legislative" as distinguished from "adjudicative" facts. As the Board itself has pointed out, a distinction must be made between "the *legislative* facts which reasonably tend to establish a situation which Congress, on investigation, has found to require legislative action, and the *adjudicative* facts which, on proof in adversary litigation, bring a specific organization or person within the purview of the legislation enacted." Due process, as the Board recognized, requires that in the administrative proceeding an organization "be allowed to litigate . . . the operative facts which bring it under the coverage of the Act." Legislative facts, on the other hand, "are general conclusions which support the policy of a particular law, and can be attacked only by showing that Congress acted

arbitrarily or unreasonably, or beyond its delegated powers." [28]

The issue, therefore, is whether the existence, objectives and nature of the world Communist movement are legislative or adjudicative facts. Clearly they are the latter, since their existence is a prerequisite to bringing an organization under the coverage of the Act.

Petitioner has been ordered to register as a "Communist-action organization." The first component of the definition of such an organization is that it is the agent of the foreign government or foreign organization which controls "the world Communist movement referred to in section 2." The fact of such agency is obviously and concededly (R. 2118; Br. in Opp. to Cert., p. 15) an adjudicative or operative fact. Hence due process requires that petitioner be allowed to litigate the existence of this fact. But agency cannot exist without a principal. Therefore, due process requires that the petitioner be allowed to prove that there is no principal by showing that there is no world Communist movement as defined by section 2, and that consequently there is no foreign government or organization which controls that movement and can be the alleged principal.

The second half of the definition of a Communist-action organization is that it "operates primarily to advance the objectives of such world Communist movement as referred to in section 2". Due process requires that petitioner be allowed to litigate the adjudicative or operative fact of whether it operates to advance the described objectives. This means that petitioner must be allowed to prove that it does not so operate because (a) there is no such world Communist movement, and hence there can be no such objectives; or (b) if there is a world Communist movement, it does not have the objectives ascribed to it, and hence petitioner can not operate to advance them.

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[28] See Brief for Respondent in Opposition to Petition for Certiorari, pp. 13-16; Brief for Respondent in court below, p. 61-62.

Section 2, however, precludes petitioner from litigating any of the foregoing adjudicative facts. In short, petitioner has been ordered to register and label its publications and broadcasts as the agent of a foreign principal, without being allowed to prove the non-existence of this principal. It has been ordered to register (and label) as an organization which advances specified seditious objectives of a foreign movement, without being allowed to prove that the movement does not exist or does not have those objectives. Petitioner has, therefore, been foreclosed by legislative fiat from litigating adjudicative facts. This is a palpable violation of due process.

(2) As we have seen, the Act not only predetermines the "facts" concerning "the world Communist movement," but also finds the existence of a domestic organization having the characteristics of a Communist-action organization and identifies petitioner as that organization. It is true that findings as to these facts, unlike the findings as to the world Communist movement, are ostensibly left to administrative determination. But, as we have pointed out, the distinction is of no consequence (*supra*, pp. 43-44). Hence the Act violates due process by effectively removing from independent adjudication the identity of petitioner as a Communist-action organization.

The court below answered this contention on the grounds (R. 2116) that "Petitioner is not mentioned." But the fact that petitioner is not referred to by name in the text of the Act is an irrelevancy in the face of the facts that section 2 makes findings as to the existence and characteristics of a domestic Communist-action organization, that it unequivocally identifies petitioner as this organization, and that the name itself was supplied by the legislative history.

Moreover, section 4 of the Communist Control Act declares petitioner by name to be a Communist-action organization. The purpose and intended effect of that

section, enacted while this proceeding was pending below, was to influence the court below to affirm the Board's order. So far as petitioner and its members are concerned, section 4 has no other conceivable function. And the Congressional debates are replete with exhortations as to the necessity for judicial affirmance of the order of the Board. (See, e.g., 100 Cong. Rec., pp. 13849, 13945, 13956, daily pagination.) If courts are not susceptible to such pressure, section 4 has nevertheless effectively destroyed petitioner's constitutional right to judicial review of the administrative action. Inherent in that right is the assurance that in the event of a remand the petitioner can secure a fair administrative redetermination. If that were possible before the enactment of section 4 (and it was not), it is clearly impossible now.

Section 2 differs from a conventional legislative preamble in two vital respects. (1) Its findings concerning the world Communist movement are incorporated into the definition and the evidentiary standards of the Act as assumptions of fact which the Board is required to accept. (2) Other findings of section 2 which identify petitioner as the Communist-action organization in the United States are on the precise issues which are ostensibly to be adjudicated by the Board, so that the Board could not have decided in favor of petitioner without overruling Congress. The Act thus violates due process because it legally removes from administrative adjudication the operative facts concerning the world Communist movement and in fact removes from administrative adjudication the existence and identity of the organization within the Act's coverage.

## III. The Act Is a Bill of Attainder

"A bill of attainder is a legislative Act which inflicts punishment without judicial trial." *Cummings* v. *Missouri*, 71 U. S. 277, 323. As stated in *United States* v. *Lovett*,

328 U. S. 303, 315, and repeated in *Garner* v. *Board of Public Works*, 341 U. S. 716, 722:

> "... legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial, are bills of attainder prohibited by the Constitution."

The Act, as we have seen, determines petitioner's guilt by legislative fiat and identifies petitioner and its members as the objects of statutory sanctions. But even if it is assumed, arguendo, that the Board was free to make an independent determination, still the Act denies petitioner a judicial trial and imposes sanctions on "easily ascertainable members of a group." For petitioner is accorded only an administrative hearing, not a judicial trial, and the Act imposes various sanctions on the organization identified by the registration order and on its members. Accordingly, if the registration order and the sanctions on organizations and their members "inflict punishment," the Act meets the definition of a bill of attainder and is invalid.

The distinction which must be made is between "regulation" of future conduct, which may constitutionally be imposed through the administrative process, and "punishment" of past conduct, the infliction of which requires a judicial trial. Clearly the Act does inflict punishment and does not regulate. The Act makes compliance with a registration order impossible (*supra*, pp. 28-33). Hence there can be no "regulation" through disclosure, and none was intended. The purpose of regulation is to confine an organization to non-deleterious conduct. But a registration order prevents the organization from engaging in any activity, however innocent and beneficial. It imposes a death sentence on the organization, and this is as obviously penal as execution of an individual.

The sanctions individually, as well as in their cumulative impact, are also penal. Compelling the organization pub-

licly to brand itself and its members by registering both as seditious conspirators has the punitive function of the pillory. The requirements for the invidious labelling of literature and broadcasts are punitive because their function is to stigmatize the organization and deny it an audience, regardless of the content of the material. Non-punitive regulation could be made only on the basis of content, as when obscene or lewd literature is barred. Cf. *Donaldson* v. *Read Magazine*, 333 U. S. 178, 191-192. Similarly, the limitation on financial contributions to the organization, regardless of their purpose and use, is punitive because its only effect is to injure, not to keep activities within proper bounds.

The Act deprives the organization's members of numerous privileges and subjects them to serious disabilities, regardless of their individual fitness to enjoy the privileges denied them. Since *Cummings*, it has been clear that the deprivation of privileges constitutes punishment if the grounds for deprivation have no reasonable relation to the fitness of persons to utilize or enjoy the privileges.[29] Under the Act, members of petitioner are conclusively determined to be unfit and ineligible to hold public office, a wide range of private employment, and passports. These disabilities are imposed solely because of association, without reference to the fitness of the individuals to enjoy these privileges if judged on their own merits as individuals, and even without regard to their lack of knowledge of the allegedly evil character of the organization. (See *infra*, pp. 72-75.)

The nature, number, and destructive impact of the sanctions on members, and their setting in the Act, demonstrate that they are punishment. They go far beyond the single, limited "loss of position" which *American Communications*

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[29] See *Cummings* v. *Missouri*, *supra*, at 320; *Garner* v. *Board of Public Works*, *supra*, at 722; *Dent* v. *West Virginia*, 129 U. S. 114; *Hawker* v. *New York*, 170 U. S. 189, 198; *United States* v. *Lovett*, *supra*.

*Association* v. *Douds*, 339 U. S. 382, 413, 414, held was intended merely "to forestall future dangerous acts."

A member of the organization can escape the disabilities by leaving it. But a forced deprivation of the privilege of association is itself punishment. As *Cummings* held (at 324): "These bills may inflict punishment absolutely, or may inflict it conditionally." *Douds* stated (at 413-14) that such an escape possibility is an indication that a sanction is not punishment. But this is contrary to *Cummings* and is logically and historically unsound. The possibility of escaping punishment by recantation does not negative the fact of punishment. If Congress were to place special disabilities on members of a particular religion the legislation would be invalid as a bill of attainder even though the members could avoid the disabilities by abandoning their church.

Moreover, if the members of an organization escape the Act's sanctions by leaving it, then by that fact alone the organization is destroyed. The organization has no escape from the registration death sentence which the Act visits against it. Hence the comment in *Douds*, even if correct, has no bearing on the attainder of the organization.

The Act has all the historical earmarks and practical effects of bills of attainder. They are characteristic of periods of savage political intolerance and hysteria. See Story's *Commentaries*, sec. 1344. They commonly represent a charge made by an angry and vindictive legislature of subverting the government or engaging in acts claimed to be prejudicial to the national security. See, e.g., bills attainting the Earl of Strafford, 3 How. St. Tr. 1382, 1518; Earl of Clarendon, 3 How. St. Tr. 318, 392; Bishop of Rochester, 16 How. St. Tr. 323; Archbishop Laud, 4 How. St. Tr. 598, 599. They are used where the evidence is insufficient to prove guilt or where the government is not satisfied with the severity of the punishment conventionally

imposed for an offense. Woodeson, *Law Lectures* (1792), 653 ff.; Miller, *Lectures on Constitution of the United States* (1893) 584. As we have seen, these are precisely the considerations which inspired the Act and determined its form.

## IV. The Irrational and Vague Criteria of Section 13(e) Violate Due Process

1. Section 13(e) establishes rules of evidence which authorize the Board to infer that an organization is a Communist-action organization from the fact that it engages in one or more of eight practices. We have already seen that these practices are not relevant to the ultimate issues defined by section 3(3). The presumptions established by section 13(e) therefore violate due process.

Congress has the power to prescribe rules of evidence, including presumptions, in judicial or administrative proceedings. But that power is limited by the due process clause, which forbids the substitution of legislative fiat for proof. As stated in *Tot* v. *United States*, 319 U. S. 463, 467:

> "But the due process clauses of the Fifth and Fourteenth Amendments set limits upon the power of Congress or that of a state legislature to make the proof of one fact or group of facts evidence of the existence of the ultimate fact on which guilt is predicated . . . . Under our decisions, a statutory presumption cannot be sustained if there be no rational connection between the fact proved and the ultimate fact presumed, if the inference of the one from proof of the other is arbitrary because of lack of connection between the two in common experience."

And as stated in *Manley* v. *Georgia*, 279 U. S. 1, 6:

> "A statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the due process clause."

Accordingly, the legislature may validly establish a presumption of fact only (1) if there is a rational connection between the fact to be proved and the ultimate fact to be presumed, and (2) if the presumption is not made conclusive of the rights of the person against whom it is raised. *Manley* v. *Georgia, supra; Adler* v. *Board of Education,* 342 U. S. 485, 496; *Tot* v. *United States, supra; Western & Atlantic Railroad* v. *Henderson,* 279 U. S. 639; *McFarland* v. *American Sugar Co.,* 241 U. S. 79; *Bailey* v. *Alabama,* 219 U. S. 219.

Section 13(e) violates both of the due process tests established by these decisions. First, as our analysis has shown, the presumptions created by section 13(e) are arbitrary and unreasonable (*supra,* pp. 46-52).

Second, the presumptions established by section 13(e) are not *prima facie,* as were those in the cited cases, but conclusive. The section does not permit the accused organization to show that the context in which the enumerated practices occurred negatives any rational inference that the organization is under foreign control or operates to effectuate the seditious objectives described in section 2. Nor does the section seem to permit the Board to "take into consideration" matters other than those enumerated. The Board's Report indicates that the Board considered the 13(e) criteria to exclude all matters not within their scope.

The court below attempted to meet our attack on section 13(e) by stating (R. 2120):

> "The statute says nothing about presumptions * * *. The section is a catalog of some basic considerations. There are no statutory presumptions."

Obviously, however, as the *Tot* line of cases makes perfectly plain, a statutory presumption is a grant of authority to infer an ultimate fact from proof of other facts. This is exactly what section 13(e) does.

The court below also held that any defect in the section 13(e) standards is not fatal because the "catalog in Section 13(e) is not exclusive" (R. 2119). That assertion, even if true, would not save the Act. The fact that the Act authorizes the Board to decide on the basis of irrational standards is enough to invalidate it.[30] As stated in *Bailey* v. *Alabama*, 219 U. S. 219, 235:

> "It is not sufficient to declare that the statute does not make it the *duty* of the jury to convict, where there is no other evidence but the breach of the contract and the failure to pay the debt. The point is that, in such case, the statute *authorizes* the jury to convict. It is not enough that the jury may not accept that evidence as alone sufficient; for the jury may accept it, and they have the express warrant of the statute to accept as a basis for their verdict. And it is in this light that the validity of the statute must be determined." (Emphasis in original.)

The fact is that the Act is invalid if any one of the standards of 13(e) is irrelevant to the ultimate issue. This appears not only from *Bailey* v. *Alabama*, but from the elementary logic that if any one of the propositions from which a conclusion is drawn is not valid, then the conclusion itself has not been demonstrated valid. Yet, as we have seen, the Board acknowledged below, and the court agreed, that while section 3(3) defines a Communist-action organization as one which promotes the seditious objectives attributed to the world Communist movement by section 2, section 13(e) authorizes the Board to issue a registration order without any proof whatsoever that the accused organization promotes these objectives. It is unnecessary to go beyond this single irrationality, the fact of which is not contested, to conclude that the Act is invalid.

The court below attempted to meet the contention that section 13(e) thus establishes an irrational system of proof, by stating (R. 2118-2119):

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[30] Furthermore, the Board rested its decision exclusively on the standards of 13(e). See *infra*, pp. 120-58.

> "The Party says that by the definition in Section 2 of the statute the world Communist movement engages in espionage, treason, etc., whereas none of the eight 'tests' to be applied to a domestic organization involves any of those offenses; and that thus the whole of Section 13(e) is irrational. The argument misconceives both the text and the purpose of the section. The inquiry with which the statute as a whole is concerned is in two separate parts: (a) What is the world Communist movement? That is dealt with in Section 2. (b). Is a certain domestic organization under the domination and control of that movement, and does it operate primarily to achieve its objectives? * * *. The so-called 'tests' in section 13(e) are directed at the latter problem alone. Thus construed, as it obviously was intended to be, the section is apt and cogent."

This passage begs the questions. If one of the issues of "the latter problem" is whether the domestic organization operates to achieve the objectives of the world Communist movement, all of which, as enumerated in section 2, are seditious and unlawful, that issue cannot rationally be resolved against the organization by proof that it operates to achieve only benign and lawful objectives.

The court below shifted its position when it discussed the "directives and policies" test of section 13(e)(1), stating (R. 2121):

> "The Party says that the 'directives and policies test' in Section 13(e)(1) is irrational. It says that the statutory definition of a Communist-action organization in Section 3(3) refers only to organizations which pursue objectives which are 'evil', whereas the test section refers to any objectives, good or bad.
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> * * * * * * *
>
> "The crucial factor in the statute before us is the aim, spelled out in detail, of the world Communist movement to disestablish our system of government. Our government may well oppose the establishment of a totalitarian dictatorship of the sort described in the definition, even if such a dictatorship does not meet the definition of 'evil' or even if it has many beneficent features."

But if "the crucial factor in the statute" is the alleged aim of the world Communist movement to disestablish our system of government, an accused organization cannot rationally be found to be a "Communist-action" organization in the absence of proof that it is engaged in promoting that aim. Yet no such proof is required by section 13(e) or by any other section.

Moreover, the "crucial factor in the statute" is not simply the aim of the postulated world Communist movement to disestablish our system of government, but to do so by violent and unlawful means (e.g., sec. 2(6), (15)). Indeed it is only the latter factor which can support the finding of section 2(15) that the American agent of the postulated world Communist movement presents "a clear and present danger to the security of the United States." Accordingly, an organization which operates to bring about a change in the existing social order in this country by peaceable and constitutional means cannot be a Communist-action organization. Yet none of the standards of section 13(e) requires proof that an organization operates to bring about social change through the use of violent or unconstitutional means. There is, therefore, no rational relation between the finding that an organization is a Communist-action organization and the evidence upon which the Act authorizes the Board to predicate the finding.

2. The internal vagueness of the tests of section 13(e) (*supra*, pp. 52-53) strips it of any ascertainable standard of judgment. In the words of the first chairman of the Board, section 13(e) commits the decision to "the particular cast of mind of whatever person the bill proposes shall reach the conclusion" (*supra*, p. 52).

Such an unfettered delegation of power violates due process and Article I, section 1 of the Constitution. *Burstyn* v. *Wilson*, 343 U. S. 495; *Winters* v. *New York*, 333 U. S. 507; *Niemotko* v. *Maryland*, 340 U. S. 268; *Kunz* v.

*New York*, 340 U. S. 290; *Musser v. Utah*, 333 U. S. 95; *Stromberg* v. *California*, 283 U. S. 359; *Herndon* v. *Lowry*, 301 U. S. 242; *Connally* v. *General Construction Company*, 269 U. S. 385; *United States* v. *Cohen Grocery Co.*, 255 U. S. 81; *Small* v. *American Sugar Refining Co.*, 267 U. S. 233; *International Harvester Co.* v. *Kentucky*, 234 U. S. 216; *Lanzetta* v. *New Jersey*, 306 U. S. 451; *Champlin Refining Co.* v. *Commission*, 286 U. S. 210; *Cline* v. *Frink Dairy Co.*, 274 U. S. 445; *Panama Refining Co.* v. *Ryan*, 293 U. S. 188; *Schechter Corp.* v. *United States*, 295 U. S. 495.

In the cited cases, criminal and regulatory statutes containing far more definite and ascertainable standards than section 13(e) were invalidated for their failure to measure up to this essential requirement of due process. The presence of narrowly drawn and definite standards is of special importance where, as here the conduct subject to regulation lies in the preferred area guarded by the First Amendment. *Burstyn* v. *Wilson; Winters* v. *New York; Niemotko* v. *Maryland; Kunz* v. *New York; Stromberg* v. *California; Herndon* v. *Lowry*, all *supra*.

In *Winters*, Mr. Justice Reed prophetically wrote (at 518):

> "The present case as to a vague statute abridging free speech involves the circulation of only vulgar magazines. The next may call for decision as to free expression of political views in the light of a statute intended to punish subversive activities."

This is the "next case" anticipated in *Winters*. If political expression is to be protected by the same due process standard that safeguards vulgar magazines, the Act must be condemned for failure to meet that standard.

## V. The Act Violates Due Process by Establishing a Board Which Is Necessarily Biased and Has an Interest in the Event.

As we have shown (*supra*, pp. 53-56), the structure of the Act insured that the Board would be inevitably biased against petitioner. The Board could not have decided in favor of petitioner without rendering itself *functus officio* and, in effect, repealing the Act. Moreover, the Board members had a personal interest in ruling against petitioner in order to keep their jobs, salaries, and appointment patronage.

By establishing a tribunal which was subject to irresistible pressures to decide in one direction, and which necessarily had a personal interest in the outcome of the proceeding, the Act denied the petitioner a fair hearing and thus deprived it of due process of law. "When the Constitution requires a hearing, it requires a fair one, one before a tribunal which meets at least currently prevailing standards of impartiality." *Wong Yang Sung* v. *McGrath*, 339 U. S. 33, 50. "Trial must be held before a tribunal not biased by interest in the event." *Fay* v. *New York*, 332 U. S. 261, 288. "Fairness of course requires an absence of bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome." *In re Murchison*, 349 U. S. 133, 136.

The fact that the Board members had a personal, financial stake—the keeping of their salaried jobs—in finding against the petitioner, as well as an official stake in preserving the Act and the Board, made the Board an incompetent tribunal. *Tumey* v. *Ohio*, 273 U. S. 510, flatly holds that it is a violation of due process to commit adjudication to one who has either a financial or official stake in the outcome of the case. The Court stated (at 532):

> "Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear and true between the state and the accused denies the latter due process of law."

The jobs of the members of the Board staff, including those who assisted the Board in preparing the decision, were also staked on a decision adverse to the petitioner. The Board's reliance on such interested staff members in reaching its decision was at least as unfair as if it had utilized findings prepared by the active prosecutors for the government after an ex parte discussion which the petitioner had no opportunity to meet. Yet the latter procedure was held in *Morgan* v. *United States*, 304 U. S. 1, 22, to vitiate adjudication as "a vital defect."

In the *Fay* case *supra*, at 288, the Court recognized that a system of jury selection "could be so manipulated as to call a jury before which defendants would have so little chance of a decision on the evidence that it would constitute a denial of due process." The statute here so manipulates the character of the Board that petitioner had no chance at all of a decision on the evidence.

The Act embodies a much greater tampering with the administrative judgment than anything the Attorney General was alleged to have done in *United States ex rel. Accardi* v. *Shaughnessy*, 347 U. S. 260. Congress not only listed the petitioner as an "unsavory" organization marked for registration, but also made the Board's tenure of office and the continued existence of the Act dependent on an administrative determination adverse to petitioner. Under these circumstances the denial of due process is patent.

## VI. The Act Deprives Petitioner's Members of Liberty and Property Without Due Process of Law.

As we have seen (*supra*, pp. 29-32), a final registration order will result in intolerable sanctions on petitioner's members. The names of the members must be registered on an opprobrious list, either by the organization or themselves. The members are barred from virtually all employment, public and private. They are denied the right to travel abroad. Naturalized members may lose their citizenship.

The rights, privileges, and interest in reputation of which the members are deprived clearly constitute "liberty and property," protected by the due process clause.[31] Since the disabilities imposed on the members directly affect and injure petitioner, petitioner has standing to challenge their validity. For the test of standing is whether the action challenged substantially affects the interests of the complainant in a reasonably direct manner. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123, 152-154, 187.[32]

The Act deprives the organization's members of constitutionally protected rights and privileges solely because of

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[31] *Williams* v. *Fears*, 179 U. S. 270, 274; *Truax* v. *Raich*, 239 U. S. 33, 41; *Wieman* v. *Updegraff*, 344 U. S. 183; *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123; *Schachtman* v. *Dulles*, App. D. C., No. 12,406, decided June 23, 1955. We recognize that *Galvan* v. *Press*, 347 U. S. 522, is decisive of the validity of the deportation and exclusion sanctions. Although the case seems to us to be wrongly decided, we do not press the argument as to those sanctions.

[32] And cf. *Pierce* v. *Society of Sisters*, 268 U. S. 510 (school permitted to challenge statute depriving pupils of due process); *Truax* v. *Raich*, 239 U. S. 33 (employee permitted to challenge statute depriving employer of due process); *Buchanan* v. *Warley*, 245 U. S. 60 (white grantor permitted to challenge statute depriving Negro grantee of due process); *Barrows* v. *Jackson*, 346 U. S. 249 (white grantor permitted to assert as defense constitutional right of Negro grantee).

the fact of membership. The Act thus represents an extreme case of imposing liability on individuals not for their misconduct, but solely because of their association.[33] It does so, moreover, without regard to the member's lack of knowledge of the claimed illicit purposes of the organization. Yet exclusion even from public employment cannot be imposed for organizational membership in the absence of such scienter on the part of the individual. *Wieman v. Updegraff*, 344 U. S. 183.

Furthermore, in *Adler* v. *Board of Education*, 342 U. S. 485, the Court unequivocally ruled that an individual could not be barred from teaching in the public schools even for knowing membership in a seditious organization unless he had an opportunity to prove that notwithstanding his membership he was fit to be a school teacher. The Court stated (at 495) that the statute involved was valid because the presumption of ineligibility arising from knowing membership "is not conclusive but arises only in a hearing where the person against whom it may arise has the full opportunity to rebut it." The Court added (at 496, emphasis supplied):

> "Where, as here, the relation between the fact found and the presumption is clear and direct *and is not conclusive*, the requirements of due process are satisfied."

Since the Act does not require scienter for the application of its sanctions against members, it is denounced by *Wieman*. Since, in addition, it makes conclusive a presumption of unfitness arising from membership, it is denounced by *Adler*.

The court below held that the scienter requirement of *Wieman* was satisfied on the grounds that (1) a member has knowledge of his membership; and (2), "The statute

[33] In this respect the Act also violates the First Amendment. See *infra*, pp. 100-05.

before us requires that before these sanctions apply a member must have 'knowledge or notice' that the organization has registered or been finally ordered to register" (R. 2103). These grounds are both irrelevant and inaccurate.

As *Wieman* makes abundantly clear, the scienter required by due process is personal knowledge that the organization has deleterious purposes. The requirement is not satisfied by knowledge of membership. Nor is it satisfied by knowledge or notice that the organization has been governmentally condemned. Moreover, in a case arising under the Act, knowledge that an organization has been found to have seditious or otherwise evil purposes cannot be inferred from knowledge that it has been ordered to register. For the court below held that a registration order may be issued without proof of such purposes (see *supra*, p. 46).

Furthermore, the court misread the statute in stating that knowledge or notice of a registration order is a prerequisite to the imposition of the sanctions. Under the Act, such notice[34] is necessary to support criminal prosecutions for applying for a forbidden job or a passport or for a member's failure to register himself if the organization failed to list him (secs. 5(a), 6(a), 8(b), 15(a)(2)). But this limited "scienter" is not necessary to the imposition of the civil sanctions and disabilities of the Act. For employers must deny a member employment and the government must withhold a passport from him, without reference to any kind of knowledge or notice on his part (secs. 6(b) and 5(a)(2)).

Finally, in view of the vague criteria of membership established by section 5 of the Communist Control Act, it is not true that "members" have knowledge of their membership. (See *infra*, pp. 75-82.)

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[34] Under section 14(k), notice of a registration order is given to members by publication in the Federal Register of the fact that the order has become final.

The sanctions which the Act imposes on the members also violate the due process principle that a regulatory law "shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be obtained." See *Nebbia* v. *New York*, 291 U. S. 502, 525. As we later show (*infra*, pp. 100-05), the sanctions are arbitrary and do not have a real and substantial relation to any objective within the competence of the federal government.

## VII. The Act Violates Due Process Because It Is Impossible Under Section 5 of the Communist Control Act to Determine Who Are Members of the Petitioner.

The Act makes it necessary for petitioner and its officers to determine who are members of petitioner. If the order of the Board becomes final, petitioner and its officers will be required to list the names of all the members in petitioner's registration statement (sec. 7(d)(4)). Other persons must determine whether they are members of petitioner in order to know whether they may lawfully hold certain jobs, apply for passports, or obtain naturalization. They must make the same determination in order to know whether they must register themselves upon the failure of the organization to file a registration statement listing their names.

Section 5 of the Communist Control Act (50 U.S.C. 844) sets forth criteria for determining membership in the Communist Party and makes the rule of evidence which it thus establishes applicable to all court proceedings where such membership is in issue. Accordingly, in preparing petitioner's registration statement, petitioner and its officers must apply the criteria of section 5 of the Communist Control Act if they are to avoid the criminal penalties of section 15 of the Act for failure to list a member or for making a false

listing. Other persons must similarly apply the section 5 criteria if they are not to incur the penalties of section 15 for engaging in conduct forbidden to members of Communist-action organizations and for failure to register themselves if petitioner does not list their names.

Section 5, however, prescribes such vague and irrational criteria that it is impossible for petitioner, its officers or others to determine the identity of petitioner's members. Moreover, the application of these criteria requires a knowledge of facts which petitioner and its officers cannot have or obtain. Section 5 thus unsettles and invalidates the Act as a whole, including the registration requirements.

Section 5 provides that "in determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented" as to 13 separate critera enumerated in the section. Even before examining the 13 criteria which follow, the introductory provision which we have quoted demonstrates that the entire section is invalid for two reasons.

In the first place, the quoted provision does not make the rule of evidence enunciated in section 5 applicable to prove membership in all organizations, but only in the Communist Party and in organizations which seek to effectuate the violent overthrow of the government. Obviously, there can be no rational basis for this classification.

Secondly, it appears from the introductory provision of section 5 that evidence as to one or more of the thirteen criteria of that section are admissible to prove indiscriminately (1) membership in petitioner, (2) "participation" in the petitioner, and (3) knowledge of the purpose or objective of the petitioner. Surely the identical criteria cannot rationally prove all three of these relationships, which involve entirely different concepts. Participation may exist without membership; knowledge of purpose may exist

without either membership or participation; and membership or participation may exist without knowledge of purpose. *A priori*, before examining the individual criteria, it is apparent that a system of proof which equates membership, participation and knowledge of purpose must either be wholly irrational or based on vague and indefinite evidentiary standards or both.

Turning to the thirteen criteria themselves, it should first be noted that none of them is limited as to time. Any conduct within one of the criteria serves as evidence of *present* membership irrespective of the fact that it occurred in the remote past. Such a rule of evidence is patently irrational.

Under paragraphs (5) and (7) of section 5, a court and jury may infer membership in petitioner from the fact that the individual in question has acted in *any* capacity "in behalf of" petitioner or "has been accepted to his knowledge * * * as one to be called upon for services" by petitioner's officers or members. Under these paragraphs the fact that a person supplies professional or business services to the petitioner or that his services are recommended by the petitioner or its members furnishes evidence that he is a "member" of petitioner. Under paragraph (2), a person who lends money to petitioner, regardless of the purpose and terms of the loan (including, for example, a mortgagee, or seller of goods on a running account) likewise furnishes such evidence.

Under paragraphs (6) and (11) membership may be inferred from the fact that the individual in question has "conferred with" officers or members of petitioner "in behalf of any plan or enterprise" of petitioner or "has advised, counseled or in any way imparted information, suggestions [or] recommendations" to any of petitioner's officers or members "in behalf of the objectives" of petitioner. As the Report of the Board acknowledges (R. 77), the petitioner is engaged in carrying out "plans" and "enterprises"

and in achieving "objectives" which are not only innocent but directed toward desirable social reforms, including the promotion of the trade union movement, the enactment of improved social security and welfare legislation, the elimination of discrimination against the Negro people, etc. Yet under paragraphs (6) and (11) any person who consults or advises with any officer or member of petitioner with reference to these praiseworthy "plans," "enterprises' or "objectives" thereby furnishes evidence that he is a member of petitioner.

Paragraphs (4), (9), (10), (11), (12), and (13) eliminate contact or communication between the individual in question and officers or members of the petitioner as a requisite to evidence of membership. Under these paragraphs, the holding of views similar to those expressed by Communists or even an attitude of receptivity to the views of Communists is made evidence of membership. These paragraphs permit a finding of membership from the fact that the individual in question:

1. Has executed plans of any kind of the petitioner (paragraph (4)).

2. Has prepared or circulated any written material "in behalf of the objectives and purposes" of petitioner (paragraphs (9) and (10)).

3. Has imparted information, suggestions, or recommendations to anyone "in behalf of the objectives" of the petitioner (paragraph (11)).

4. Has indicated in any way "a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes" of the petitioner (paragraph (12)).

5. Has "in any other way participated in the activities, planning, actions, objectives, or purposes of the organization" (paragraph (13)).

Under these paragraphs, anyone who has ever expressed a view or taken a position on any public question which is similar to the view or position taken by the petitioner, thereby furnishes evidence of his membership in petitioner. If he even so much as attends a public meeting called by petitioner or purchases a piece of its literature, he may be found, by that fact, to have indicated a willingness to carry out its plans, and hence to have supplied evidence of "membership." Indeed, since petitioner holds meetings with the purpose of attracting the public and publishes literature with the purpose of securing readers, attendance at a meeting or the purchase of literature ipso facto executes petitioner's "plan" to gain an audience.[35]

Under paragraph (8), a court and jury may consider as evidence of membership the fact that an individual has communicated in any way or form "orders, directives or plans" of the petitioner. A newspaper reporter who writes a story from one of petitioner's press releases, reports a speech by one of its officers, or purports to "expose" its plans thereby furnishes evidence of his "membership" in petitioner.

In short, under the criteria of section 5, almost anyone may be found to be a member of petitioner.[36] For this

[35] Commenting on section 5, the *Newark Ledger* stated, "Such a law might be used to herd into prison thousands of persons who have never been Communists and who have no basic sympathy with the Communist conspiracy." 100 Cong. Rec. p. 14399. The *Wall Street Journal* said, "One of these provisions is that it would be evidence of cooperation with the Communist groups if any person has indicated a willingness to carry out aims and purposes of the party. For all we know the Communist Party may be against juvenile delinquency. So is this newspaper." *Id.*, 14400.

[36] Counsel for petitioner apparently satisfy almost all of the thirteen criteria of membership merely by fulfilling their professional responsibilities in this case. In preparing our briefs and making our arguments, we have "executed * * * plans of any kind" of the petitioner, namely its plan to have the respondent's order set aside and thereby to survive (4th test). We have by our appearance before the Board and the courts "acted * * * in any * * * capacity in behalf

reason alone the officers of petitioner cannot possibly comply with the membership listing requirement. Moreover, they cannot even attempt to apply the criteria of section 5 because these involve considerations of the past and present conduct and state of mind of others which petitioner and its officers cannot conceivably know or ascertain. How, for example, is an officer to know all the individuals who ever "indicated * * * in any * * * way a willingness to carry out in any manner and to any degree the plans, designs, objectives or purposes" of petitioner (paragraph (12))?

If the order of the Board becomes final, petitioner and its officers can be punished by a $10,000 fine and five years' imprisonment for each member omitted from the registration statement (section 15(b) of the Act). But since they have no way of knowing whom to register, they are hope-

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of" petitioner (5th test). Naturally, we have "conferred with officers or other members" of our client, again "in behalf of" the "plan or enterprise" of getting the respondent's order set aside (6th test). By preparing our briefs, including this one, we have "prepared documents" in behalf of the petitioner's "objectives and purposes" (9th test). By delivering our briefs to the courts as well as by giving copies to other lawyers, we have "delivered to others material * * * of any kind in behalf of" the petitioner (10th test). We have "counseled" and otherwise "imparted information, suggestions, recommendations" about this case to officers of the petitioner and to the Court ("anyone else") in behalf of petitioner's objective to have the respondent's order set aside (11th test). We have, by accepting this case, "indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives or purposes of the" petitioner (12th test). By our participation in this case we have "in any * * * way participated in the activities, planning, actions, objectives, or purposes of the" petitioner (13th test). If our fee is too modest, it may be that we have made a "financial contribution * * * in any * * * form" (2d test). And because lawyers are obliged to accept instructions from clients, perhaps we have, by representing petitioner, made ourselves "subject to the discipline of the organization in any form whatsoever" (3d test). If our client is sufficiently impressed by our legal abilities to recommend our professional services to those of its members who need lawyers, we meet the seventh test.

lessly caught between the criminal penalties for each omission of a member and the penalties for a false listing.

Any person whom the petitioner might register as a member would immediately incur public infamy and the ruinous sanctions of the Act. True, he could request the Attorney General to remove his name from the registration list on the ground that he was not a member, and institute a proceeding before the Board for that purpose if the Attorney General failed for five months to act favorably (secs. 7(g) and 9(b)). However, it is difficult to conceive that the individual so listed could prove that he was not a member in the light of the criteria of section 5, and particularly in view of paragraph (1) of that section which makes the appearance of his name on petitioner's registration statement evidence of his membership.

The situation of such an individual is scarcely less difficult even if he convinces the Attorney General or the Board that he is not a member and therefore should have his name stricken from the list. For in view of the repeal of 5(c) and 6(c) of the original Act by 7(c) of the Communist Control Act, he will have incurred the employment and passport sanctions of the Act from the moment that the registration statement was filed until the time when his name is stricken from the list. The patient dies before the doctor arrives.

A person whose name is not registered by petitioner is in a dilemma. He cannot possibly determine from section 5 whether he will be found to be a member or not. He must therefore choose between the risk of prosecution for not registering, and the certainty of losing his livelihood and becoming a pariah by registering.

If such an individual decides not to register, he must of course take every precaution to avoid doing anything that can be used as evidence of membership. He must not express a view on any question until he has first ascertained petitioner's position. Thereafter, he must either give voice

to the contrary opinion or remain silent. He must abstain from association or communication with any person who is a member of petitioner. And since he has no way of determining who may be found to be a member, he must shun association or communication with all men. Prudence therefore dictates that he live the life of a hermit. But there is no safety for him even in that course. Since the criteria of section 5 are unlimited as to time, he may be dragged from his hermitage to be tried and convicted on the basis of some incident in his remote past.

Our description of the consequences of the membership criteria of section 5 is not the product of a lawyer's imagination run riot. Congressional Committees and Loyalty Boards have blasted the reputations and ruined the careers of hundreds of individuals and frightened thousands of others into silence by using precisely the same criteria to identify and expose "Communists." Indeed, the authors of the Communist Control Act merely borrowed this technique of McCarthyism, wrote it into law and implemented it with the intolerable sanctions of the Act.

The court below dismissed the Communist Control Act with the statement (R. 2125), "We think it has no application." As to section 5, at least, the statement is plainly erroneous. In the language of the opinion (R. 2082) the criteria of section 5 are clearly "attachments" of registration.

## VIII. The Act Violates the Constitutional Privilege Against Self-Incrimination.

The registration of the organization must, of course, be accomplished by one or more individuals. The Act provides that the persons required to sign and file the registration forms for the organization shall be those specified in regulations to be issued by the Attorney General (secs. 7(d) and (h)). These regulations require the registration statement to be signed by the organization's principal offi-

cers and all the members of its governing board. 28 C. F. R. 11.205. If the organization does not register, or if its registration omits the names of any members, the members must register themselves (sec. 8). Failure of the officers to register the organization or of individual members to register themselves when and as required is punishable by astronomical penalties, which accumulate at the rate of five years imprisonment and $10,000 for each day that the failure continues (sec. 15).

The legislative scheme of the Act culminates, therefore, in an attempt to coerce confessions of membership in the Communist Party and participation in the alleged criminal conspiracy described in section 2 and punishable under section 4(a).

It is obvious, as the majority below acknowledged (R. 2096), that any person who signed petitioner's registration statement as an officer of the organization and gave the information required by section 7 would thereby admit his membership in the Communist Party and an "intimate knowledge of its workings." *Blau* v. *United States*, 340 U. S. 159, 161. He would necessarily, therefore, furnish "a link in the chain of evidence needed in a prosecution" (*ibid.*) of himself under section 4(a) of the Act, as well as under the Smith Act and a long series of other federal criminal statutes.[37]

The Court has held, however, that an admission of membership in the Communist Party, without more, is protected by the privilege against self-incrimination, *Blau* v. *United States*, *supra*; *Quinn* v. *United States*, 349 U. S. 155. The Act is thus a crude invasion of the Fifth Amendment privilege.

In an effort to avoid the patent unconstitutionality of compelling self-incrimination by the device of registration,

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[37] See *supra*, p. 34, ftn. 8. Registration also serves to identify the registrants for apprehension under the concentration camp provisions of Title II of the Act, 50 U.S.C. 811-26.

the Act contains a so-called "immunity" provision. Section 4(f) provides that the holding of office or membership in a Communist organization shall not, *per se*, constitute a violation of section 4(a) or any other criminal law, and that the fact of registration of any person under sections 7 and 8 shall not be admissible in a prosecution under section 4(a) or for any other crime.

While this provision tacitly recognizes the vulnerability of the Act,[38] it does not save it. The immunity which it confers does not comprehend all matters which the compelled admissions concern. The immunity of section 4(f) is therefore not coextensive with the constitutional privilege and does not affect it. *Counselman* v. *Hitchcock*, 142 U. S. 547; *United States* v. *Bryan*, 339 U. S. 323.

The majority below held that the privilege against self-incrimination is not available to petitioner's officers and, in any event, that its assertion at this time is premature. An analysis of the grounds for these conclusions demonstrates that they are erroneous and that Judge Bazelon's dissent, holding the Act unconstitutional, correctly states the law.

1. The majority below held (R. 2093-2094) on the authority of *United States* v. *White*, 322 U. S. 694, that petitioner's officers could not avail themselves of the privilege as a defense against a prosecution for failure to register. The *White* case, however, is inapplicable for two reasons.

In the first place, that case, and *Wilson* v. *United States*, 221 U. S. 361, which it followed, simply decided that the privilege is not available to the officers of a corporation or unincorporated association as a defense against a subpoena

[38] It is apparent from the debates on the Communist Control Act that Congress and the Attorney General recognized that the registration provisions of the Act are unconstitutional in the absence of an adequate immunity provision. See, e.g., 100 Cong. Rec. 13560, 13596, 14080, 13571-72, 13836, 13844, 13849, 13945, 14041, 14091-92 (daily pagination).

duces tecum ordering them to produce the records of the organization. In both cases, the Court emphasized that no question of an attempt to compel testimony from the officers was involved.[39] Likewise, in *Shapiro v. United States*, 335 U. S. 1, holding that the privilege does not protect individuals against the compelled production of "required records" and hence that such production does not confer immunity under an immunity statute, the Court stated (at 27), "Of course all *oral* testimony by individuals can properly be compelled only by exchange of immunity for waiver of the privilege." (Emphasis in the original.)

The registration provisions of the Act do not require the production of the records of the organization. On the contrary, they require the officers to prepare and file original statements. The majority below saw no distinction between the two requirements, stating (R. 2094) that the statements "are reproductions of or extracts from organization records" and therefore "'auxiliary to the production'" of the records themselves. Obviously, however, the statements are not "auxiliary" to the production of the records, since the Act does not require the records to be produced. Moreover, it makes no difference whether or not the statements are extracted from the organization's records. In either case, they are statements of the character which, the court stated in the *Wilson* and *White* cases, could not be compelled from the officers of a corporation or unincorporated association. Finally, since the registration statement must be filed before the record-keeping requirement of the Act becomes operative, it is not neces-

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[39] In *Wilson*, the Court said (at 377), "There is no question, of course of oral testimony, for he [the defendant] was not required to give any." In *White*, the Court pointed out (at 701) that compelling production of the records of the organization would not infringe the Fifth Amendment's "historic function of protecting only the natural individual from compulsory incrimination through his own testimony or personal records."

sarily true that the statement is a "reproduction or extract from" records.[40]

The holding below that the privilege does not extend to statements prepared from records is contrary to the Second Circuit's decision in *United States* v. *Daisart Sportswear Inc.*, 169 F. 2d 856, rev'd on other grounds, *Smith* v. *United States*, 337 U. S. 137. There the court said (at 862):

> "The further point is made that Smith, in effect, but summed up what the books of the corporation contained. Coupled with this is the contention that an individual may be compelled to give oral testimony that is explanatory of its records . . . We think, though, the production of records must be distinguished from oral testimony as to what the records would contain, had they been produced."[41]

The rule of *White, Wilson,* and *Shapiro* is inapplicable for another reason. In those cases the privilege was invoked on the ground that the *contents* of the records would incriminate the witness. Here it is not the contents of the records which are incriminating, but the connection with the organization of the person making the statement. As

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[40] "The execution of a registration statement by an individual would at least require him to confirm and transpose selected material from the organization's records to the registration statement. Since an organization need not keep complete records prior to registration, in many cases the officer would be forced to execute the registration statement by relying on his own knowledge. It is clear that in both instances the officer is doing more than producing records and identifying them. He is disclosing other matters of his personal knowledge." Note, The Infernal Security Act of 1950, 51 Col. L. Rev. 606, 621, quoted in Judge Bazelon's dissent (R. 2160).

[41] Even if all that the Act compelled was the production of records of the organization, the holdings of *Wilson, White* and *Shapiro* should not be extended to a case such as this, where the records are those of a political organization active in the area protected by the First Amendment. For the privilege against self-incrimination was primarily designed as a protection for political freedom and the right of dissent. Griswold, *The Fifth Amendment Today* (1955), p. 8.

the dissent below pointed out (R. 2159), the privilege here arises from the fact that registration compels those who sign the registration statement thereby to identify themselves as members and officers of the Communist Party and as persons who are familiar with its records and have intimate knowledge of its workings. These are precisely the admissions which *Blau* holds cannot be compelled.

2. The majority below further held (R. 2159) that the adjudication of the question of privilege is premature in this proceeding and must await a criminal prosecution for the failure of the officers to file a registration statement. The majority assigned three grounds for this conclusion.

(a) Citing the familiar principle that the privilege is lost if not asserted, the majority held that the question presented may never arise since the officers may not claim the protection of the Fifth Amendment (R. 2096-2097).

The principle relied on is inapplicable however. For the Act gives the officers no opportunity to claim the privilege and provides no tribunal before which they can make the claim. Under the Act, the officers must file the registration statement within thirty days after a registration order becomes final. Their failure to do so results in their indictment under section 15. Nothing but a time lapse intervenes between failure to file and indictment. Obviously, if there is no opportunity to assert the privilege, it cannot be lost for non-assertion. Since the privilege is a protection against prosecution, as well as against conviction, it must be available before prosecution. Under the Act it is not available, unless in this proceeding.

It cannot be suggested that the officers must create the opportunity to claim the privilege by notifying the Attorney General that they will not file the registration statement because to do so might incriminate them. This notification would be an admission to the chief prosecutor that the individuals are officers of petitioner. Such an admission is itself incriminating. Hence to require the offi-

cers to assert the privilege in this manner would be the equivalent of requiring them to incriminate themselves by filing the registration statement.[42]

The doctrine that the privilege must be asserted in order to be relied upon is, accordingly, inapplicable here. The function of the doctrine is to put the tribunal on notice that in the particular instance a particular witness may be entitled to the protection of the privilege, and to allow the tribunal to rule on the subject. *Vajtauer* v. *Commissioner*, 273 U. S. 103, 113. No such function can be served in this case, where it appears from the face of the statute that the act of filing the registration statement is itself necessarily incriminating. The situation of the officers of an organization ordered to register is like that of a defendant in a criminal case. Like him, they cannot be compelled to "take the stand" and claim their privilege in order to enjoy it.

If the conclusion reached by the majority were sound, it would follow, as the court itself recognized (R. 2100), that legislation which on its face compels incriminating testimony could never be declared unconstitutional, but could only be held to be unenforceable in particular cases where the privilege was asserted. This is clearly not the law. The Court has held a statute "unconstitutional and void" because it was apparent from its face that it compelled the production of incriminating evidence. *Boyd* v. *United States*, 116 U. S. 616, 638.[43] And state courts have invalidated state statutes similarly compelling self-incrimi-

[42] To require an officer so to notify the Attorney General would also require him to invite prosecution under section 15 of the Act for not registering.

[43] The majority below attempted to distinguish the *Boyd* case (R. 2100-01) on the grounds that the compelled evidence (1) consisted of "personal, private papers," and (2) was "directly for use in a forfeiture case under a criminal statute." These distinctions are unsound. As we have already shown, the privilege applies to statements as to the content of organizational records just as it does to personal papers. And it applies to leads to incriminating information as well as to evidence which is "directly" incriminating.

nation,[44] including two which required Communist Party members to register.[45]

(b) The majority below suggested (R. 2099) that petitioner's officers may not be entitled to the privilege because some of them were convicted of conspiring to violate the Smith Act, some have publicly asserted their membership, and two identified themselves as officers in testifying before the Board. This suggestion is based on the unwarranted assumption that the persons referred to by the court will be petitioner's officers at the time registration is required. Even if they are, it is obvious that none of the factors alluded to by the court will strip them of their privilege. The conviction of some under the Smith Act is no bar to other indictments for subsequent or different offenses under the same statute[46], or under section 4(a) of the Act, or the other criminal statutes referred to above. The facts that some of the officers have made extra-judicial admissions and that two of them testified about their offices before the Board do not constitute waivers of the privilege with respect to the registration statement. For it is settled that admissions made extra-judicially, in another proceeding, or even at different stages of the same proceeding, do not waive the privilege. *Re Neff*, 206 F. 2d 149, and cases cited therein at 152; *United States* v. *Field*, 193 F. 2d 109; 8 Wigmore on Evidence (3rd Ed.) sec. 2276(4). In any event the suggestion that some of the officers may have waived the privilege obviously cannot apply to other officers as to whom no waiver is claimed.

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[44] *In re DeWar*, 148 Atl. 489 (Vt.); *People* v. *Reardon*, 90 N. E. 829 (N. Y.); *State* v. *Simmons Hardware Co.*, 18 S. W. 1125 (Mo.).

[45] *People* v. *McCormick*, 228 P. 2d 349 (Calif.); *Maryland* v. *Perdew*, 19 U.S.L. Week 2357 (Md. C.C., Alleghany County).

[46] In fact, all of the eleven defendants convicted in *Dennis* v. *United States*, 341 U. S. 494, are also under pending indictments for violating the membership provisions of the Smith Act, 18 U.S.C. 2385.

(c) Finally, the majority below suggested (R. 2099-2100) the possibility that the Attorney General might meet the officers' claim of privilege by invoking the procedure under the new immunity statute, 18 U. S. C. 3486. That statute, however, has no application to the filing of registration statements under the Act. It applies only to the giving of testimony and the production of documents before Congressional committees, federal grand juries, and federal courts.

It is clear from the foregoing that the privilege against self-incrimination is available to petitioner's officers and that the question of the constitutionality of the Act under the Fifth Amendment is ripe for decision at this time. The circumstances which give petitioner standing to assert the denial of due process to its members (see *supra*, p. 72) likewise support its standing to challenge the Act's violation of the constitutional privilege.

Coerced self-incrimination so pervades and infects the entire scheme of the Act that, as the dissenting judge below held, its invalidity on that ground can and should be adjudicated in this proceeding.

## IX. The Act Violates the First Amendment.

The Act, as we have now seen, is saturated with gross violations of the elementary rules of fair procedure. These odious features—predetermination of guilt, irrational presumptions, a biased administrative tribunal, guilt by association, coercion of confessions—were designed for the one purpose of suppressing political dissent. Indeed, once the legislature embarked on so far-reaching a project to outlaw political non-conformity, it was inevitable that this police-state objective would be reached by police state procedures. The most fundamental vice of the Act, therefore, is its attempted destruction of the freedoms secured by the First Amendment.

In terms of the legal framework set by the precedents, this unprecedented Act involves three types of violations of the First Amendment. (1) It suppresses peaceable advocacy and assembly. (2) It imposes prior restraints on protected expression. (3) It imposes sanctions for the exercise of rights guaranteed by the First Amendment.

**A. The Act Suppresses Peaceable Advocacy and Assembly.**

Statutes affecting speech, press and assembly must be narrowly drawn to meet a substantive evil which the legislature has power to control. A statute penalizing conduct which lies outside the area protected by the First Amendment is invalid if it is so broad that it likewise abridges protected expression or assembly. *United States* v. *C. I. O.*, 335 U. S. 106; *Schneider* v. *Irvington*, 308 U. S. 147; *Thornhill* v. *Alabama*, 310 U. S. 88; *Cantwell* v. *Connecticut*, 310 U. S. 296, 308; *Jones* v. *Opelika*, 316 U. S. 584, 618 (dissenting opinion, adopted by the Court in *Jones* v. *Opelika*, 319 U. S. 103); *Saia* v. *New York*, 334 U. S. 558; *Winters* v. *New York*, 333 U. S. 507; *Stromberg* v. *California*, 283 U. S. 359; *DeJonge* v. *Oregon*, 299 U. S. 353; *Burstyn* v. *Wilson*, 343 U. S. 495.

The Act as a whole violates this principle, as does each of its major sanctions individually.

1. The Act as a Whole.

The justification of the Act, stated in section 2, is the alleged seditious and criminal activity of Communist-action organizations. But the Act's controls are not limited to the regulation or exposure of this or any other misconduct.[47] Instead, as we have shown (*supra*, pp. 28-33), the

[47] We have seen also that both the Board and the court below acknowledged that proof of seditious and criminal activity is not a prerequisite to the entry of a registration order (*supra*, p. 46).

Act and the order suppress all of petitioner's activities, including its admittedly extensive peaceable advocacy and assembly.

Whatever else may be asserted, petitioner concededly engages in peaceable political advocacy. Although always numerically small, it has run numerous candidates for public office, some of whom were elected, has participated in coalitions to elect non-Communist candidates, and has engaged in other political and economic activity within the tradition of American working class and socialist parties which preceded it. Even its worst enemies admit that it has frequently played a seminal role in bringing about needed changes in our social and economic life.[48] Many of the reforms advanced by petitioner and originally the object of vilification, have been adopted by the people of the United States, when they were convinced, with the aid of Communist agitation, that these were to their best interest. To name only a few: social security, minimum wage legislation, the organization of labor unions on industrial lines, and measures against racial discrimination. Like other political parties it seeks to help organize "the expression of bloc sentiment" which "is and always has been an integral part of our democratic and electoral process." *United States* v. *C. I. O.*, *supra*, at 143.

It is precisely this peaceable conduct which the Act is designed to reach. Other laws provide a plethora of sanctions for acts or advocacy of a seditious character and require the registration of foreign agents (see *supra*, p. 34, ftn. 8). The Act, however, proscribes the organization as a whole and with it all its advocacy, including lawful political expression, association and activity.

This dragnet approach of the Act is not permitted in the area of speech and assembly. Congress can outlaw acts which threaten the nation's security. Under *Dennis* v.

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[48] See, e.g., Tr. 3039-40, 14342-45.

*United States*, 341 U. S. 494, it can, in clear and present danger circumstances, prohibit advocacy of force and violence. But it cannot, in the guise of preventing such acts and advocacy, suppress peaceable political advocacy. Since the Act suppresses all advocacy and political activity of the Communist Party, and is not limited to (and is unnecessary for) suppressing illegitimate and dangerous conduct, it is invalid.

At the heart of the First Amendment furthermore, is the principle that government may not intervene in the political process by imposing special disabilities on any political group. Otherwise the party in power could perpetuate itself in office by denying its rivals free and equal access to the electorate. The Act clearly infringes this principle. For it discriminatorily prevents petitioner from engaging in political activities of a kind employed by other political parties and groups in their effort to attract the adherence of the public. As the President said of the Act in his special message, while it was pending in Congress, (*supra*, p. 6) it "would, in effect, impose severe penalties for normal political activities on the part of certain groups, including Communists and Communist Party-line followers," and it attempts to "proscribe for groups such as the Communists, certain activities that are perfectly proper for everyone else." In so doing, the Act not only deprives petitioner of its First Amendment rights, but also denies to the entire American people access to all varieties of political opinion and the right freely to make their own selections in the market-place of ideas.

These constitutional principles which the Act violates have been applied by the Court specifically to the Communist Party and its members. In *DeJonge* v. *Oregon*, 299 U. S. 353, and *Herndon* v. *Lowry*, 301 U. S. 242, the Court held that peaceable assembly and advocacy of the Communist Party and its members could not be abridged even if it were assumed that the Party engaged in illicit advocacy and activity.

The invalidity of the Act was foreshadowed in *American Communications Association* v. *Douds*, 339 U. S. 382. Although that decision sustained the non-Communist affidavit requirement of the Taft-Hartley Act, it did so only on the premise that the requirement did not substantially infringe the rights of individuals to belong to the Communist Party and the rights of the Party and its members to engage in peaceable advocacy.

*Douds* recognized (at 402) that a tax on the exercise of First Amendment freedoms would be invalid as a direct restraint comparable to imprisonment, fines, and injunctions. The Act's inhibitions on membership in petitioner and on its advocacy are far more onerous than a tax.

*Douds* stated (*ibid.*) that a requirement that adherents of particular political parties wear identifying armbands would "obviously" be invalid. Armbands are obnoxious because they identify the wearer as a member of a proscribed group and expose him to infamy. The registration and labelling requirements of the present Act fulfill exactly this function. They differ from an arm-band requirement only in technical detail.

The Act is condemned by *Douds* because it is "frankly aimed at the suppression of dangerous ideas" (*ibid.*). It involves "the elements of censorship" and "prohibition of the dissemination of information" (at 403). This legislation and the Board's order "restrain the activities of the Communist Party as a political organization" and "attempt to stifle beliefs" (at 404). The "discouragements" of the Act proceed "against the groups or beliefs identified" rather than against "the combination of those affiliations or beliefs with occupancy of a position of great power over the economy of the country" (at 403-404). The Act and registration order do not touch "only a relative handful of persons," and they do not leave "the great majority of persons of the identified affiliations and beliefs completely free from restraint" (at 404). On the contrary,

every member of petitioner is restrained by a variety of sanctions.[49] Those who are affected by the statute are subject not merely to "possible loss of positions" in trade unions (*ibid.*), but are coerced to abandon their political beliefs and affiliations by penalties which would brand them as criminals, subject them to public odium and vigilantism, and deprive them of their livelihood, citizenship, and right to travel.

Turning to Mr. Justice Jackson's opinion in *Douds*, we note (see at 434) that the impact of the Act and the Board's order are "to suppress or outlaw the Communist Party" and to prohibit it and its members from engaging in "above-board activity normal in party struggles." If this order is sustained, the petitioner may not continue to engage in political activities "just as other parties may." The Act and the order operate to prohibit an individual from becoming or remaining a "full-fledged member of the Party." They impose requirements and prohibitions on a person "merely because he is a member of, or is affiliated with, the Communist Party," and they apply to all members, not merely to those who are labor union officials.

*Douds* held that the impact of section 9(h) of the Taft-Hartley Act and the effect of its sanction upon the activities of Communist Party members were narrowly limited to the prevention of what Congress found to be a substantive injury to interstate commerce. Its approval of what was considered only an incidental infringement of civil rights rested on the view that Congress had acted economically to attain a constitutionally permitted objective.

In sharp contrast, the Act suppresses all the advocacy of petitioner and its members. The Act's invasion of the civil rights of Communists is not incidental to some other and legitimate legislative objective. It is an end in itself,

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[49] By virtue of section 5 of the Communist Control Act, these sanctions also restrain persons who are not members of petitioner within any legitimate meaning of the term.

its only other purpose being to use the denial of civil rights to Communists as a foundation for the abridgment of the constitutional liberties of non-Communists.

The Court upheld the statute in *Douds* because it considered that the Congress had acted with restraint. But in this Act Congress went beserk.

The legislative finding of section 2 that "the Communist organization in the United States . . . presents a clear and present danger" cannot rescue the Act.

In the first place, determination of this issue of constitutional fact is not within the province of the legislature, but is reserved to the courts. *Dennis* v. *United States*, *supra*, at 513. Clearly the First Amendment prohibits Congress from invading the prerogative of the electorate so as to proscribe political groups by the simple expedient of finding that they constitute clear and present dangers.

The existence of a clear and present danger must necessarily be a question for judicial rather than legislative determination because it concerns the constitutional application of a statute, not its inherent validity. The issues under the clear and present danger exception are whether the content of the expression and the circumstances under which it is disseminated give rise to the danger of a substantive evil that Congress has the power to prevent. Obviously these issues cannot be predetermined in advance by the legislature at the time it enacts a statute but must be decided by the courts, case by case, in the light of the nature of the particular expression and the circumstances of its utterance. In the Act, however, Congress declared that a Communist-action organization constitutes a clear and present danger for all future time without regard to the content of its advocacy or the conditions prevailing at the time the advocacy is engaged in. But a future or permanent clear and present danger is a contradiction in terms, and the effort to create one by legislation is patently invalid.

Secondly, an exception to the application of the First Amendment cannot be justified by a finding—even if made by the Court—that an organization whose activity includes peaceable advocacy is a clear and present danger. The clear and present danger exception has been and must necessarily be confined to particular conduct or advocacy which is found to be within the exception. Danger to the state can always be effectively dealt with by prohibiting such conduct. Suppression of the organization as a whole can have no foundation in necessity and thus wantonly abridges peaceable advocacy and association. This is precisely the significance of *DeJonge* v. *Oregon* and *Herndon* v. *Lowry, supra*, and the admonition in *Douds*, made without any qualification as to clear and present danger, that Congress may not outlaw the Communist Party, prohibit its peaceable political activity, or penalize membership in it.

In *Australian Communist Party* v. *The Commonwealth*, 83 C. L. R. 1 (1951), the High Court of Australia invalidated the Dissolution of the Communist Party Act. Although the case arose in a different constitutional setting, its principles are pertinent here. The statute in question dissolved the Communist Party, authorized the executive to dissolve other organizations found to be under Communist influence or control, and imposed civil disabilities on Communist Party members. It contained a recital of parliamentary findings with reference to Communism in substantially the terms employed by section 2 of the Act. The Commonwealth urged that the law was authorized under the defense power vested in the federal government by the Australian constitution. The High Court answered this argument, in the words of one of the prevailing opinions, as follows (at 225-227):

> "Any conduct which is reasonably capable of delaying or otherwise being prejudicial to the Commonwealth preparing for war would be conduct which could be prevented or prohibited or regulated under the defense power. Amongst such conduct there could be included, I should think, most if not all, of the seri-

ous misdoings with which communist bodies and communists are charged in the recitals. But the legislation would have to define the nature of the conduct and the means adopted to combat it, so that the court would be in a position to judge whether it was reasonably necessary to legislate with respect to such conduct in the interests of defense and whether such means were reasonably appropriate to the purpose . . . But none of this conduct is prevented or prohibited or made an offense by the operative provisions of the Act . . . In my opinion legislation to wind up bodies corporate or unincorporate and to dispose of their assets or to deprive individuals of their civil rights or liberties on the mere assertion of Parliament or the Executive that they are conducting themselves in a manner prejudicial to security and defense, is not authorized by the defense power or the incidental power in peace time."

And as another one of the Justices put it (at 187-188):

"In point of constitutional theory the power to legislate for the protection of an existing form of government ought not to be based upon a conception, if otherwise adequate, adequate only to assist those holding power to resist or suppress obstruction or opposition or attempts to displace them or the forms of government they defend."

The High Court's decision demonstrates a sound awareness of a minimum requirement for the preservation of a free society in the face of spurious appeals to "internal security." Its principles must be applied here if Americans are to be as free as Australians.

The court below stated that for the purpose of passing on the constitutionality of the Act, it was required to assume that the conditions with which the Act purports to deal "actually exist," and that these conditions, as recited in section 2, are that, "There exists a world Communist movement . . . whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism and any other means

deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world . . ." (R. 2085). The court concluded that the Government "has power to prohibit within its borders activity of the sort described; *a fortiori* it has power to require identification of such activities and to impose restrictions short of proscription" (R. 2087).

Undoubtedly, Congress has the power to punish, control or expose espionage, sabotage, terrorism and other criminal "activity of the sort described" in section 2. But that premise does not support the constitutionality of the Act. In the first place, as the court below acknowledged (see *supra*, p. 46), the sanctions of the Act may be imposed upon an organization without proof that it engages in any "activity of the sort described." Secondly, as we have seen, the sanctions of the Act are not limited to the identification or control of "activity of the sort described" and are unnecessary for that purpose. Their real impact is upon activity of a completely different sort—peaceable political advocacy and association.

The court's failure to appreciate these two points invalidates all of its First Amendment discussion. Thus the court does not deny that a registration order is an edict of outlawry. It states, however (R. 2016):

> ". . . If an organization is actually operating primarily to achieve the objectives of a foreign organization dedicated to the establishment of a totalitarian dictatorship in this country *by other than constitutional processes*, we perceive no constitutional obstacle to its outlawry." (Emphasis supplied.)

This statement is inapplicable to the Act in the light of the court's acknowledgement that proof of the use of advocacy of "other than constitutional processes" is not a prerequisite to the issuance of a registration order of outlawry. Moreover, the statement is erroneous. The facts assumed by the court would, at most, justify restraints on

the use or advocacy of "other than constitutional processes." They could not justify the abridgement of peaceable advocacy and assembly.

Again, the court below stated (R. 2088):

> "The activities of a world Communist movement such as that described in this statute and of organizations in this country devoted to its objectives constitute a clear and present danger within the meaning of any definition of the point at which freedom of speech gives way to the requirements of government security."

This statement repeats both of the errors we have already discussed. It overlooks the facts that the Act does not require proof of "dangerous" activities and that it suppresses peaceable advocacy and assembly.

Furthermore, the court's reliance on the clear and present danger exception is faulty for the reasons we have earlier stated (*supra*, pp. 96-97). Accordingly, the court's reference to the *Dennis* case (R. 2089-90) is misplaced. *Dennis* decided only that a conspiracy to advocate the violent overthrow of the government under conditions prevailing in the summer of 1948 constituted a clear and present danger. Here no such conspiracy or advocacy was found, and the registration order proscribes all of the petitioner's advocacy forever, regardless of prevailing conditions.

2. The Sanctions of the Act Considered Individually.

In passing upon the constitutionality of the Act the individual sanctions cannot be abstracted from their setting in the statutory scheme whose purpose and effect is to outlaw petitioner. But even if the major sanctions of the Act are examined separately, it is clear that each of them violates the First Amendment.

The court below held that the individual sanctions were valid on the ground that "each sanction is reasonably re-

lated to the substantive evil at which Congress was aiming" (R. 2109). But this is not the test for determining whether the First Amendment is infringed. In the area of speech, press and assembly, "The rational connection between the remedy provided and the evil to be curbed, which in other contexts might support legislation against attack on due process grounds, will not suffice." Restrictions on First Amendment rights "must be justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger." *Thomas* v. *Collins*, 323 U. S. 516, 530.

Each of the major sanctions of the Act violates this First Amendment test. Moreover, the court below notwithstanding, each also violates the due process test.

(a) Section 5 makes membership in an organization finally ordered to register a conclusive bar to all federal employment, including the most non-sensitive. It excludes considerations of scienter, personal innocence, fitness, and the nature of the job in question. Its prohibition rests merely on the fact of association. Even this association need not be with a group that engages in illegal conduct, for, as the court below held, the Act does not require proof of such conduct. The Act thus goes far beyond the much-criticized loyalty-security program established by executive orders. Under that program, organizational membership is not a conclusive disqualification, but "is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case." 5 C. F. R. App. A, p. 200; quoted in *Joint Anti Fascist Refugee Committee* v. *McGrath, supra*, at 205. See also *Kutcher* v. *Gray*, 91 App. D. C. 266, 199 F. 2d 783.

Clearly, the government employment sanction of the Act has no reasonable relation to protection of the federal service, is without foundation in the public interest, and

is not addressed to a clear and present danger. The *Adler* case, *supra*, though relied on by the court below, itself establishes that the sanction is invalid because it creates a conclusive disqualification on the basis of association alone.

(b) The sanction of section 5 with respect to employment in "defense facilities" has all the defects of the sanction against governmental employment. Yet it cannot even be defended on the basis that the government has a special interest in and power over its own employees. In addition, the sanction is invalid because the Act delegates unfettered and unreviewable authority to the Secretary of Defense to designate any private enterprise as a "defense facility," and thus by ukase to deny members of Communist-action organizations any employment, including the most non-sensitive. This fact alone demonstrates the unsoundness of the justification advanced for this sanction by the court below—that it involves "sensitive business" (R. 2111). Moreover, the sanction applies to non-sensitive jobs in sensitive businesses.

(c) Section 5(a)(2), which makes it unlawful for employee of the government or of "defense facilities" to contribute to a Communist organization, is a plain violation of the principle of economy demanded by the First Amendment. The prohibition is imposed without regard to the purpose of the contribution and the use made of it, both of which may be entirely innocent and even praiseworthy. Clearly, Congress cannot make it an offense to contribute to the promotion of good causes through the device of characterizing the promoter as "bad." Furthermore, under the definition of "contribution" (sec. 3(6)), the section makes it criminal for federal and defense facility employees to subscribe to any publication of a proscribed organization, regardless of the publication's nature and content. Clearly this is a crass violation of freedom of the press.

(d) The sanction against trade-union employment[50] is another blatant example of the unconstitutional blunderbuss technique of the Act. *Douds* sustained section 9(h) of the Taft-Hartley Act as a valid exercise of the commerce power because its "discouragement" did not proceed against the affiliations or beliefs of the officers of trade unions "but only against the combination of those affiliations and beliefs with occupancy of a position of great power over the economy of the country." Section 5(1)(E), however, does not purport to be an exercise of the commerce power, and the impact of its prohibition is not limited to officers and employees of trade unions whose members are engaged in interstate commerce. Nor are the "discouragements" of that section confined to persons who occupy positions of power over the national economy. On the contrary, the reach of section 5(1)(E) extends to every employee of every trade union. Accordingly, a member of a Communist organization finally ordered to register is liable to a five-year prison term and a $10,000 fine for the "crime" of holding a job as a janitor for a local of the Musicians Union (secs. 5(1)(E) and 15(b)).

(e) Section 6 makes it unlawful for members of Communist organizations finally ordered to register to apply for or use passports. Since it is now a criminal offense to travel outside of the Western Hemisphere without a passport,[51] the section prohibits foreign travel elsewhere by members of Communist organizations. Congress may, of course, make it a crime to travel abroad for the purpose of promoting or consummating activity of a criminal character. But the prevention of criminal activity may not be used as the pretext for prohibiting foreign travel for en-

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[50] Sec. 5(1)(E), added by sec. 6 of the Communist Control Act.

[51] 8 U.S.C. 1185 (b) and Presidential Proclamation No. 3004 of January 17, 1953, 18 Fed. Reg. 489. See *Schachtman* v. *Dulles*, C.A.D.C., No. 12406, June 23, 1955, not yet reported.

tirely legitimate purposes.[52] Yet this is what Congress did in section 6, which is based on the invalid premise that foreign travel for any purpose by members of Communist organizations is inherently evil and may be prohibited.

The court below sustained section 6 on the ground that the government may reasonably decline to confer its diplomatic protection on members of Communist organizations (R. 2011-12). But this ground cannot sustain what the government has done by section 6 in the context of other legislation. Since the government has itself made it illegal to travel abroad without a passport, it must justify denials of passports as denials of the right to travel, and not merely as denials of governmental protection. Section 6 cannot be so justified in view of its sweep. Indeed, the reasoning of the court below has been repudiated by the same circuit in the later decision of *Schachtman* v. *Dulles*, No. 12406, decided June 23, 1955, not yet reported.

(f) Section 25 of the Act (carried forward in section 340(c) of the Immigration and Nationality Act) makes membership by a naturalized citizen, within five years after naturalization, in an organization ordered to register under the Act, prima facie evidence sufficient to authorize the revocation of his citizenship in a denaturalization proceeding. This violates the First Amendment, which prohibits revocation of citizenship for mere association. *Schneiderman* v. *United States*, 320 U. S. 118; *Knauer* v. *United States*, 328 U. S. 654, 669; *Baumgartner* v. *United States*, 322 U. S. 665. These cases involved association at the time of naturalization. The Act presents an aggravated case, since it presumes fraudulent procurement of naturalization on the basis of association *after* naturalization.

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[52] Similarly, a postal fraud order may make communications relating to a fraudulent scheme non-mailable. But it may not close the mails to innocent communications of the offender. See *Donaldson* v. *Read Magazine*, 333 U. S. 178, 191-92.

The court below (R. 2114-15) avoided a decision on the validity of the denaturalization sanction on the ground that the issue must await determination in a denaturalization proceeding under the section. However, the presence of this section in the Act causes immediate harm to petitioner by making membership in it prohibitive for naturalized citizens. The issue is therefore ripe for adjudication, and petitioner has standing in this proceeding to challenge the validity of the section on its face (see *supra*, p. 72).

(g) Section 10 requires an organization ordered to register to label all its mail and broadcasts as emanating from a Communist organization and hence as the product of a group that has been officially condemned as a seditious foreign agent. Obviously these requirements effectively restrain freedom of press and expression. They cannot be justified as protective measures or as safeguards against danger since they apply regardless of content.

The court below analogized section 10 to the mail fraud statutes (R. 2112). But the analogy is faulty because the restraints of the latter are based on the content of the mail, not on the character of the sender or recipient.[53] The power to prevent fraudulent communications cannot be employed to restrain those innocent of fraud. *Donaldson v. Read Magazine*, 333 U. S. 178, 191-92, sustained a post-office fraud order against a First Amendment attack because the order was limited to communications relating to the particular fraudulent scheme, leaving other communications of the offending publication untouched. Simi-

[53] The court also cited provisions of the Federal Trade Commission and the Securities and Exchange Acts barring the mails to fraudulent advertisements for merchandise and to offers or sales of unregistered securities (R. 2112). Thus the court again confused the power of Congress to regulate commercial transactions under the due process clause with its power to restrain speech and assembly under the First Amendment (see *supra*, pp. 100-01; *infra*, p. 109). Furthermore, these statutes, like the mail fraud statutes, regulate on the basis of content.

larly, the Postmaster General may not ban future issues of a magazine from the mails because past issues contained obscene matter. *Summerfield* v. *Sunshine Book Company*, 221 F. 2d 42, cert. den. 349 U. S. 921. Section 10, however, restrains all future literature and broadcasts of the organization, which are necessarily of unknown content.

The section cannot be analogized to the Congressional power to exclude fraudulent matter from the mails for the additional reason that the power does not and cannot constitutionally apply to matters of opinion. *American School of Magnetic Healing* v. *McAnnulty*, 187 U. S. 94; *Reilly* v. *Pinkus*, 338 U. S. 269. The present case presents an even stronger claim to First Amendment protection than *American School of Magnetic Healing* and *Reilly*, since it involves opinion on political questions.

The court below also defended section 10 by citing the labelling provisions of the Foreign Agents Registration Act (R. 2113). But the controls of that statute, as construed in *Viereck* v. *United States*, 318 U. S. 236, are limited to activities conducted by the agent on behalf of his foreign principal. Furthermore, the label is not an invidious one. Section 10 of the Act, however, requires communications to be labelled as emanating from a seditious foreign agent even though they are made in the organization's own behalf and are innocent of seditious content.

The court below also compared section 10 to statutes requiring that paid broadcasts be identified by the name of the purchaser and that literature on behalf of candidates for federal office bear the name of the issuer (R. 2111-12). These provisions, however, are non-invidious and non-discriminatory, and hence do not "discourage" the exercise of First Amendment rights. The failure of the court below to appreciate the difference between such requirements and the provisions of section 10 is indicated by its statement (*ibid.*) that petitioner has little to choose between identifying itself as "the Communist Party"

and as "a Communist organization." Of course petitioner does not object to identifying itself by name, which it does voluntarily in the conduct of its activities as well as pursuant to statutes of the kind referred to by the Court. This is entirely different, however, from the discriminatory requirement of section 10 that it identify itself with an invidious label or "arm-band" signifying that it has been governmentally condemned as a seditious conspirator and foreign agent. The fact is that section 10 does not identify petitioner, but deprives it of an audience and denies others access to its ideas.

As the foregoing analysis shows, none of the sanctions under discussion is designed to control criminal or seditious conduct or is addressed to any other legitimate governmental objective. Even when each is considered individually, it flagrantly abridges liberties protected by the First Amendment. In the context of the entire Act, the sanctions confirm our contention that the Act outlaws or destroys organizations ordered to register and ruins their members.

**B. The Act Imposes a Prior Restraint on the Exercise of First Amendment Rights.**

The Act and the order require petitioner to register as a participant in the international criminal conspiracy alleged in section 2 before it can lawfully engage in political advocacy or exercise any other right secured by the First Amendment. The registration statement must detail information on finances and members and must list all printing presses, mimeograph machines, etc., in the possession of the organization, its officers and members, and groups in which it "has an interest."

As we have already shown (*supra*, pp. 28-33), the registration requirement is an integral part of the invalid statutory scheme to outlaw petitioner. But even if the registration provision is divorced from the remainder of the Act, it is unconstitutional as a prior restraint on the exercise of First Amendment rights.

*Thomas* v. *Collins*, 323 U. S. 516, establishes that the exercise of speech and assembly may not be conditioned on prior registration with governmental authorities. There the Court stated (at 539):

> "If the exercise of the rights of free speech and free assembly cannot be made a crime, we do not think this can be accomplished by the device of requiring previous registration as a condition for exercising them and making such a condition the foundation for restraining in advance their exercise and for imposing a penalty for violating such a restraining order."

The prior restraint invalidated by *Thomas* v. *Collins* was far less onerous than that imposed by the Act. The statute there involved merely required registration of the name and trade union affiliation of labor organizers who wished to solicit union membership. The registration did not, as here, involve an opprobrious characterization, nor did it require the identification of the union's members for subjection to intolerable sanctions.

The court below stated (R. 2090) that "the protection which surrounds speech, does not encompass action." In support of that obvious proposition, it quoted from *Thomas* v. *Collins* (at 540) to the effect that when a speaker does more than exercise First Amendment rights, "as when he undertakes the collection of funds or securing subscriptions," a reasonable identification requirement may be imposed. From this statement, the court below concluded (R. 2091):

> "If the mere solicitation of funds for a lawful cause is sufficient conduct to validate the restrictive police power of a state, operation to achieve the objectives of a movement such as this statute describes is conduct sufficient to invoke federal regulatory power."

Thus the court's justification of the registration requirement rested on the ground that the thrust of the Act is not against protected expression and assembly but against conduct to achieve the violent, seditious and criminal objectives

set forth in section 2. The distinction is fallacious for three reasons.

First, as the court acknowledged (see *supra*, p. 46), the Act does not require proof that the organization engages in or advocates violent, seditious or criminal conduct as a prerequisite to the imposition of the previous restraint of a registration order.

Second, even if the Act required such proof, the registration requirement would still be invalid because it does not merely inhibit violent, seditious or criminal conduct or advocacy, but restrains peaceable expression and assembly. (See *supra*, pp. 91-92.) As *Thomas* v. *Collins* itself states (at 540), where expression or assembly within the guarantee of the First Amendment is accompanied by conduct which may validly be restricted, the restriction must be applied "in such a manner as not to intrude upon the rights of free speech and assembly."

Finally, even if registration were required only as a condition to the advocacy of the violent overthrow of the government, it would nevertheless be unconstitutional, as well as grotesque. *Dennis* held that such advocacy may be punished only if engaged in under circumstances that create a clear and present danger. The logic of that decision necessarily invalidates a prior restraint which effectively abridges such advocacy under any and all circumstances. See *Thomas* v. *Collins*, *supra*, at 530.

The court below analogized the registration provisions of the Act to licenses required of "doctors, lawyers, restaurants and barbers" (R. 2109). The heart of *Thomas* v. *Collins*, however, is that speech and assembly cannot be subjected to restrictions which are perfectly valid when employed to regulate business or professions (see at 530, 545).[54]

[54] The failure of the court below to recognize this distinction is also shown by its citation (R. 2091, ftn. 19) of *Breard* v. *Alexandria*, 341 U. S. 622, in which a majority of the Court sustained an ordi-

The court also supported the validity of the registration provision by references to the Lobbying and Foreign Agents Registration Acts (R. 2109). This Court, however, sustained the Lobbying Act only after limiting its application to persons who collect or receive contributions for the purpose of influencing, and whose main purpose it is to influence, legislation by direct communication with members of Congress. *United States* v. *Harriss*, 347 U. S. 612. As so limited, the Court held the statute valid because (at 625, emphasis added):

> "It has merely provided for a modicum of information from those who *for hire* attempt to influence legislation or who *collect or spend funds* for that purpose. It only wants to know who is being hired, who is putting up the money, and how much."

The statute thus construed is within the principle recognized in the *Thomas* case that a reasonable identification or registration requirement may be imposed on one who solicits funds. Furthermore, as *Harriss* plainly indicates, a registration requirement even under these circumstances would be of doubtful validity if it demanded the registration of persons who seek to influence legislation by means other than direct communication with members of Congress. Cf. *United States* v. *Rumely*, 345 U. S. 41. The Act has neither of the saving graces of the Lobbying Act. Registration of Communist organizations is not made dependent on the collection of funds and is a precondition to every form of speech, writing and assembly, irrespective of purpose and without regard to the class of persons sought to be influenced.

This Court has never passed upon the constitutionality of the Foreign Agents Registration Act, 22 U.S.C. 601-620 which, in at least some of its applications, is a regulation

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nance regulating house-to-house solicitation of magazine subscriptions on the ground that the "commercial feature" of this activity made it susceptible to regulation.

of commercial or professional relations between foreign agents and their principals. Moreover, it is significant that the one decision of the Court under that act reversed a conviction on the ground that the statute had not been narrowly construed and applied by the trial court. *Viereck* v. *United States*, 318 U. S. 236, discussed *supra*, p. 106.

Finally, the registrations under the Lobbying and Foreign Agents Registration Acts require only "a modicum of information" and involve no self-defamation by the registrants.

Passing from the act of registration to the information demanded of registrants, the court below defended the requirement for a financial accounting (sec. 7(d)(3)) on the ground (R. 2110) that this "is no more than is required of any political party, and since petitioner claims to be a political party we see no invalidity in the application to it of such a requirement." Petitioner, of course, is not here attacking the validity of the Corrupt Practices Act (2 U.S.C. 244), with which it, like other political parties, complies. What petitioner does object to is that, under the guise of securing information as to its finances, Congress has discriminatorily singled it out from all other political parties and required it to register as a criminal conspirator as a precondition to its lawful engagement in political advocacy.

The court below found the requirement that petitioner list the names of its members (sec. 7(d)(4)) "similar to the customary requirement in the states that persons participating in the activities of a political party, such as primaries, conventions, etc., register publicly as members" (R. 2110). Obviously, the two requirements have nothing in common. The provisions for registration of party affiliation in connection with primaries are purely voluntary and non-discriminatory, while the Act coerces an identification only of petitioner's members.

A statute which required the Republican and Democratic Parties to make even a non-opprobrious public listing of

their members would be clearly invalid as an invasion of the right to privacy of political opinion and affiliation. It is even more necessary to safeguard this right in the case of unpopular minorities, as is revealed by the history of the early Jeffersonians, the abolitionists, and trade unions. Anonymity of membership in unpopular groups, and especially in minority parties, is indispensable to freedom of political action. Almost every minority group which ever advocated substantial social change has been the object of bitter attack and public vituperation. All of them, including every new political party, would have been strangled in infancy if they had been required to reveal the names of their members. To permit this handicap to be imposed on a minority party by a legislature composed of its political opponents is to destroy the electoral process.

The court below ignored the requirement that the registration statement list all printing presses, mimeograph machines and the like in the possession of the registrant, its officers or members, or other groups in which it "has an interest" (sec. 7(d)(6), added by 68 Stat. 586). The premise of this section is that words are inherently dangerous and that instruments for their emission may be registered and regulated like guns. The section has been aptly characterized as "a part-way throwback to concepts of press licensing obsolete in the English-speaking world for centuries." [55]

The same monstrous premise underlies the Act's registration and labelling requirements. Their theory is that all of petitioner's advocacy, regardless of content, can be proscribed because it emanates from an organization governmentally branded as "dangerous."

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[55] Chicago Daily News, quoted in 100 C.R. 14401 (daily pagination).

### C. The Act Imposes Sanctions for the Exercise of Rights Guaranteed by the First Amendment.

The evidentiary standards of section 13(e) focus on views and policies and their expression. The first standard relates to the method of formulation and purpose of policies, the second to "non-deviation" of views and policies, the fourth to instruction and training, and the fifth to reporting. The sixth (discipline) and the eighth (allegiance) involve subjective attitudes.

None of the standards, as we have seen, has the remotest relation to the criminal acts attributed to Communist organizations by section 2 of the Act. Indeed, most of the standards have no relation to acts at all, but only to views and expression.

Furthermore, under section 13(e), the content and nature of the views and expression are irrelevant. They need not be dangerous, much less create a clear and present danger. They need not be false or seditious, but may be objectively true and in the interests of the American people. In effect, views and expression form a basis for penalties simply because they are similar to views expressed by spokesmen for the Soviet Union.[56]

The Act thus profoundly infringes the First Amendment by imposing a malignant political censorship. Congress may not restrain the dissemination of ideas because they are considered false. *Thomas* v. *Collins,* 323 U. S. 516, 545; *West Virginia Board of Education* v. *Barnette,* 319 U. S. 624. Much less may it restrain ideas without reference to their truth or falsity.

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[56] The court below acknowledged (R. 2121) that the "directives and policies" criterion (sec. 13(e)(1)) does not require a showing that petitioner's objectives are evil or morally wrong, much less that they are criminal or violent. It further acknowledged (R. 2122) that the "non deviation" criterion may be satisfied by evidence of policies calculated to secure the peace and welfare of the American people.

Under the outermost limits of Congressional power to restrain speech, staked out in *Dennis* v. *United States*, *supra*, Congress cannot control even the advocacy of violence in the absence of circumstances that create a clear and present danger. Much less, therefore, can it impose penalties for the advocacy of peaceable action, which can never give rise to clear and present danger. Because the registration requirements and other sanctions of the Act are reprisals for peaceful advocacy, they are invalid.

In addition, the sanctions on members of the organization are invalid because they penalize innocent association. The members are denied constitutionally protected rights and privileges merely because of their association, and without regard to their own conduct and personal innocence.

This imputation of guilt for association violates the Constitution. "Guilt with us remains individual and personal, even as respects conspiracies. It is not a matter of mass application." *Kotteakos* v. *United States*, 328 U. S. 750, 772. See also *Schneiderman* v. *United States*, 320 U. S. 118, 136; *Bridges* v. *Wixon*, 326 U. S. 135, 163; *Joint Anti-Fascist Refugee Committee* v. *McGrath*, *supra*, at 178-79.

The Court has twice flatly held that a person cannot be penalized for participation in peaceable advocacy of the Communist Party even if it be assumed that the Party also advocates doctrines of force and violence. *DeJonge* v. *Oregon*, 299 U. S. 353; *Herndon* v. *Lowry*, 301 U. S. 242. As the Court stated in the *DeJonge* case (at 365-66):

> "We are not called upon to review the findings of the state court as to the objectives of the Communist Party. Notwithstanding these objectives, the defendant still enjoyed his personal right of free speech and to take part in a peaceable assembly having a lawful purpose, although called by that Party. The defendant was none the less entitled to discuss the public issues of the day and thus in a lawful manner, without incitement to violence or crime, to seek redress of alleged grievances. That was of the essence of his guaranteed personal liberty."

Section 5 of the Communist Control Act carries the vices of the original Act a step further. Under that section, protected expression and association are given one more illegitimate use, this time to identify the persons who are to be victimized as "members" of petitioner. As we have seen (*supra*, pp. 77-80), an individual's association with officers or members of petitioner may be for the most innocuous of purposes, his spoken and written advocacy may be in behalf of the most praiseworthy of objectives, yet he may lose his livelihood, reputation and liberty because, under the criteria of section 5, these entirely innocent activities are indicia of "membership" in petitioner.

The court below (ignoring section 5 of the Communist Control Act) sustained the Act on the ground (R. 2121):

> "Our government may well oppose the establishment in this country of a totalitarian dictatorship of the sort described in the definition, even if such a dictatorship does not meet the definition of 'evil' or if it has many beneficent features."

This statement is beside the point. Perhaps the government in power may "oppose" the establishment of another form of government in this country. So Republicans may "oppose" Democrats by charging that the New Deal and Fair Deal were attempting to introduce "socialism" into the United States or that "the Democratic Party is the captive of a left wing group in the United States that is part of a world-wide Socialist network."[58a] But it does not follow that the Democratic Party could be outlawed if this charge were true.

The issue tendered in this case is not whether the government may "oppose" social change, but whether it may impose sanctions for the advocacy of change. Certainly, so long at least as the advocates of change confine themselves to peaceful persuasion and the use of democratic processes,

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[58a] Leonard W. Hall, Chairman of the Republican National Committee, *N. Y. Times*, October 2, 1953.

the government is limited to countering their advocacy with its own. It may not suppress the advocacy which it "opposes." If the First Amendment means anything, it prohibits Congress from abridging, let alone suppressing, the advocacy of political change by non-violent and constitutional means. *Stromberg* v. *California*, 283 U. S. 359, 369.

Mr. Justice Holmes, dissenting in *Gitlow* v. *New York*, 268 U. S. 652, 673, applied this principle to advocacy of a proletarian dictatorship:

> "If, in the long run, the beliefs established in proletarian dictatorship are destined to be accepted by the dominant forces of the community, the only meaning of free speech is that they should be given their chance and have their way."

See also *Schneiderman* v. *United States*, 320 U. S. 118, 142-144.

The court below itself stated (R. 2116), "Unpopular causes are entitled to the privilege of the arena, but they must sustain the severe burdens of the arena." The privilege of the arena is all that petitioner demands. The unconstitutionality of the Act lies precisely in the fact that it denies petitioner that privilege solely on the ground that its cause is presently unpopular and that many of its views are similar to those held by Communists of other lands.

The rationale of the opinion below is not advanced by the statement (R. 2091):

> "Clearly the aim of the statute before us is at action and conduct rather than at mere speech and assembly. A purpose to establish a proletarian dictatorship, posited in paragraph (1) of Section 2 of the Act, is itself a program of action rather than mere discussion."

The purpose of all political expression and association is to persuade people to act. *Thomas* v. *Collins, supra,* at 537; *Terminiello* v. *Chicago,* 337 U. S. 1, 4. It is of the essence of the First Amendment, therefore, that advocacy of action is protected so long, at least, as the action advocated is peaceable. The court below further stated (*ibid.*), that "the terms used in paragraph (1) of Section 2 to describe the means adopted by the world Communist movement—infiltration into other groups, espionage, sabotage, terrorism—are terms of action." It is true that the advocacy of violent and criminal action of the character described, when engaged in under clear and present danger circumstances, can be penalized. But that fact cannot rescue the Act, since it does not require a showing either of such advocacy or of such a danger, and since the Act's inhibitions extend to peaceable advocacy.

"Heresy trials are foreign to our Constitution." *United States* v. *Ballard,* 322 U. S. 78, 86. Yet the Act outdoes the heresy trials which were banned by the First Amendment. Heretics were burned for promulgating or believing in doctrine supposed to be false and wicked. The Act, however, punishes political heretics for promulgating doctrine that may be true and good. It condemns all views, true or false, good or bad, merely because they resemble those of the Soviet Union. Thus it creates the strangest and most virulent of all heresies—"non-deviation," including "non-deviation" from the truth. In this respect the Act vividly demonstrates the accuracy of a recent letter of the General Council of the Presbyterian Church in the U. S. A., addressed to Presbyterians (N. Y. Times, Nov. 3, 1953):

> "The state of strife known as the 'cold war,' in which our own and other nations, as well as groups within nations, are now engaged, is producing startling phenomena and sinister personalities. In this form of warfare, falsehood is frequently preferred to fact if it can be shown to have greater propaganda value. In the interest of propaganda, the truth is deliberately distorted or remains unspoken. . . . According to the

> new philosophy, if what is true 'gives aid and comfort' to our enemies, it must be suppressed. Truth is thus a captive in the land of the free."

If the Act is sustained, there remain no effective limitations on Congress' control over political expression and association. If Congress can punish "nondeviation" from Soviet views, it can penalize "non-deviation" from other views. In fact, the provisions of the Act relating to front and infiltrated organizations, as well as section 5 of the Communist Control Act, already penalize "non-deviation" from views advanced or supported by petitioner.[57] And it is a commonplace today to label as "Communist views" whatever is distasteful to the speaker. Indeed, some of our most distinguished public figures have been accused by their political enemies of being under Communist influence,[58] following Communist policies, aiding Communist

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[57] The first petition filed under the Act by the Attorney General against a trade union alleges that it is Communist-infiltrated on the grounds, among others, that it has promoted the objectives of the Communist Party by advocating the following views: "The Union has opposed legislation enacted for the control and punishment of subversive activities, such as the Smith Act, the Foreign Agents Registration Act, the Taft-Hartley Act and the Communist Control Act; opposed the Selective Service Act, the draft extension act and the Defense Production Act; denounced Congressional Committees and other government bodies for investigating un-American and subversive activities; denounced government law-enforcement agencies, including the Federal Bureau of Investigation, the Immigration and Naturalization Service and opposed the registration and deportation of aliens; opposed the Federal employee loyalty program; supported and urged its members to support the Progressive Party; advocated clemency for Julius and Ethel Rosenberg, the "Trenton Six", Willie McGee and the "Martinsville Seven"; charged the United States government with the practice of genocide; and denounced American statesmen and industrialists as "warmongers." Petition in *Brownell v. International Union of Mine, Mill and Smelter Workers*, Docket No. 116-56, Subversive Activities Control Board.

[58] Cf. S. Res. 104, 84th Cong., 1st Sess., introduced by Senator Eastland, calling for an investigation of the sociological sources on which this Court relied in *Brown v. Board of Education*, 347 U. S. 483. The resolution recites that "a provisional investigation of the authorities on which the Supreme Court relied reveals to a shocking

objectives, and even of abetting treason. As Robert Maynard Hutchins has stated:

> "It is now fashionable to call anybody with whom you disagree a Communist or a fellow traveller. So Branch Rickey darkly hinted the other day that the attempt to eliminate the reserve clause in baseball contracts was the work of Communists. One who criticizes the foreign policy of the United States, or the draft, or the Atlantic Pact, or who believes that our military establishment is too expensive can be called a Fellow Traveller, for the Russians are of the same opinion. One who thinks that there are too many slums and too much lynching in America can be called a Fellow Traveller, for the Russians say the same. One who opposes racial discrimination or the Ku Klux Klan can be called a Fellow Traveller, for the Russians claim that they ought to be opposed. Anybody who wants any change of any kind in this country can be called a Fellow Traveller, because the Russians want change in this country, too . . . The miasma of thought control that is now spreading over the country is the greatest menace to the United States since Hitler." (Hearings of Illinois Seditious Activities Investigation Commission on University of Chicago and Roosevelt College, April 1949, pp. 20-21.)

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degree their connection with and participation in the world-wide Communist conspiracy," and that "the citation of these authorities clearly indicates a dangerous influence and control exerted on the court by Communist-front pressure groups and other enemies of the American Republic."

# PART TWO

## THE BOARD AND THE COURT BELOW APPLIED THE ACT ERRONEOUSLY AND IN VIOLATION OF THE CONSTITUTION

### I. The Order of the Board and the Decision Below Are Based on Erroneous Interpretations of Section 13(e) and on Evidence Having No Rational Relation to the Criteria of that Section or to the Definition of a Communist-Action Organization

#### A. The Erroneous Interpretation and Application of Section 13(e)

Because relevant evidence was not available to prove that petitioner is a Communist-action organization, the standards of section 13(e) were designed to guarantee the issuance of a registration order against petitioner upon irrelevant evidence which was believed to be available (*supra*, pp. 46-53). It developed, however, that the Attorney General was unable to produce even the irrelevant evidence which might satisfy section 13(e). For this reason, the Board was compelled to misconstrue the criteria of that section and to rely on evidence which had no rational tendency to prove them or the section 3(3) definition. These errors of the Board, affirmed by the court below, become apparent upon examination of the Board's application of each criterion of section 13(e).

1. The "Directives and Policies" Criterion.

Under section 13(e)(1), the Board is directed to consider the extent to which an organization acts pursuant to Soviet directives or to effectuate Soviet policies. An analysis of the findings of the Board on this issue (R. 29-79), which were affirmed by the court below without discussion (R. 2147-2148), demonstrate that they were based on an irrational interpretation and application of this

criterion. In essence, the Board's conclusion that petitioner was currently acting pursuant to Soviet directives and to effectuate Soviet policies was based on the admitted fact that petitioner, like the Communist parties of the Soviet Union and other lands, is an adherent of the theory and practice of Communism, described as "Marxism-Leninism." Thus, while ostensibly applying section 13(e)(1), the Board in fact equated the "directives and policies" criterion with the "non-deviation" criterion of 13(e)(2), as erroneously applied by it (see *infra*, p. 137). In effect, it found that section 13(e)(1) was satisfied because the petitioner did not currently "deviate" from the principles of Marxism-Leninism as these were interpreted by the Board.

The Board found, as was undisputed, that petitioner was a member of the Communist International prior to November 1940, at which time it terminated its affiliation at a special convention called for that purpose (R. 14). As the Board further found, the Communist International dissolved in 1943 (*ibid.*).[59] It is undisputed, and was acknowledged by the court below (R. 2142), that petitioner has had no international affiliation since 1940.[60]

The Board found that prior to petitioner's 1940 disaffiliation from the Communist International, decisions and resolutions of that body were "directives" to petitioner

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[59] The Report suggests that petitioner's 1940 disaffiliation was spurious (R. 6, 14, 130). The court below did not adopt this suggestion, but found (R. 2141) that "The disaffiliation was an organizational separation." Moreover, the evidence refutes the Board's suggestion (see *infra*, pp. 202-03), which is irrelevant in any event since it is undisputed that the Communist International dissolved in 1943.

[60] The uncontradicted evidence is, as the court below found, that petitioner was never affiliated with the Communist Information Bureau and has had no dealings or relations with it (R. 65, 1209-10, 1286-89). As the evidence cited in the Report shows, membership in the Bureau is confined to the Communist Parties of eight European countries "for mutual consultation and voluntary coordination of action" (R. 7).

with which it complied (R. 10-13).[61] The Report cites no instance subsequent to 1940 in which petitioner received foreign directives within any legitimate meaning of that term. Moreover, petitioner's witnesses, Gates and Miss Flynn, testified without contradiction that during their tenure as members of petitioner's national committee,[62] petitioner received no foreign directives of any kind, but formulated and carried out its policies pursuant to its independent judgment as to the needs and interests of the American people (R. 1211, 1227, 1288-89).

The Board found, nevertheless, that petitioner's continued adherence to Marxist principles subsequent to 1940 established, *ipso facto*, that it acts pursuant to Soviet directives and to effectuate Soviet policy. This finding rests on absurd premises, and a misconstruction of section 13(e)(1).

*Marxism-Leninism Is Not a Series of Directives.*

The basic premise of this finding is that "Marxism-Leninism . . . has been promulgated and issued by the Soviet Union as the overall philosophy, authoritative rules, directives and instructions governing the world Communist movement," and that "by the acceptance of and adherence to Marxism-Leninism, [petitioner] subjects itself to the authority of the Soviet Union" (R. 78).

That this conclusion is the primary basis of the Board's order is evidenced by the fact that almost one-half of the Report is devoted to this asserted characteristic of

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[61] Inasmuch as petitioner had no international affiliation after 1940, it is unnecessary to argue that its voluntary affiliation to the Communist International and voluntary acceptance of the incidents of membership did not subject it to "domination and control" by that organization or by the Soviet Union.

[62] Gates and Miss Flynn had been members of the national committee continuously since 1945 and 1938 respectively (R. 1199, 1275).

Marxism-Leninism (R. 21-79) and by the Board's own statement that "the [Marxist] classics[63] are one of the chief means by which the C.P.S.U. directs, dominates and controls the C.P.U.S.A." (R. 43).

The Board's thesis is absurd on its face, and there is nothing in the record to support this phantasmagoria. As the Board itself acknowledged (R. 22), Marxism-Leninism is a system of thought which sets forth a unified and all-embracing view of man and nature. The writings of Marx, Engels, Lenin, Stalin and others in which this view is expounded and developed cover almost every area of human thought and activity, including economics, philosophy, history, political science, anthropology, natural science, and art (Tr. 15506-09). However one may disagree with the teachings of these books, it must be recognized that they represent a germinal system of thought which has had an enormous impact upon world history and the fields of human knowledge and endeavor with which they deal. They are studied in universities and colleges, and even the most vigorous opponents of their ideas concede that a general knowledge of their contents is indispensable to an understanding of the modern world. Yet the Board perceived in this comprehensive body of thought a set of "directives and instructions," "promulgated and issued" by the Soviet Union.

The Board also ignored the fact that Marxists themselves have always insisted and taught that the principles of scientific socialism are not "instructions," "directives," or blueprints for action. On the contrary, as Marx and Engels stated in their preface to the *Manifesto*, and as their followers have reiterated, "The practical application of the principles [of Marxism] will depend, as the *Manifesto* itself states, everywhere and at all times, on the historical conditions for the time being existing . . ." (A. G. Ex. 31,

[63] I.e., the writings of Marx, Engels, Lenin and Stalin (R. 21).

p. 7).[64] Similarly, the authoritative *History of the Communist Party of the Soviet Union* warns:

> "It may seem that all that is required for mastering the Marxist-Leninist theory is diligently to learn by heart isolated conclusions and propositions from the works of Marx, Engels, and Lenin, learn to quote them at opportune times, and rest at that, in the hope that the conclusions and propositions thus memorized will suit each and every situation and occasion. But such an approach to the Marxist-Leninist theory is altogether wrong . . . Mastering the Marxist-Leninist theory means being able to enrich this theory with the new experience of the revolutionary movement, with new propositions and conclusions, it means being able to develop it and advance it without hesitating to replace —in accordance with the substance of the theory— such of its propositions and conclusions as have become antiquated by new ones corresponding to the new historical situation." (A. G. Ex. 330, pp. 355-56).

Furthermore, the Board made its findings in the face of the fact that all of the works of Marx and Engels and most of those of Lenin to which the Report refers were written long before there was a Soviet Union. According to the Board, the *Communist Manifesto*, published in 1848, was "promulgated and issued" by the Soviet Union some time after the 1917 revolution as a "directive" by means of which that government "dominates and controls" the Communist Party of the United States in the 1950's.

In reaching this conclusion, the Board perverted history as well as logic. The roots of the Communist Party lie deep in American soil, and Marxist thought, activity and organization were indigenous to this country long before the Russian socialist revolution.

The history of socialism in this country begins with the pre-Marxist Utopian socialists (Robert Owen, Charles Fourier, and Etienne Cabet), who in the first half of the

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[64] Cf. *Schneiderman* v. *United States, supra*, in which the Court said (at 154): "Philosophies cannot generally be studied *in vacuo*."

nineteenth century established numerous experimental colonies in the United States (Tr. 15576-77).[65] Marxist socialism appeared in America soon after the publication of the *Manifesto*. The first Communist Club in the United States was founded in New York City in 1857. Its leading figure, Joseph Weydemeyer, a friend and follower of Marx, later served as a high-ranking officer in the Union army during the Civil War, as did several other Marxists. American Marxists helped in the formation of the Republican Party, backed Lincoln's candidacy in 1860, and actively supported the cause of the North in the Civil War. Marx and Engels themselves wrote for American publications, notably the *New York Tribune* of Dana and Greeley. Marxists helped form the National Labor Union, the first national federation of American trade unions, whose president, William H. Sylvis, corresponded with Marx and recognized the validity of his views.[66] American Marxists played a leading role in organizing the American Federation of Labor. They founded the Socialist Labor Party in 1876 and the Socialist Party in 1900. (R. 1262-65, 1270-01.)[67]

The absurdity of the Board's conclusion becomes even more patent in the light of its own characterization of Marxism-Leninism. The Report describes it as an "amorphous amalgam" (R. 42). It says that the "rules" for mak-

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[65] Marx once observed, "Socialism and Communism did not originate in Germany, but in England, France and North America." Karl Marx, *Selected Essays* (N. Y. 1926), p. 140.

[66] Samuel Gompers has described the leading role played by American adherents of the International Workingmen's Association, founded by Marx and Engels, in the early struggles for an eight-hour day in this country. Gompers, *Seventy Years of Life and Labor* (N. Y. 1925), v. 1, pp. 51-60.

[67] The organization of petitioner grew out of a split in the Socialist Party in 1919 when the left wing majority seceded, primarily over the issue of opposing World War I. Factions within the left wing thereupon organized two separate Communist Parties which merged in 1921 (A.G. Exs. 4, 5, 13).

ing Marxism-Leninism effective have "been provided an elasticity which makes them applicable under an endless variety of circumstances," and that the "overall policy of Marxism-Leninism" is to do "what is expedient under the given circumstances" (R. 31, 21). It finds that the "tactical aspects of the theory [of Marxism-Leninism] thus attains a flexibility which would appear to make it mean what the current leaders of the C.P.S.U. want it to mean" (R. 23).

Petitioner rejects these vulgarizations of Communist theory. But the point here is that the Board's own premise, as expressed in the foregoing excerpts, demolishes its conclusion.

If the body of Marxist-Leninist literature is indeed an "amorphous amalgam," it cannot simultaneously be a series of "directives." Nor can the Soviet Union dominate and control petitioner by directives so "elastic" that they are "applicable under an endless variety of circumstances" and come down to an order to do "what is expedient under the given circumstances."

If Marxist-Leninist theory means nothing but what "the current leaders of the C.P.S.U. want it to mean," then obviously Soviet directives cannot be found in the body of permanent or "classical" literature which, according to the Board, is meaningless in the absence of current, shifting interpretation. The directives, if they exist, must reside in current "interpretative" orders of Soviet leaders. But the record is altogether devoid of current evidence of Soviet orders. In fact, it was precisely the absence of such evidence which forced the Board to fall back on its preposterous notion that Marxism-Leninism is *per se* a series of directives.

The opinion below did not discuss the Board's thesis that petitioner's adherence to the principles of Marxism-Leninism *per se* satisfies the directives and policies criterion. However, the court's own conclusion as to the nature of Marxism-Leninism is a further demonstration of the absurdity of that thesis. The court stated (R. 2143):

". . . while the tenets of Marxism-Leninism, forcefully set out in the writings of Marx, Lenin and Stalin, permit a wide flexibility in tactics, that is of intermediate activities and objectives, they admit of no deviation from the ultimate objective, which is a classless, stateless world."

Obviously, a body of doctrine that permits a wide flexibility of intermediate activities and objectives cannot constitute "directives" as to such activities and objectives. The principle that there must be no deviation from the ultimate objective of a classless, stateless world certainly is not a "directive" within the meaning of section 13(e)(1), and still less one from the Soviet Union. Nor can pursuance of that goal supply evidence of an intention to effectuate Soviet policies. The goal of a stateless, classless world has long been advocated by many non-Communists who reject the path taken by the Soviet Union, including contemporary Socialist parties.

*Marxism-Leninism Does Not Direct Subservience to the Soviet Union.*

Having found that Marxism-Leninism is a series of Soviet directives, the Board proceeded to examine their content. Its findings in this regard, affirmed by the court below without discussion (R. 2147-48), further demonstrate the irrationality of the Board's approach.

The Board found that "a Communist Party which adheres to Marxism-Leninism is, of necessity, under the domination and control of the Soviet Union" (R. 32). The Board "documented" this conclusion by a few fragmentary quotations from Marxist works, the latest of which (Dimitroff's *United Front*) was written in 1935 (R. 31-32).

From these quotations, the Board found that: (1) "the Soviet Union has a specific place in Marxism-Leninism;" (2) "it represents the first victory of the proletariat;" (3) "it is the center of the world proletariat and it is entitled to the allegiance of the proletariat everywhere;" and

(4) "the authority of its Communist Party is international." The Board then concluded that "the *corollary* of this is that a Communist Party which adheres to Marxism-Leninism is, of necessity, under the domination and control of the Soviet Union" (R. 32; emphasis supplied). The Board's corollary, however, has no foundation either in its premises or in the documentation.

The excerpts quoted by the Board are to the effect that the views of the leaders of the Soviet Union are entitled to great respect from all Communists because the Soviet Union was the first country to carry through a socialist revolution. It is in this sense, as the excerpts make plain, that the "authority" of the Communist Party of the Soviet Union is "international." The excerpts do not assert, as the Board states, that the Soviet Union is entitled to the "allegiance" of the world proletariat. What they do say is that the first socialist state, then in its formative period and surrounded by hostile capitalist states, deserves the friendship and support of working people everywhere, and that its survival is fundamentally important to the cause of world peace and democracy, as well as to the eventual establishment of socialism in other lands.

All that the quotations cited by the Board establish is that the Soviet Union occupies much the same position of authority and prestige among Communists that the United States held among republicans in the late eighteenth and early nineteenth centuries. The establishment of the American Republic first demonstrated the practicality of the theories of government expounded by Locke, Rousseau, and other enlightened thinkers of the eighteenth century.[67a] As

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[67a] By the Board's reasoning, the American revolution of 1776 must have been the work of "foreign agents," since Washington, Jefferson, Franklin, Madison, Paine, and other American revolutionary leaders adopted and put into practice the theories of government expounded by Englishmen, Frenchmen, and other Europeans. The Declaration of Independence was, by the Board's logic, a product of foreign directives, for it was Locke and Rousseau who had

a result, the United States had "a specific place" in the revolutionary movements of the period. It became the "center" of the world movement against absolutism. The "authority" of its leaders—Washington, Jefferson, Franklin, Paine, and the rest—was "international." The principles enunciated in the Declaration of Independence and their practical application in the Constitution provided a pattern which was heavily relied on by the republicans of other lands. The United States attracted to itself the support of republicans everywhere who gave practical assistance to its struggle for freedom. Yet it would be absurd to conclude as a "corollary" of these facts, that the leaders of the French and Mexican revolutions were "dominated and controlled" by the United States or operated to effectuate its policies.[68] The Board's conclusion from similar facts relating to the Soviet Union is equally absurd.

*Marxism-Leninism Does Not Require the Existence of an International Communist Organization.*

The Report asserts that one of the "directives" of the classical Communist writers is advocacy of international revolution "through the instrumentality of an international organization" (R. 25).

It rests this assertion on the finding that "international and revolutionary factors" are basic to Marxism-Leninism

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earlier taught such seditious doctrine as that all men are endowed with inalienable rights to life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, and that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it.

[68] Nevertheless, this charge was made. In 1820, Count Metternich wrote: "These United States * * * have cast blame and scorn on the institutions of Europe most worthy of respect * * * fostering revolutions wherever they show themselves * * * they lend new strength to the apostles of sedition and reanimate the courage of every conspirator." (Quoted by Dexter Perkins in *Hands Off! A History of the Monroe Doctrine.*)

(R. 24). This finding contains an element of validity, in that Marxist-Leninist literature teaches that the economic laws governing social and political development, in accordance with which capitalism supplanted feudalism, will in turn inevitably give rise to the establishment of a socialist society in every country of the world.[69] From this generalization, the Board concluded that "*it is inescapable* that all those working for the ultimate ends of the movement must work in unison and in one cohesive organization on a world-wide basis" (R. 24, emphasis added). The Report does not say why this conclusion is "inescapable" and in fact it is a palpable non-sequitur. The single excerpt the Report quotes to support its conclusion says nothing whatsoever about an international organization (R. 24).

Furthermore, even if the Board's conclusion were logical, it is irrelevant. The relevant inquiry is not what is "inescapable" from the literature, but what has actually taken place. The third and last world organization of Marxist parties, the Third International, concededly dissolved in 1943 (R. 14-15), and, as we have seen, the Board makes no finding that it was succeeded by any other organization.

*The Principle of Democratic Centralism Has No Relevance to the Issue of Foreign Control.*

The Board found that petitioner's "use of the organizational principle known as 'democratic centralism'" proves that it operates pursuant to Soviet directives and for the purpose of effectuating Soviet policies (R. 56-57).

The Board correctly stated that democratic centralism is a Communist principle of organization which provides for the following: (1) election of all officers and leading committees; (2) free discussion of all policy questions pre-

[69] It is also indisputable that these "international and revolutionary factors" are not the product of Soviet "directives" but were basic to Marxism from its inception. The Report documents its statement as to these factors by references to the Communist Manifesto of 1848 (R. 24).

ceding a majority decision of the appropriate party organizations; (3) acceptance by the minority of majority decisions and their execution by the entire membership (R. 56).

In discussing the petitioner's application of this principle, the Board noted the testimony of petitioner's witnesses that democratic centralism establishes procedures under which control of the organization is vested in its members. It then cited the testimony of three of the Attorney General's witnesses to the effect that petitioner is ruled "from the top down and not from the bottom up" (R. 56-57). That testimony, even it were true, is beside the point. The relevant question is not in what direction authority runs, but whether the "top" is domestic or foreign.

The Board found that the "top" was foreign prior to 1940 on the ground that during the period of petitioner's affiliation to the Communist International, democratic centralism obliged it to accept decisions arrived at by that organization. However, the petitioner disaffiliated from the Communist International in 1940, and the latter dissolved in 1943. Subsequent to 1943, therefore, there was no international organization within which democratic centralism could operate. Faced with a complete absence of any evidence of international affiliation of petitioner after 1940, as a possible source of foreign "directives" through the operation of democratic centralism, the Board took refuge in a fiat. It stated that in view of petitioner's former affiliation with the Communist International, "it is reasonable to conclude, and we do so, that [petitioner's] continued following of the principle of democratic centralism keeps [petitioner] within the authority of the Soviet Union" (R. 57). This conclusion is not only wildly illogical, but also contrary to the uncontradicted evidence.

Petitioner's constitution provides that its national convention, a delegated body elected by the membership, is its highest governing body, and that, in the interval between

conventions, this authority vests in its national committee, elected by the convention (A.G. Ex. 374; R. 1698-1704). Petitioner's witness Gates testified that petitioner is a self-governing organization which applies democratic centralism as its internal principle of organization (R. 1204-5, 1224). The Attorney General's witness Lautner corroborated this testimony, stating that democratic centralism "pertains to rules and regulations by which the Communist Party *governs itself*" (R. 965, emphasis added).[70] There is no evidence to the contrary.[71]

*Petitioner's Views on Imperialism and Its Programs with Respect to Labor, the Negro People and Youth Have No Relevance to the "Directives and Policies" Test.*

The Report discusses at great length petitioner's views on imperialism and its emphasis on programs to advance the interests and win the adherence, of workers, the Negro people, and youth (R. 44-56, 64-78). On the premise that Marxism-Leninism is a series of orders from the Soviet Union, the Board concluded that the fact that petitioner's views and activities in these fields are based on Marxist-Leninist principles proves that petitioner complies with Soviet directives within the meaning of section 13(e)(1) (R. 64). The premise being fallacious, the conclusion falls. All that the Board's discussion of these programs demonstrates is that they represent an application of Communist principles. Thus the Board again relied upon its fallacious version of the "non-deviation" criterion (see *infra*, p. 137) to support its findings on "directives and policies."

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[70] The Board's description of Lautner's testimony in footnote 26 of the Report (R. 28) is a complete invention, as can be seen by examining the testimony which the Board's Annotated Report cites. See R. 1854, ftn. 1, and R. 973-974.

[71] The Board's inference of foreign control from petitioner's practice of the principle of self-criticism (i.e., that a political party should openly acknowledge, discuss, and correct its mistakes) is likewise unsupported by evidence or reason. This is apparent from the face of the Report (R. 57-58).

The Report also finds that petitioner's views and activities in these fields were formulated and performed for the purpose of effectuating Soviet policies, within the meaning of section 13(e)(1). This finding is based solely on the content of these views and activities. It is clear, however, that their content establishes nothing of the sort.

The first view to which the Report refers is that the United States is an imperialist country[72] (R. 44). The Board's thesis is that the concept of imperialism, and particularly the view that the United States is an imperialist power, is a view which can be attributed only to Soviet origin. As literate persons are aware, however, the concept of imperialism and the characterization of the United States since the turn of the century as an imperialist country are neither Marxist-Leninist inventions nor imports from abroad. Lenin started his book "Imperialism, the Highest Stage of Capitalism," by acknowledging his indebtedness to the book, "Imperialism," written in 1902 by the "bourgeois" English economist, J. A. Hobson (A.G. Ex. 140, p. 15). Almost a quarter of a century before the Russian revolution, distinguished non-Marxist Americans organized the Anti-Imperialist League in opposition to the Spanish-American war, the conquest of Cuba, and the annexation of the Philippines (Tr. 15705). And if critiques of American imperialism are the product of Soviet "directives" then

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[72] The Report nowhere states what Communists mean by imperialism, except to make the egregious error (R. 45) of saying that Lenin "designates capitalism as 'imperialism'." The record is replete with oral and documentary testimony on the meaning of the term "imperialism." The term refers to the "highest" stage of capitalism, with characteristics which distinguish it from earlier stages. See, for example, Lenin's *Imperialism* (A.G. Ex. 140, particularly pp. 88-89, and R. 1521-2, where imperialism is defined) and the testimony of Dr. Herbert Aptheker, R. 1273-4. Had the Board paid any attention to this evidence, it might at least have avoided the error of stating that "all countries other than those of a victorious socialist revolution—which encompasses only the Soviet Union and those brought within its orbit—are chacterized as 'imperialist' * * * " (R. 45-6).

some of America's foremost historians and political scientists are foreign agents.[73]

Associated with its discussion of imperialism is the Board's treatment of the concept of just and unjust wars. As the Report states, Communists hold that a war to liberate an oppressed people from the yoke of imperialism is just and should be supported while a war to conquer or enslave others is unjust and should be opposed (R. 25). This concept, too, is neither a Russian invention nor unique to Communists. Indeed, the Record shows that petitioner's teaching on this question was drawn not only from Marxist sources, but from the precepts and conduct of men like Lincoln and Grant (who opposed the Mexican War of 1848), Mark Twain and Carl Schurz (who opposed the Spanish American War), Eugene V. Debs and Robert LaFollette, Sr. (who opposed World War I); and from the charter establishing the Nuremberg War Crimes Tribunal, which denounces aggressive war as criminal and abolishes the defense of superior orders (R. 1239-41).[74]

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[73] Including Charles A. and Mary R. Beard, Parker T. Moon, David S. Muzzey, John A. Krout, Ray Allen Billington, B. J. Loewenberg, and S. A. Brockunier (Tr. 13560-62). Defenders of American imperialism also recognize the accuracy of this characterization. Thus, Dr. Virgil Jordan, President of the National Industrial Conference Board, in an address delivered before the 1940 annual convention of the Investment Bankers Association, had this to say on the subject: "Southward in our hemisphere and westward in the Pacific, the path of empire takes its way, and in modern terms of economic power as well as political prestige, the sceptre passes to the United States. We may be afraid of the unfamiliar term imperialism in connection with the commitment we have made. We may prefer in the current American fashion to disguise it in a vague phrase like 'hemisphere defense,' but consciously or unawarely America has been destined to that career by its temperament, capacity and resources and by the drift of world events, not merely in recent years, but since the beginning of the century and certainly since the last war" (Tr. 15665).

[74] In a speech before the Sixth International Congress on Penal Law, Pope Pius XII declared that "unjust war is to be accounted one of the very gravest crimes that international law must proscribe, and the authors of it are in every case guilty and liable to punishment that has been agreed upon." *N. Y. Times,* October 4, 1953, p. 1.

The Board also purported to find evidence of the advancement of Soviet objectives in the fact that since 1945 petitioner has emphasized peace as the central and most urgent issue facing the American people and has criticized the American cold-war policy as aggressive (R. 52-55, 48). Thus the Board equated loyalty to the United States and freedom from Soviet control with unconditional support of the cold war. Moreover, the Board ignored the uncontradicted evidence of the independent origin of petitioner's position on international questions.

Petitioner's position since 1945 has been based on the analysis contained in its July 1945 convention resolution (A. G. Ex. 210). In accordance with that analysis, petitioner has opposed cold war policies of the national administration as a threat to peace. It has consistently urged a return to the successful World War II policy of U. S.-Soviet cooperation and the settlement of disputes among nations by peaceful negotiation. Petitioner has been guided by the conviction that World War III is not inevitable and that peaceful co-existence of the capitalist and socialist systems is possible on the basis of mutually beneficial diplomatic, trade and cultural relations and peaceful competition. It has supported the proposals of non-Communist individuals and governments which it believed to be in the interests of peace. (A. G. Ex. 210, pp. 819-820; A. G. Ex. 378, p. 7; C. P. Ex. 55, p. 31; Tr. 14807-14808, 14811-14816). Even the Attorney General's witness Lautner, in testimony quoted in the Report (R. 52), stated that petitioner's 1945 analysis preceded a comparable analysis by the Soviet Union.[75]

The Board also saw evidence of a purpose to promote Soviet policies in the fact that petitioner attaches major importance to programs and activities in behalf of Ameri-

[75] No discussion is required of the Board's fatuous finding that the concept that the world is divided into two camps is a Soviet "pattern" (R. 48). The same "pattern" has furnished the basis for official American policy since 1945.

can workers, the Negro people, and young people (R. 64-78). The record is clear, and the Report acknowledges, that the petitioner has worked assiduously to promote what most people consider desirable reforms in American life—such as strengthening of the trade union movement, the enactment of social security and other welfare legislation, the elimination of discrimination against the Negro people, etc. (R. 77).

Obviously, however, it is nonsense to infer foreign control from the fact that a political party works among, and seeks to attract the adherence of, major groups of our population. By such a test, every American political party would stand condemned as a "foreign agent."

It is equally nonsensical to infer advancement of Soviet objectives from activities designed to achieve social reforms which many non-Communists likewise believe in and work for. The Board arrived at this startling result by stating that petitioner has a bad motive in carrying out its good work. It said that petitioner's "trade union work, youth work, and national minorities work *could only* have as their aim the effectuation of the policies of the Soviet Union with respect to the world Communist movement" (R. 78, emphasis added). Thus petitioner is condemned because the Board thinks that work for social betterment must be inspired by ulterior motives.[76]

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[76] By this logic, trade unions and religious and cultural organizations which work for similar objectives "could only have as their aim the effectuation of the policies" of Communists, and are therefore to be condemned as Communist-front or Communist-infiltrated organizations. The Attorney General has applied this logic in petitions against alleged Communist-front organizations. The following is a typical allegation of such a petition: "The Committee supported the views, policies and objectives of the Communist Party by opposing the enactment of certain legislation regarded by the Party as inimical to its interests such as the Mundt-Nixon bill, the Hobbs bill, and the Internal Security Act of 1950." Paragraph III(4)(c) of Amended Petition in *Brownell* v. *American Committee for Protection of Foreign Born*, Docket No. 109-53, Subversive Activities Control Board.

The real basis for the Board's order, therefore, becomes apparent. Petitioner is held to be a seditious foreign agent because it opposes those governmental policies which it believes threaten peace, weaken the trade union movement, perpetuate racial discrimination, undermine the living standards of the people, and infringe civil liberties. Petitioner is condemned by its political opponents on the basis of their hostility to its views. Thus the Board obediently fulfills the purpose of the Act to suppress political opposition under the pretext of protecting the national security.

2. *The "Non-Deviation" Criterion.*

As the Report states (R. 80), the Attorney General's evidence on "non-deviation" consisted primarily of the testimony of his "expert" witness, Mosely. The Board's conclusions likewise rest on this testimony.[77]

On direct examination, Mosely testified that the Communist Party and the Soviet Union held similar or "parallel" views on each of 44 different issues dealing exclusively with international relations and foreign affairs, and ranging in time and subject from the League of Nations in 1919 to the Korean War in 1950. With respect to each issue, he identified documents which purportedly "illustrated" the asserted similarity or parallelism. All of these documents were received in evidence (R. 80).

The Mosely testimony and exhibits had no tendency, however, to prove "non-deviation" within the meaning of section 13(e)(2), and had no rational relation to the 3(3) definition of a Communist-action organization. In relying on this evidence, the Board and the court below violated section 13(e) and compounded the unconstitutionality of that section on its face, in four respects: (1) They

[77] This is evident from the Report (R. 79-86) and was acknowledged by the court below (R. 2145).

rejected consideration of the date sequence of the views of the petitioner and the Soviet Union, respectively. (2) They excluded proof of the truth, reasonableness, or general acceptance of the views. (3) They relied on views which they conceded could well advance the best interests of the United States. (4) They excluded proof that the petitioner arrived at its views independently.

*The Date-Sequence Error*

Mosely at no time testified that petitioner's views on the 44 issues to which he addressed himself did not "deviate" from those of the Soviet Union. Instead, he stated that the views of each were "parallel," or "similar."

The Act, however, requires proof of "non-deviation." A parallelism or similarity of views is something quite different from "non-deviation." The dictionary definition of "deviation" is "variation from the common way, from an established standard, position, etc."[78] Accordingly, deviation or non-deviation cannot occur unless there is a *pre-existing* "established standard, position, etc." from which it is possible to deviate.

Applying this definition to section 13(e)(2), non-deviation can be proved only by showing, (1) that the Soviet Union *first* established a position on a given issue; and (2) that, *thereafter*, petitioner, knowing of the Soviet position, did not "deviate" from it, but expressed a similar view or policy on the given issue.

Any contrary construction of section 13(e)(2) leads to an absurd result. A parallelism of ideas can have no conceivable relation to the issue of foreign control unless it appears that the alleged domestic agent adopted ideas *previously* enunciated by its alleged foreign principal. It is impossible to infer foreign "domination and control"

[78] Webster's New International Dictionary.

from a showing that the alleged domestic agent adopted its views in advance of the adoption of similar views by its alleged foreign principal.

Yet the indispensable element of chronological sequence is absent from the record. At no time did the Attorney General offer any evidence that the Soviet view on a subject dealt with by Mosely was adopted, much less communicated, prior to petitioner's adoption of a view on the same subject. On the contrary, the Attorney General took the position that he was not required by the Act to show, and would make no attempt to show, that the Soviet view antedated the petitioner's view (R. 81-82, 836; Tr. 10934-10935). Although relying on the foreign and domestic exhibits offered through Mosely to illustrate views of the Soviet Union and the petitioner on particular subjects, the Attorney General expressly disclaimed the materiality of their date sequences. As the Report points out, the Attorney General insisted that these exhibits were selected for their content alone, and were not intended to establish priority of the Soviet view (R. 81-82).[79] The Attorney General resisted petitioner's attempt to show that its views on particular questions were advanced before the Soviet Union had spoken on the same question. He admitted, inter alia (R. 836):

> "As I am saying, we have not made any attempt to show how the Communist Party reached the views that it did. All we are attempting to show is that it reached the view."

Accordingly, even if the Mosely testimony is accepted in its entirety, it establishes no more than the bare fact that the petitioner and the Soviet Union have held similar views on a number of international questions. There is nothing in his testimony on which to predicate a finding that the petitioner did not "deviate" from Soviet policies. Nor

[79] This disclaimer was necessary because it appears from the face of the exhibits that in 28 out of the 44 issues dealt with by Mosely, the domestic exhibits antedated the foreign exhibits. See Tr. 10903.

did the Board make any determination of the date sequence of the views in question independently of Mosely's testimony. Instead, it relied on all of the examples testified to by Mosely indiscriminately. It did so despite the uncontradicted testimony of petitioner's witness, Gates, that petitioner has often taken positions in advance of the Soviet Union and has taken positions on many questions as to which the Soviet Union has never expressed a view (R. 1227).

In affirming the finding of the Board, the court below dismissed petitioner's contention that consideration of the date sequence of the views was required by the terms of section 13(e)(2) with the statement (R. 2146) that, "The statutory phrase refers to identity or coincidence and not to chronological adoption." Accordingly, both the Board and the court below misconstrued section 13(e)(2) by substituting similarity of views for "non-deviation."

*The Error of Disregarding the Truth, Reasonableness and General Acceptance of the Views.*

If the "non-deviation" criterion is to have any possible relevance in establishing that a domestic organization is the agent of a foreign principal and operates to advance the policies of the latter, the application of the criterion must be confined to views and policies which are peculiarly characteristic of the alleged principal. For example, it would be absurd to infer from proof that two organizations oppose racial discrimination and segregation that one is "dominated or controlled" by the other or operates "to advance the objectives of the other." Yet the Board and the court below relied on views of this character in concluding that the evidence satisfied the "non-deviation" criterion.

The hearing panel precluded petitioner from proving that the views involved in Mosely's testimony were true, reasonable, or generally accepted by individuals and groups (including, in some instances, the United States government)

concededly not under Soviet control or engaged in promoting Soviet policies.[80] The Board affirmed this ruling (R. 80), concurring in the position taken by the Attorney General (Tr. 8878) that "it does not matter whether the Soviet view on these issues which were raised were [sic] right or wrong, or whether the Soviet view was held by many people, by some people, or by all the people." The court below affirmed the finding of the Board on "non-deviation" without discussion of this question (R. 2146, 2148).

This application of the non-deviation criterion predicated the finding that petitioner is a seditious, foreign-controlled organization in part upon such entirely legitimate and widely held views as advocacy of negotiations for a cease-fire in Korea, advocacy of the seating of the Peoples Republic of China in the U. N., and the belief that the Syngman Rhee regime was a corrupt dictatorship (R. 83-84). It is plain that so applied the non-deviation test is wholly irrational.

*The Error of Relying on Views Which May Promote the Welfare of the United States.*

The Attorney General did not contend that any of the views testified to by Mosely were dangerous, seditious or opposed to the national interests of the United States, but took the position that that question was "wholly irrelevant" (Tr. 9059). The hearing panel, in rulings affirmed by the

[80] For example, these rulings were applied to the following views, among others: that there should be negotiations for a cease-fire in Korea (R. 864); that the Chiang Kai-shek regime was a corrupt dictatorship (R. 836-7); that the establishment of a second front in World War II was desirable (R. 844-5); that the League of Nations as originally organized promoted imperialist purposes (R. 839; Tr. 9063); that the defendants in the 1937 Soviet treason trials were guilty as charged (R. 840); that Oatis' confession of espionage was true (R. 845); that the Syngman Rhee government was a corrupt police state (R. 862-4). Citations are to exclusions on cross-examination. For renewal of the exclusionary rulings to prevent the proof in petitioner's affirmative case, see R. 1274-5.

Board (R. 81), precluded petitioner from establishing that views testified to by Mosely were calculated to promote the peace and well-being of the United States,[81] and even from showing that some of these views became the official policy of our government.[82] Nevertheless, the Board relied on these views to support its finding under the "objectives" component of the section 3(3) definition that petitioner operates to promote the seditious objectives attributed to the world Communist movement by section 2 (R. 80-86). The irrationality of this application of section 13(e)(2) is clear.

The opinion below did not discuss this aspect of the Board's application of the "non-deviation" criteron. It replied to petitioner's contention that there is no rational relation between this criterion and the "objectives" component of the section 3(3) definition, by holding that section 13(e)(2) is addressed solely to the "domination and control" component of the definition (R. 2122). This being the case, the court was obliged to reverse the Board's order. For on the court's own premise, the Board plainly erred in using its finding on non-deviation to support its ultimate finding on the "objectives" component.

*The Error of Disregarding the Independent Origin of the Views.*

At most, "non-deviation" supplies tenuous circumstantial evidence of the "domination and control" element of the section 3(3) definition. The fact that two people or organizations hold similar views in a particular field of thought may, and usually does, have nothing to do with domination by one over the other. The similarity may arise from the voluntary acceptance by each of a common premise. Thus all pacifists will oppose a particular war.

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[81] E.g., R. 839, 844, 861, 864.

[82] E.g., desirability of a second front in World War II and of negotiating a cease-fire in Korea (R. 844-45, 864).

The hearing panel, however, precluded petitioner from proving that the similarities of views of petitioner and the Soviet Union on various international questions were attributable to the independent application by each of the premises and analytical approach supplied by Marxist principles.[83]

The Board affirmed the panel's rulings on this as on all other matters affecting the Mosely testimony (R. 80). Nevertheless, it then proceeded to reject petitioner's contention that similarities between views of petitioner and those of the Soviet Union and Communists of other lands are attributable to the independent application by each of Marxist-Leninist principles. It did so on the ground that "the great weight of the evidence is to the contrary" (R. 86).

The Board failed to state what this evidence was, and in fact there is none.[84] Worse, it concealed the fact that any lack of evidence by petitioner on this issue was the result of the panel ruling, affirmed by the Board, excluding proof on the subject. Moreover, Mosely testified that he was unable to conclude from the similarities of the views of petitioner and the Soviet Union that the former had not arrived at its views independently. He regarded the exhibits introduced through him only as evidence of the views and reasoning expressed therein, "but not of the thought proc-

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[83] For example, petitioner's counsel asked Mosely whether petitioner's opposition to World War II at the time of its outbreak in 1939 was not based on Marxist concepts as to the cause and nature of wars and the distinction between just and unjust wars. Counsel for the Attorney General objected to the question as irrelevant, stating: "It does not make any difference how they arrived at the view as to the war" (R. 842). In the colloquy that followed, counsel for the petitioner addressed the following question to the panel chairman and received the following reply (R. 843): "Mr. Marcantonio: * * * In other words how [petitioner] came about reaching certain decisions and taking certain public positions on various issues is irrelevant? Mr. Brown: Yes, sir."

[84] The Board's annotation of its Report to the record gives no citations to document this conclusion (R. 1959).

esses or political processes by which one or the other arrived at the position which he stated" (R. 837-38). The Board, however, brushed aside the expert's evaluation of his own testimony (R. 81).

The Board also brushed aside (R. 85) the uncontradicted testimony of petitioner's witnesses that petitioner formulated and arrived at its views independently. It ignored the testimony of petitioner's witness, Gates (R. 1225-26), that petitioner's frequent agreement with Soviet views on international questions resulted from its own independent analysis of the situation from a Marxist point of view and its conclusion that the Soviet position was in the interest of world peace and hence in the interest of the American people.

The court below, in sustaining the finding of the Board on "non-deviation," stated (R. 2146) that it was petitioner's position that "the identity of views of the Soviet Union and the Party is a coincidence." As we have seen, however, that was not petitioner's contention nor was it the testimony of its witnesses. The court failed to answer the contention which we did make. Like the Board, it held that the similarity of some of petitioner's views to those of the Soviet Union was per se evidence of domination and control. It also disregarded the uncontradicted testimony that petitioner arrived at its views independently, as well as our contention that the panel and the Board erred in precluding cross-examination of Mosely designed to show the independent origin of petitioner's views.

3. *The "Financial Aid" Criterion.*

The Report shows on its face that the Board misapplied the "financial aid" criterion in making a finding adverse to petitioner under section 13(e)(3).

a. The Board did not and could not find that petitioner "receives" foreign financial or other aid, as required by

section 13(e)(3). All that it found (R. 86-88) was that there were instances in which petitioner received such aid in the past, all prior to the date of the Act.[85]

b. The Board did not find, and could not find, that the donor attached conditions to the alleged past financial aid. Accordingly, the alleged aid provides no rational basis for inferring even past domination or control (see *supra*, p. 49).

On the face of the Report, petitioner was entitled to a finding that it does not receive foreign financial aid. The Board made no such finding. Instead, it concluded that its findings of past financial aid "are relevant to the ultimate issue in this proceeding in the light of the whole record" (R. 89). The brief of the Board in the court below stated (p. 101): "It is of course evident from this finding that the Board could not have based great reliance thereon in reaching its ultimate conclusion." Be that as it may, the Board did support its ultimate conclusion, in part, upon its finding on "financial aid," and its action was affirmed by the court below (R. 2148). This was plainly error since the Board's own version of the evidence required a finding in petitioner's favor. The Act prohibits the issuance of a registration order on the basis of conduct which an accused organization discontinued prior to the enactment of the Act (*infra*, p. 160).

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[85] The only instance claimed by the Board subsequent to 1940 is the asserted receipt in 1949 by International Publishers of some Soviet book plates and English translations of books (R. 88). This assertion is based on the Board's misrepresentation of testimony by Harvey Matusow, subsequently acknowledged by him to be false (*infra*, pp. 207-08). Moreover, the Board found that International Publishers is "a Soviet Union publishing organization" (R. 87). If that be true, the alleged 1949 transaction was between two Soviet agencies and not a contribution of financial aid to petitioner. We also later show (*infra*, pp. 208-09) that the Board's findings on financial aid in 1940 and earlier years were based on testimony proven to be false.

4. *The "Instruction and Training" Criterion.*

The Board found that "there is no substantial evidence of record showing training of [petitioner's] members in the Soviet Union subsequent to the outbreak of World War II" (R. 92).[86]

On the Board's own statement of the evidence, therefore, petitioner was clearly entitled to a finding under section 13(e)(4) that it does not send any members or representatives to any foreign country for instruction or training. But as in the case of "financial aid," the Board refused to favor petitioner with the negative finding that the record compels. Instead, it indulged in vaporous speculation as to why petitioner had not engaged in this practice for the preceding seventeen years (R. 92-93). It then proceeded, in violation of section 13(e)(4), to base its order, in part, upon a practice that concededly was abandoned fourteen years prior to the enactment of the Act (R. 93). The court below affirmed this action of the Board without discussion (R. 2148-49).

5. *The "Reporting" Criterion.*

The Board found under section 13(e)(5) that on a number of occasions prior to petitioner's disaffiliation from the Communist International representatives of petitioner made reports on its activities to various bodies of that organization (R. 93-4). The last occasion on which it found such "reporting" was 1935 (R. 93).

The only subsequent "reporting" found by the Board rests on its absurd treatment of a few incidents, all of which occurred prior to the date of the Act.

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[86] In fact, as the Report shows on its face, there is no evidence whatsoever of any study abroad by petitioner's members subsequent to 1936 (R. 90).

a. The Board found that "it is reasonable to conclude" that petitioner "has reported more recently [than 1940] to the Soviet Union." This finding was based exclusively on testimony of Harvey Matusow (R. 94). Matusow testified that one Lou Diskin had said that in 1949, after attending a World Youth Festival of the World Federation of Democratic Youth in Budapest, he stayed on "to deliver some reports on the American youth movement to that group, to the Cominform representatives" (R. 1032). It is clear from the Board's own statement of this hearsay testimony that even if true it has no relevancy to prove the "reporting" standard. For there was no evidence that Diskin (a) reported on behalf or at the request of petitioner; (b) reported the views or activities of petitioner; (c) reported anything more than his personal views and observations on the subject of American youth; or (d) used the word "reports" in his alleged account in the sense of a communication which a subordinate makes to a superior.[87] There was, therefore, no basis from which the Board could "reasonably conclude" that petitioner reported to the Soviet Union in 1949. Moreover, the Board itself subsequently held in another proceeding that no finding can stand on testimony of the notorious and admitted perjurer Matusow (*infra*, p. 213).

b. The Report (R. 95) alludes to the fact that Elizabeth Gurley Flynn, a member of petitioner's National Committee, visited France in 1945, 1949, and 1950, where, as she testified, she met Communists from other countries and in the course of conversation naturally exchanged experiences (R. 1277-82, 1298).[88] The Board did not find that

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[87] In addition, of course, there is nothing to suggest that the alleged recipients of the "report" used it as an instrument of control over petitioner (see *supra*, p. 50).

[88] The Report emphasizes the fact that during her 1945 trip to France, Miss Flynn even met Communists from the Soviet Union (R. 95). It ignores her uncontradicted testimony that these Russians

these conversations were "reports." But it used these trips as a basis for its findings on reporting and concealed the uncontradicted testimony of Miss Flynn that she did not report to anyone (R. 1282).

c. The Report asserts that "by means unknown, contents of an important letter written by William Z. Foster concerning [petitioner's] affairs were communicated to Jacques Duclos, General Secretary of the Communist Party in France and a former member of the Executive Committee of the Communist International" (R. 95).[89]

The Report does not specifically describe the Foster letter as a "report" to a foreign principal, but it insinuates as much. However, the undisputed evidence established that it could not conceivably have been a "report" within the meaning of the Act. The letter was addressed to petitioner's National Committee. There was no evidence whatsoever that petitioner or Foster sent it to Duclos or intended that it should be brought to Duclos' attention. Moreover, the letter was a statement by Foster of his personal dissent from petitioner's policies (see A. G. Ex. 208), not a "report" by or on behalf of petitioner.

d. The Report asserts that petitioner "reported" to the Soviet Union by means of greetings which it sent to organizations and individuals on anniversary occasions (R. 95).

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were all delegates to an international gathering of women and that Miss Flynn's conversation with them concerned child care, post-war reconstruction, and the rights of women (R. 1298). The Report's discussion of Miss Flynn's trips distorts her testimony in other respects as well, particularly by giving the false impression that she made the trips in order to hold the conversations referred to. In fact, the conversations were casual, incidental episodes which occurred during trips made by Miss Flynn as a newspaper correspondent or to attend conventions or affairs (R. 1277-82, 1298).

[89] The Report fixes no date for this communication. Since the Foster letter was referred to by Duclos in an article published in April, 1945 (A.G. Ex. 208), it is evident that the contents of that letter were known to him prior to that time.

The only such greeting cited by the Report during the last quarter of a century is a telegram addressed to Joseph Stalin on the occasion of his seventieth birthday in 1949 and released for publication. This telegram reiterated petitioner's well-known and widely publicized opposition to the Truman foreign policy, expressed confidence that the American people would prevent the outbreak of a new war and achieve an American-Soviet pact of peace and friendship, and wished a long life to Stalin and to his contributions to peace, democracy and socialism (R. 97). In an effort to torture some sinister significance out of this incident the Report states that "it is reasonable to conclude" that the language of the telegram was "possessed of veiled content" (R. 98). Just why the conclusion was reasonable, what this "veiled content" was, and what information it "reported" that was not already well known through petitioner's repeated public statements, the Report does not bother to state.

It is apparent from the foregoing that the Board cited no evidence whatsoever that at least since 1935 petitioner has "reported" within any rational meaning of section 13(e)(5). Nor did the Board find the "extent to which" petitioner reported, as it was required to do so by that section. Much less did it cite any evidence that what it irrationally designated as "reports" were used by the Soviet Union to establish or assert "direction, domination or control" over petitioner.

Finally, even under the Board's nonsensical concept of "reports," it cited none subsequent to 1949, one year prior to the date of the Act. Clearly, even on the Board's erroneous application of the Act's irrational premises, petitioner was entitled to a favorable finding under section 13(a)(5). Yet, abandoning all pretense of reliance on fact, law or logic, the Board concluded that petitioner "reports to the Soviet Union and its representatives" (R. 98).

The court below struck this finding on the ground that the evidence did not support a finding of "constant, sys-

tematic reporting as of now" (R. 2149). The court stated, however (*ibid.*):

> "The evidence indicates instances [of reporting], as in the cases of Eisler and Peters. . . . There is a preponderance of evidence, we think, to support a conclusion that upon occasion leaders of the Party report to representatives of the Soviet Union."

The court's statement, however, is wholly lacking in evidentiary support. As to Peters, there was no evidence that he was ever a representative of the Communist International or the Soviet Union. The Board conceded in its brief below that its contrary finding is inaccurate (see *infra*, p. 209). As to Eisler, there was no evidence that he was a representative of the Communist International after 1936 (see *ibid.*). Moreover, as the Report states (pp. 60-61), both Peters and Eisler left the United States in 1949 so that in no event could their activities in this country provide the basis for a finding of even occasional reporting "as of now"—i.e., subsequent to the date of the Act. The court below did not indicate what other "cases" it had in mind as supplying evidence of current occasional reporting. In fact, however, there are none in the record, and as we have seen, the Report cites none.

6. *The "Discipline" Criterion.*

In applying section 13(a)(6), the Report first quotes statements from a number of American and foreign Communists to establish the proposition (which petitioner itself asserts) that the petitioner, like the Communist Parties of other countries, places great emphasis on the need for internal unity and discipline, demands adherence to party decisions, and condemns factionalism and opportunism among its members (R. 100-01). Obviously, however, petitioner's practice of internal discipline furnishes no evidence that it or its members are under foreign discipline. In an effort to show otherwise, the Report refers back to its

discussion of democratic centralism under the "directives and policies test" (R. 99, 103-04). But as we have shown (*supra*, pp. 130-32), the Board's own analysis of democratic centralism supplied no evidence of foreign directives or discipline. Indeed, in that prior discussion, the Report makes a forward reference to its findings on "discipline" to support its claim that democratic centralism involves foreign directives (R. 57). Thus the Board used the absence of evidence under either test to support adverse findings under both.

Essentially, the Board found that petitioner and its members are subject to foreign discipline because it and other Communist Parties believe that members of a political party should be held to strict adherence to party decisions. Thus the Board assimilated the "discipline" criterion to its erroneous concept of "non-deviation."

The Board also treated what it called "specific instances of record" in which, in its view, the Soviet Union has exercised disciplinary power.

1. The Report cites four occasions on which members of petitioner were allegedly expelled or otherwise disciplined on the initiative of the Communist International during the period of petitioner's affiliation with that organization (R. 102). The most recent of these occurred in 1934.

2. The Report states that in the early 1930's, several of petitioner's members performed missions in foreign countries on behalf of the Communist International (R. 104).

3. It cites a statement by William Z. Foster, petitioner's chairman, that he would have faced expulsion had he conducted a minority factional fight against the policies initiated by Earl Browder and approved by the Party when it dissolved and formed the Communist Political Association in 1944. It then states that after the Foster position prevailed and the Party was reconstituted at a 1945 con-

vention, Browder was expelled for conducting a factional fight against the convention decision (R. 103). These matters were clearly instances of internal discipline. The Report seems to hint that Foster's apprehensions in 1944 and the expulsion of Browder for factionalism in 1945 were inspired by the Soviet Union. But it refers to no evidence to that effect, and there is none.

4. The Report cites petitioner's expulsion of three members, one in 1940 for opportunism (R. 102), one in 1950 for being a police spy (R. 103), and one in 1951 for urging others to distribute anti-Soviet leaflets (R. 103). The Report does not suggest that the Soviet Union had anything whatsoever to do with any of these cases of internal discipline, and no such suggestion could be supported by the record.

5. The Report alludes to the stringent criticism of the Titoist regime in Yugoslavia by the Communist Information Bureau and states that petitioner agreed with this criticism (R. 103).

The alleged incidents which occurred during petitioner's membership in the Communist International sixteen or more years prior to the Act, the more recent scattered instances of internal discipline, and petitioner's agreement with the condemnation of Tito, cannot conceivably support the Board's finding that petitioner and its members are subject to Soviet discipline. Instead, the testimony of petitioner's witnesses that its leaders and members are not subject to and do not recognize the disciplinary power of any foreign government or organization (R. 1223-24) was uncontradicted.

The court below sustained the finding of the Board under section 13(e)(6) (R. 2149-50). Yet plainly, on the Board's own showing, petitioner was entitled to a favorable finding under the "discipline" criterion.

*7. The "Secret Practices" Criterion.*

As we have seen, section 13(e)(7) makes relevant the use of "secret practices" only if their purpose is either to conceal foreign control or to promote the objectives of the organization (*supra*, p. 51).

Eleven pages of the Report (R. 105-16) are devoted to examples of "secret practices," most of which have to do with precautions against the disclosure of the identity of petitioner's members. The existence of such precautionary practices was conceded in the answer and testified to by petitioner's witness Gates (R. 181; 1216-23).

The final two pages of this section of the Report are captioned "Purpose of Secret Practices" (R. 116-117), and are presumably devoted to a discussion of this essential element of the proof. Most of this text, however, consists of a reiteration of examples of "secret practices" previously noted. The Board did not and could not cite evidence that these practices were engaged in for the purpose of concealing foreign control or promoting petitioner's objectives.

On the contrary, the uncontradicted evidence negatives the existence of the two prescribed purposes. As the record shows and the Report concedes, the petitioner's testimony was that precautionary practices were employed to safeguard its members against economic, social and physical persecution and to protect them from unjust prosecution and snooping by police agents and informers (R. 116, 1216-23). In this respect, petitioner's practices are identical with those employed by trade unions when necessary to safeguard their members from similar persecution (R. 1220-21). The Attorney General's evidence did not contradict, but largely corroborated, this testimony.[90]

[90] The Attorney General's witness Lautner testified that petitioner's alleged preparations to set up an "underground" organization were made so that if it was outlawed as a political party it could,

Nevertheless, the Board found that petitioner's precautionary practices were engaged in for the purposes described in section 13(e)(7) on the ground that this conclusion "is inevitable when the secret practices are examined in the light of the whole record and all the surrounding circumstances under which they were and are performed" (R. 116). Clearly this conclusion was unfounded.

The court below held that the Board's finding as to the purpose of petitioner's practices was not supported by a preponderance of the evidence (R. 2151). The existence of the described purposes is an essential element of the "secret practices" criterion of section 13(e)(7). Accordingly, the holding of the court below invalidated the Board's entire finding under that criterion.

8. *The "Allegiance" Criterion.*

The Board's finding under section 13(e)(8) rested on four premises.

(a) The first of these was that petitioner advocates the violent overthrow of the United States government (R. 127).[91]

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nonetheless, continue carrying on "propaganda work, leaflet production and stuff like that," fight its way back to legality, and regain its constitutional status as a legal party (R. 919). The Attorney General's witness Matusow testified that caution in the use of telephones and other similar practices were adopted to safeguard against illegal wire-tapping and surveillance by the F.B.I. (R. 1025-6).

[91] This theory was an afterthought of the Board's, not shared by the Attorney General, who did not plead it in his petition or offer a proposed finding thereon. Moreover, in urging the admissibility of evidence as to the alleged advocacy of "force and violence," counsel for the Attorney General argued that it was relevant to the findings of section 2, and not to the allegiance test (e.g., Tr. 4153). The Board recognized that its theory was not shared by the Attorney General. For it said that "the evidence in the record which pertains to allegiance is broader in scope than [the Attorney General's] specific allegations" (R. 118). The Board's reliance on a matter not pleaded in the petition violated section 13(a), which provides that the Attorney General's petition shall state under verification

The Board derived this conclusion primarily from excerpts from the *Communist Manifesto* and the writings of Lenin and Stalin (R. 118-123). The finding thus flies in the face of *Schneiderman* v. *United States*, *supra*, in which the Court concluded, after a study of the same texts cited by the Board, that adherence to Marxism-Leninism is not inconsistent with attachment to the principles of the Constitution and being well-disposed toward the good order and happiness of the United States.

The Board also attempted to support its conclusion by reference to the testimony of a number of the Attorney General's informer witnesses (R. 121). However, the testimony of two of the witnesses on whom it relied was that Marixism-Leninism teaches that capitalism can be superseded peacefully, and a third gave no testimony on force and violence. A fourth witness (Matusow) contradicted himself and besides cannot, as the Board came to recognize (*infra*, p. 213), be credited. The most contemporary of the Attorney General's witnesses who testified on this subject was Lautner. Lautner's testimony, to which the Report does not refer, was that petitioner advocated a peaceful transition to socialism at the time of his expulsion from the Party in 1950. The Report also ignores oral and documentary evidence on this issue introduced by petitioner. (The evidence on this subject is discussed *infra*, pp. 205-07.)

The court below did not express concurrence in the Board's finding that petitioner advocates violent means to achieve its ultimate socialist objective. It noted (R. 2144) the testimony of petitioner's witness, Gates, that petitioner advocates a peaceful and constitutional road to socialism. It further took note (*ibid.*) of the declaration

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the facts on which he relies for relief. Moreover, as the Supreme Court held in *Schneiderman* v. *United States*, *supra*, at 160, in a civil action which "involves an important adjudication of status * * * the Government should be limited, as in a criminal proceeding, to the matters charged in its complaint."

in petitioner's constitution (A. G. Ex. 374) that, "The Communist Party upholds the achievements of American democracy and defends the United States Constitution and Bill of Rights against its reactionary enemies who would destroy democracy and popular liberties." Referring to this declaration, the court acknowledged (R. 2144) that it is "the established position of Communist leaders that American democracy has gone far in protecting the rights of minorities and of working people and in advancing the economic status of such people, and that in that respect American democracy receives the plaudits of those leaders."

The court nevertheless affirmed the finding of the Board on "allegiance" (R. 2151), in part because "the Party U.S.A. regards the Government of the United States as an imperialist government, and the ultimate essence of the Communist movement is the overthrow of imperialist governments." Obviously, however, advocacy by petitioner's leaders and members of the "overthrow" of imperialism and eventual establishment of socialism in this country by constitutional means does not evidence any lack of allegiance to the United States. *Schneiderman* v. *United States, supra,* at 136-46. Much less does such advocacy have any rational relation to the proof required by section 13(e)(8) that petitioner's leaders or members owe "obligations" to the Soviet Union superior to their allegiance to this country.

(b) The Board and the court below also relied on the concept of just and unjust wars which, they asserted, is a Communist doctrine that the Soviet Union must be supported in any war between that country and an imperialist power (R. 125-37, 2151). The Board's conclusion to this effect was based on the testimony of informer witnesses as to what was allegedly taught in certain Communist schools prior to the date of the Act (R. 125-27). The only official and authoritative statement of petitioner or its leaders which the Report cites on this question refutes its findings

(see A. G. Ex. 331; R. 127, 1632-4). That statement emphasized petitioner's belief in the possibility and desirability of the peaceful co-existence of capitalism and socialism. It added that if, despite the efforts of the peace forces of America and the world, "Wall Street" should initiate an aggressive war, petitioner would oppose it and would cooperate with all democratic forces "to bring such a war to a speedy conclusion on the basis of a democratic peace." Obviously, this position is not incompatible with full and faithful allegiance to the United States.

(c) The third basis for the Board's finding on allegiance consists of a hodge-podge of evidence, all relating to matters prior to the date of the Act.

The Report and the opinion below cite testimony that on several occasions some of petitioner's members pledged to be faithful to the teachings of Marxism-Leninism and to defend the Soviet Union. They likewise cite some references made to that country as "the worker's Fatherland." The Report refers to a resolution of the 1935 Congress of the Communist International and to petitioner's 1949 telegram of birthday greetings to Stalin, both of which recognized him as a great Communist leader (R. 122-25, 2151-52). These items on their face obviously do not demonstrate lack of allegiance to the United States. Their real import is discussed *supra*, p. 128-29.

In addition, the Report cites the testimony of a number of witnesses that they were taught that Communists owe allegiance to the Soviet Union or to the "democratic forces of the world" (R. 125-27). This testimony was all pre-Act, and represented merely the conclusory statements of informers (see, e.g., R. 974). Furthermore, the Report ignores the detailed testimony on this question of petitioner's witnesses, corroborated by official statements of its Chairman and General Secretary (R. 1235-41, 1282-83; C. P. Ex. 55, p. 3; C. P. Ex. 56, p. 3).

(d) The fourth basis of the Board's finding on allegiance consists of the only two post-Act matters on which it relied under this topic. These are: (1) an article by a leader of petitioner which criticized United States foreign policy as inciting war against the Soviet Union and urged support of what he termed "the peace policy of the Soviet Union" (R. 125-6; A. G. Ex. 477, R. 1773-5), and (2) the fact that petitioner opposed the Korean war as an unjust war of aggression by the United States and her allies (R. 127).

It is clear from the foregoing summary that the Board and the court below regarded opposition to the cold war, advocacy of socialism, and praise of the achievements of the Soviet Union and its leaders, as incompatible with allegiance to the United States and as evidence of "obligations" owed to the Soviet Union. Thus the Board and the court embraced what Professor Henry Steele Commager has called "the new loyalty" (*Living Ideas in America*, N. Y. 1951, p. 410):

> "What is the new loyalty? It is above all, conformity. It is the uncritical and unquestioning acceptance of America as it is—the political institutions, the social relationships, the economic practices. It rejects inquiry into the race question or socialized medicine, or public housing, or into the wisdom or validity of our foreign policy. It regards as particularly heinous any challenge to what is called the 'system of private enterprise,' identifying that system with Americanism. It abandons evolution, repudiates the once popular concept of progress and regards America as a finished product, perfect and complete."

**B. The Factors Relied on by the Court Below.**

The court below sustained the ultimate finding of the Board that petitioner is a Communist-action organization primarily on the basis of six factors. It characterized these as "underlying basic facts" that "are heavy in the scales" and "determine the final answer" (R. 2138). A review of those six factors demonstrates that they do not

satisfy any of the criteria of section 13(e) and have no rational relation to the section 3(3) definition of a Communist-action organization.

These factors were:

(1) The fact that petitioner "presents no evidence of a repudiation of world Communist doctrines" subsequent to its disaffiliation from the Communist International in 1940 (R. 2138-42, 2147).

(2) The fact that petitioner calls itself the Communist Party of the United States. The court explained that "it is difficult for us to see why the Party would call itself the Communist Party of the U.S.A. if it were not in fact a part of the Communist movement in theory and program" (R. 2142).

(3) The fact that the reconstitution of the Communist Party in 1945 resulted from what was considered to be a prior departure from the principles of Marxism-Leninism (R. 2142-43).

(4) The fact that petitioner adheres to the "ultimate objective" of Marxism-Leninism, "a classless, stateless world" (R. 2143).

(5) The fact that "the Party's press follows closely world Communist views" (R. 2144-45, 2147).

(6) The fact that petitioner's views on the series of international questions testified about by Mosely (see *supra*, p. 137) were similar to the views of the Soviet Union (R. 2145-46).

As we have seen (*supra*, p. 155), the court below did not find that any of these factors involve the advocacy of violent or unconstitutional means for the attainment of petitioner's immediate or ultimate objectives.

Accordingly, the court held that petitioner is a Communist-action organization primarily because it believes in the principles of Communism, advocates a "classless state-

less world," calls itself the "Communist Party of the United States," and has adopted views on certain questions of foreign policy which are similar to those of the Soviet Union. Plainly, none of these facts (all of which are undisputed) has any tendency to prove either the criteria of section 13(e) or the ultimate issue under section 3(3) that petitioner is "dominated and controlled" by the Soviet Union and operates to effectuate the seditious and criminal objectives which section 2 attributes to the world Communist movement.

## II. The Order of the Board and the Decision Below Violate the Act Because They Rest on Alleged Conduct of the Petitioner Which, If It Ever Took Place, Had Been Discontinued Prior to Enactment of the Act.

The issue before the Board was the current character of petitioner, i.e., whether or not it was a Communist action organization at the time of the administrative proceeding, or, in any event, after September 23, 1950, the date of enactment of the Act.

Sections 13(g) and (h) make it the duty of the Board to determine whether a respondent in a proceeding before it "is" or "is not" a Communist action organization. Similarly, the definition of a Communist action organization in section 3(3) and the evidentiary tests of section 13(e) are all phrased in the present tense. Accordingly, the Act requires the Board to base its findings and order upon evidence of relevant current policies and practices of an organization and precludes it from basing them upon past policies and practices.

The express terms of the Act are re-enforced by the principle favoring the prospective construction of legislation and by the constitutional prohibition of ex post facto laws. *White* v. *United States*, 191 U. S. 545, 552; *Shreve-*

*port* v. *Cole*, 129 U. S. 36; *Cummings* v. *Missouri*, 71 U. S. 277; *Ex Parte Garland*, 71 U. S. 333; *Pierce* v. *Carskadan*, 83 U. S. 284; *Burgess* v. *Salmon*, 97 U. S. 381.

The Board's order, therefore, must be supported by proof of relevant acts and practices of the petitioner subsequent to the date of the Act. Evidence of petitioner's conduct prior to that date is relevant, if at all, only to the extent that it serves to interpret or explain the significance and purpose of post-Act activities. The rule is "that testimony of prior or subsequent transactions, which for some reason are barred from forming the basis for a suit, may nevertheless be introduced *if it tends to show the purpose or character of the particular transactions under inquiry.*" *Federal Trade Commission* v. *Cement Institute*, 333 U. S. 683, 705 (emphasis supplied).[92]

Since the Board's order must be based on post-Act conduct, the Board was required to show by its findings a basis for its order in post-Act evidence (sec. 13(g)). This the Board failed to do. Instead, the Report ranges over the entire thirty-three years of petitioner's history, indiscriminately commingling discussion of a few alleged contemporary practices with discussion of alleged episodes of the remote past. As the court below acknowledged (R. 2126), most of the Attorney General's evidence dealt with

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[92] That case indicates, however, that evidence of past transactions is not admissible even for this limited purpose, where the effect of the proceedings is not to regulate future practices but, as in this case, "to punish or to fasten liability on respondents for past conduct" (p. 706). In *United States* v. *Dennis*, 183 F. 2d 201, 231, the Second Circuit held in a criminal proceeding that evidence of conduct prior to the date of the statute creating the crime was admissible for the limited purpose stated in the *Cement Institute* case. However, it recognized that decisions in other circuits, in agreement with the dictum in *Cement Institute*, held that in criminal matters such testimony is not admissible for any purpose. *Wolf* v. *United States*, 259 F. 388, 393; *Haywood* v. *United States*, 263 F. 795. And see *Dalton* v. *United States*, 154 Fed. 461; *Kammann* v. *United States*, 259 Fed. 192.

the period prior to petitioner's disaffiliation from the Communist International in 1940, and the bulk of the Report is likewise devoted to this period.[93]

A minute examination of the 137 pages of the Board's printed Report is required to identify the post-Act evidence. When that task is done, it becomes apparent that the Report cites no evidence of post-Act conduct which can conceivably support a registration order, even under the irrational criteria of section 13(e).

We therefore proceed to examine the post-Act evidence relied on by the Board.

*"Financial aid," "training," "reporting."* There is not even a suggestion of post-Act evidence under these three standards. The Report acknowledges that there was no evidence of post-Act foreign financial aid (R. 88). Moreover, the only instance of such aid claimed after 1940 stems from a misrepresentation of hearsay testimony of the discredited Matusow (see *supra*, p. 145; *infra*, p. 207). The Report likewise acknowledges that there was no evidence of "instruction and training" subsequent to the outbreak of World War II (R. 92), and in fact the last instance cited by the Report occurred in 1936 (see *supra*, p. 146). Even

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[93] Nineteen of the Attorney General's witnesses had once held membership in the Communist Party. Fourteen of these had left or been expelled from the Party prior to the date of the Act, eight of them for periods ranging from five to twenty years before the Act (R. 134-35). None of the fourteen gave testimony as to the character or activities of the petitioner subsequent to the termination of his membership. The testimony of the five witnesses who had remained in the Party after the date of the Act (*ibid.*) was meagre and related almost exclusively to the period before that date. These witnesses had been rank and file members or minor local officers. Two of them had become virtually inactive in the Party prior to the date of the Act (R. 1034-35; Tr. 12360). Except for Harvey Matusow, all five produced little evidence on which the Board relied. The bulk of the documentary evidence relied upon by the Board consisted of Communist writings which likewise long antedated the Act, going back for a century. Contemporary writings are largely ignored, and, in any event, do not support the Board's propositions.

on the Board's perverted concept of what constitutes a "report," it found none after the date of the Act. And under any rational definition of "reporting," the Report cites nothing after 1935 (see *supra*, pp. 146-50). Moreover, as we have seen (*ibid.*), the court below struck the Board's finding on reporting as not supported by the evidence.

*"Policies and Directives."* The only post-Act evidence cited by the Report consists of the following irrelevancies:

a. Published statements of petitioner opposing the cold-war policies of the Truman Administration and advancing positions similar to those of the Soviet Union (and many non-Communists) on the rearming of Germany and Japan, atomic weapons, a cease-fire in Korea, etc. (R. 53-54).

b. Published statements of petitioner urging that the main direction of its work in the labor movement be towards workers in the A. F. of L. and C. I. O., inasmuch as the great majority of the organized workers are members of these organizations (R. 69).

c. Published statements of petitioner stressing the importance of enlisting the support of young people in the struggle for peace, outlining a program of immediate demands for young people, including opposition to extension of the draft, and commenting favorably on the position of young people in the Soviet Union (R. 71-72).

d. Published statements of petitioner that the Negro people and their struggle for first-class citizenship in this country are an important source of strength to the working class in its struggle against reaction, as well as for the ultimate establishment of socialism (R. 76-77).

e. Published statements of petitioner calling upon its members to examine their mistakes more closely and to strive for unity and discipline (R. 58, 63).

f. The facts that the *Daily Worker* receives and prints despatches from abroad, including Moscow, and stations a correspondent in Moscow, and that the newspaper of the Communist Information Bureau is purchased, read and discussed by some of petitioner's members.[94]

g. Completely discredited testimony of the F. B. I. informer and provocateur, Scarletto, concerning an alleged conversation in a local club meeting on the Korean war (R. 47; see *infra*, pp. 206-07), and the testimony of another informer witness that a speaker at a 1951 meeting had referred "to the necessity of infiltrating the different unions" (R. 70).

h. The fact that some of petitioner's present officials held positions in the Communist International prior to 1940, and visited and, in some cases, studied in the Soviet Union before 1940 (R. 20).

*"Foreign Discipline."* The post-Act evidence cited by the Board relates exclusively to irrelevant instances of internal discipline, as follows:

a. The provision of petitioner's constitution that "personal or political relations with enemies of the working class or the nation are incompatible with membership in the Communist Party" (R. 102).

b. A report made to petitioner's 1950 convention in which the speaker warned against factionalism and said that renegacy from Communism inevitably leads the renegade to hostility towards the Soviet Union (R. 101).

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[94] The only other reasonably contemporaneous (though pre-Act) matters relied on by the Report to support its conclusion that the "Communist press" is a source of Soviet directives are that a May, 1950 article in *Political Affairs*, a publication of petitioner, quotes articles from *Pravda* and *For a Lasting Peace*, and that "some of the articles which are in evidence from *Pravda* contain specific references to the United States" (R. 63).

c. Petitioner's expulsion of one Warwick Tomkins (otherwise unidentified) for urging its members to distribute anti-Soviet leaflets (R. 103).

*"Secret Practices."* The Report contains scattered references to current practices, such as the reduction in the size of party branches and committees, the discontinuance of membership cards and lists, etc. However, all these matters were irrelevant since, as the court below held in setting aside the Board's finding under this criterion (R. 2151), the evidence failed to establish that petitioner's precautionary practices were adopted for either of the purposes specified in section 13(e)(7).

*"Non-Deviation."* The post-Act evidence cited by the Report is to the effect that petitioner's views opposing particular aspects of U. S. foreign policy were similar to those of the Soviet Union (R. 83-84). As we have shown (*supra*, pp. 137-44), this evidence is irrelevant since it does not establish "non-deviation" within the meaning of section 13(e)(2).

6. *"Allegiance."* The only post-Act evidence the Report cites is petitioner's opposition to the Korean war (R. 127) and an article published by petitioner which refers to the Soviet Union as the "leader of the world peace camp" and urges support of its peace policy (R. 125-126). The burden of the Board's findings on "allegiance" is its assertion that petitioner advocates the violent overthrow of our government. It cites no post-Act documentary evidence to that effect, and, in fact, all of the post-Act evidence establishes the contrary.[95] Moreover, as we have seen (*supra*, p. 155),

[95] See *infra*, pp. 205-07. The Report makes the misleading statement that advocacy of violence was established by the testimony of witnesses whose membership "spanned the entire existence of the Party until January, 1951" (R. 121). However, as Appendix A of the Report reveals (R. 134-35), only one of these witnesses (Matusow) was a member subsequent to the date of the Act. None of the others was in a position to testify as to the post-Act advocacy or did so, and Matusow's testimony on the subject (aside from its unreliability) also related exclusively to the pre-Act period.

the court below did not endorse the Board's findings on this subject.

We have now reviewed every item of post-Act evidence referred to in the Report and relied upon by the Board. This review demonstrates that as to two of the eight statutory standards ("financial aid" and "training") the Report itself concedes that there is no post-Act evidence. As to a third ("reporting"), none of the evidence relied on by the Board relates to the post-Act period, and the Board's findings on the subject were stricken by the court below. The court likewise invalidated the Board's finding on secret practices. As to the remaining four standards, the post-Act evidence consists of a handful of scattered incidents and writings which are absurdly irrelevant and immaterial to the criteria of 13(e) as well as to the definition of 3(3).

The six factors which the court below regarded as determinative of the case against petitioner likewise do not involve relevant post-Act conduct. The only current matters to which they refer are petitioner's adherence to the ultimate Communist objective of a "classless, stateless world" and its advocacy of various international policies similar to those supported by the Soviet Union (R. 2138-47; see *supra*, p. 159).

It is obvious that the evidence as to petitioner's current activities relied upon by the Board and the court below cannot support a registration order. At most, it establishes that petitioner (1) is an American political party which subscribes to the principles of Communism, and (2) opposes cold war policies of the national administration and advocates certain policies on international questions which are similar to those of the Soviet Union and which it believes to be in the interest of world peace. Both of these facts have been repeatedly and publicly asserted by petitioner and were alleged in its answer (R. 165-66). They provide no evidence whatsoever that petitioner is a Communist-action organization, either within the section

3(3) definition or on the basis of the evidentiary standards of section 13(e). Since the "particular transactions under inquiry" (*Cement Institute* case, *supra*) cannot conceivably support a registration order, there is no present conduct to explain, and the pre-Act evidence utilized by the Board and the court below can serve no function and has no relevance.

The evidence as to current practices here is far weaker than that in *United States v. Oregon Medical Society*, 343 U. S. 326, where the Court reversed an anti-trust injunction, saying (at 334):

> "Striking the events prior to 1941 out of the Government's case, except for purposes of illustration or background information, little of substance is left. The case derived its coloration and support almost entirely from the abandoned practices."

An order against petitioner could not properly be issued, therefore, even if the only evidence in the proceeding had been that offered by the Attorney General. The fact is, however, that the petitioner's witnesses, Gates and Miss Flynn, testified that subsequent to the date of the Act and for the preceding years during which they served on petitioner's national committee,[96] petitioner (1) received no foreign directives, but formulated and carried out its policies independently; (2) arrived at its views and policies on the basis of its independent judgment of the needs and interests of the American people; (3) received no foreign financial aid; (4) did not send members or representatives abroad for instruction or training; (5) did not report to any foreign government or organization; (6) was not subject to and did not recognize any foreign disciplinary power; (7) exercised only such precautionary measures of concealment as it believed necessary to protect itself and its members against unjust persecution; and (8) owed allegiance only

[96] Gates has served continuously since 1945 (R. 1199-1200) and Miss Flynn continuously since 1938 (R. 1275).

to the United States (R. 1211-27; 1235-41; 1282-91; Tr. 15031-32; 15795-96).

The Board dismissed this uncontradicted testimony with the bald statement that it did not establish the facts "to our satisfaction" (R. 130). It also said that "the record contains ample post-Act evidence which, when illuminated, supports our finding" (*ibid.*). But it never documented this untrue assertion by stating what this evidence was or how the scanty and irrelevant post-Act references in the Report could be or were "illuminated" into proof.

Apparently recognizing that the post-Act evidence could not support a registration order, the Board invoked a vague presumption of "continuance" (R. 130). However, it nowhere identified the pre-Act evidence on which it relied as the foundation of the presumption or the nature of the pre-Act conduct presumed to have continued.[97]

It is obvious, moreover, that continuance cannot be presumed in the face of petitioner's uncontradicted denials and evidence as to post-Act practices. "At most," a presumption of continuance "is but a rebuttable presumption which can not be weighed in the balance as against evidence." *Sherman Inv. Co.* v. *United States*, 199 F. 2d 504, 507. Furthermore, continuance cannot be presumed in the face of changed circumstances, such as petitioner's disaffiliation from, and the subsequent dissolution of, the Communist International. See *Wigmore on Evidence*, 3rd ed., v. 2, sec. 437. Nor can it be presumed that alleged conduct which was permissible at the time it occurred continued after passage of a statute which imposes sanctions for such conduct.[98]

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[97] The absurdity of the Board's approach is illustrated by the fact that it found that foreign instruction and training stopped in 1936 (R. 90, 92), some 14 years before the Act. If there is an applicable "presumption," it should be one of discontinuance, not continuance.

[98] *Federal Trade Commission* v. *Cement Institute*, *Wolf* v. *United States*, *Haywood* v. *United States*, *Kammann* v. *United States*, *Dalton*

The outer limit on the use of evidence of pre-Act conduct, as stated in *Cement Institute, supra,* is to "show the purpose or character of *the particular transactions under inquiry.*" It cannot be used as a substitute for evidence of these transactions, i.e., of relevant post-Act conduct. Yet this is precisely what the Board did when, in violation of the Act and the *ex post facto* clause, it rested its order on a presumption.

The court below rejected, without discussion, our contention that the order of the Board must be supported by evidence of relevant practices engaged in by petitioner subsequent to the Act (R. 2140). Like the Board, it invoked a presumption of continuance. It found that "in the years prior to 1940 the Communist Party USA was dominated and controlled by the world Communist movement" because during that period petitioner was affiliated with the Communist International and bound by its decisions (R. 2138-40). It then held that petitioner's affiliation with the Communist International prior to 1940 was decisive of its present status as a Communist-action organization (R. 2141). The court's theory was that the past conduct of an organization is material to its present nature in the absence of "affirmative evidence of a departure from the established past" (R. 2140). It found that petitioner's disaffiliation from the Communist International and the latter's dissolution did not constitute such a "departure," stating:

> "To demonstrate a changed nature in the Party USA, some assertion of a change in substantive belief and program would have to be made" (R. 2141).
>
> "If the Communist Party USA does not adhere to the basic ultimate objective of Marxism-Leninism [i.e.,

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v. *United States,* all *supra.* In *United States* v. *Dennis,* 183 F. 2d 201, the Court made clear the limited purpose for which it held pre-act evidence admissible, saying (at 231): "It is *toto coelo* a different question whether we are treating them [acts performed prior to the enactment of the law] as *media concludendi* or as the *factum* itself." Under the Board's presumption of continuance, however, the pre-Act conduct became "the *factum* itself."

'a classless, stateless world'], some vivid evidence to that effect should be readily available. . . . But this record contains no such evidence" (R. 2143).

The court's conclusion violates the terms of the Act and is completely illogical. The Act does not purport to require the registration of an organization which holds particular beliefs or opinions unless at least it is *currently* under foreign domination and control.

The court acknowledged, however, that the Communist International, from which petitioner disaffiliated in 1940, dissolved in 1943 and has not been replaced by any other instrumentality through which the "world Communist movement" could exercise control over petitioner. Whatever reasons may be claimed for petitioner's adherence to Communism prior to 1943, its subsequent adherence thereto has plainly been voluntary. The record contains no evidence of foreign coercion or enforced conformity, the court cites none, and the uncontradicted testimony of petitioner's witnesses is that there has been none (*supra*, p. 167).

The court's presumption of a continuance of foreign control from petitioner's failure to repudiate its opinions and beliefs is a complete non-sequitur. By it, the court, like the Board, permitted no escape to petitioner from its past affiliation with the defunct Communist International, except by suicide. It can avoid proscription under the Act as applied by the Board and the court only by repudiating its program and policies and ceasing to be a Communist Party in fact and even in name (see R. 2142). Such an application patently violates both the Act and the *ex post facto* clause.

## III. The Board and the Court Below Applied the Act in Violation of the First Amendment.

It is apparent from the face of the Report that the findings of the Board were based primarily on the contents of

books, periodicals and press statements setting forth views on social, economic, and political questions. Indeed, apart from a few matters that are either patently irrelevant or unfounded in fact, all of the post-Act evidence cited in the Report consists of publications containing expressions of petitioner's views (*supra*, pp. 162-66). Moreover, the six factors which the court below regarded as determinative in affirming the order of the Board relate exclusively to petitioner's views and policies (*supra*, p. 159).

In grounding and affirming the order on these expressions of opinion, the Board and the court magnified the vice inherent in the Act that it imposes sanctions for peaceable advocacy and association.

The Report and the opinion below do not, and on the record could not, suggest that petitioner advocates anything but peaceful, lawful, and democratic means to win the acceptance and adoption of its immediate objectives. Moreover, the Board expressly disclaimed any finding that these objectives are antagonistic to the interests of the American people, but stated (R. 81) that petitioner "was not permitted, and rightly so, to put in issue the merits of the views or policies of [petitioner], which views and policies were placed in evidence by the [Attorney General] to establish 'non-deviation.'"

Unquestionably the reliance of the Board and the court below on petitioner's views and advocacy concerning current international and domestic issues violates the First Amendment. This advocacy presents no danger of any evil against which the government may act. The Board and the court did not and could not find, for example, that petitioner's advocacy of a cease-fire in Korea, the seating of the People's Republic of China in the United Nations, the abandonment of the cold war policy, guarantees of full equality for the Negro people, the repeal of the Taft-Hartley, Smith, and McCarran Acts, and an increase in social security benefits (R. 53-54, 83-84, 77), presents any "danger"

which Congress may suppress. Yet they based the registration death sentence in large part upon petitioner's advocacy of these views.

In short, the Board and the court below have added two additional exceptions to the clear and present danger exception to the First Amendment. These are that advocacy may be abridged, and indeed prohibited, if it is critical of the policies of the national administration or advances views on foreign affairs which are similar to those of the Soviet Union. The only "danger" that such advocacy presents is that the views in question may be adopted by the administration upon which they are urged or that the voters may be persuaded to elect a new administration which will adopt them. The only "danger," therefore, is the democratic process itself. As the Court said in *Stromberg* v. *California*, 283 U. S. 359, 369:

> "The maintenance of the opportunity for free political discussion to the end that government may be responsive to the will of the people and that changes may be made by lawful means, an opportunity essential to the security of the republic, is a fundamental principle of our constitutional system."

It is this fundamental principle which the Act was designed to subvert and which its application by the Board and the court below would destroy.

The crass infringement of the First Amendment is not mitigated by the Board's assertions: (a) that petitioner's concededly legitimate political views were not arrived at independently but were the product of alleged foreign directives embodied in Marxist writings, and (b) that however meritorious these views may be, they were advocated with an evil motive. These assertions are unfounded and false (see, *supra*, pp. 120-37). But even if they were true, they could furnish no justification for abridging petitioner's rights of advocacy and association. Freedom of speech, press and assembly may not be denied because the doctrine

taught is found to derive from a "bad" source or to be advocated for a "bad" motive. The "fundamental principle of our constitutional system," referred to in *Stromberg*, does not rest on so precarious a premise. Accordingly, the reliance by the Board and the court below on petitioner's peaceable advocacy on current issues requires a reversal.

The same thing is true of the reliance on petitioner's adherence to the principles of Marxism-Leninism. It is true that the Board asserted that Marxism-Leninism is a doctrine that advocates as an ultimate objective the violent overthrow of the government. This assertion is contrary to the evidence and to *Schneiderman* v. *United States*, *supra*, and was not accepted by the court below (see *supra*, p. 155, *infra*, pp. 205-07). But even if the Board's version of Marxist-Leninist teachings were correct, its reliance thereon to support the registration order would be unconstitutional. A showing that petitioner advocates the violent overthrow of the government would (if other constitutional prerequisites were met) at most authorize the prohibition of such advocacy. As we have shown, however, the registration order and the Act's sanctions are not so confined, since they abridge petitioner's right to speak and publish on any subject and to assemble for any purpose.

Furthermore, the Report is barren of findings which are prerequisite to the imposition of sanctions, even if confined to the advocacy of the violent overthrow of the government. The Court sustained the Smith Act convictions in the *Dennis* case, *supra*, only on the grounds that (1) the jury had found that the advocacy was accompanied by an intent to "overthrow the . . . the government of the United States by force and violence as speedily as circumstances permit," and (2) the trial judge had found that the advocacy, when coupled with this specific intent and under the current world conditions, created a clear and present danger. (See *Dennis*, at 499, 502, 510.) Neither the Board nor the court, however, made any such findings.

On the contrary, the thrust of the Report and the opinion below is that petitioner should be ordered to register merely because it believes in the principles of Communism. The Board relied on the content of Marxist literature to support its conclusion that those who agree with its precepts are, *ipso facto*, seditious foreign agents. For example, it stated that "by the acceptance of and adherence to Marxism-Leninism [petitioner], subjects itself to the authority of the Soviet Union" (R. 79). The court below went even further, holding (R. 2148) that petitioner's belief in a "stateless, classless world" is a determinative factor in establishing that it is a Communist-action organization. Thus the Board imposed and the court affirmed the registration order on the basis of mere belief. This is patently unconstitutional.

In *American Communications Associations* v. *Douds*, 339 U. S. 482, the six Justices who participated in the decision divided evenly as to the validity of that portion of section 9(h) of the Taft-Hartley Act which requires affidavits denying belief in the forcible overthrow of the government.[100] The three Justices who sustained the belief portion of the affidavit recognized that Congress could not forbid or punish the holding of any belief and upheld this provision of section 9(h) on the ground that the "sole effect of the statute upon one who believes in overthrow of the government by force and violence—and does not deny his belief—is that he may be forced to relinquish his position as a union leader" (at 408). "We have noted," they stated, "that the distinction is one of degree" (at 409).

Thus even by the test of the latter three Justices a registration order under the present Act cannot be predicated on belief. For the sanctions and disabilities which the order entails are so comprehensive and severe, and are fortified by such extravagant criminal penalties, that they obviously surpass any permissible "distinction of degree."

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[100] In *Osman* v. *Douds*, 339 U. S. 846, the Court divided four-four on the validity of the belief portion of the affidavits.

## IV. The Court Below, Having Invalidated Key Findings of the Board, Erred in Not Remanding the Case for Administrative Redetermination.

As we have seen (*supra*, pp. 120-58), the Board rested its decision that petitioner is a Communist-action organization on findings adverse to petitioner under each of the eight criteria of Section 13(e). Since the Board's ultimate conclusion was based on the totality of these eight findings, it cannot be said that the same conclusion would have been reached if any of the findings had been omitted or had been to the contrary effect.[101]

The court below struck the finding of the Board under the "reporting" criterion of section 13(e)(5) (see *supra*, p. 149). It also set aside the Board's finding that the purpose of petitioner's so-called "secret practices" was to promote its objectives and to conceal Soviet control. It thereby invalidated the Board's entire finding under section 13(e)(7). (See *supra*, p. 154). Accordingly, the premises on which the Board acted do not support its ultimate conclusion and order, since it based its order on the sum of eight findings, not on six.

Furthermore, the court below held that the "non-deviation" criterion of section 13(e)(2) had no relevance to the "objectives" component of the section 3(3) definition. The Board, however, used its finding on "non-deviation" to support its conclusion on that component of the definition, as well as on the foreign control component. (See *supra*, p. 142.) In this respect as well, therefore, it is clear that the Board based its ultimate conclusion and order on a premise held by the court to be erroneous.

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[101] We have shown that the Board was a biased tribunal which would inevitably have found against the petitioner no matter what the state of the record. But if the Court accepts this contention, a reversal is required on the ground that petitioner did not have a fair hearing.

Section 14 of the Act permits affirmance of a registration order only if the findings of the Board are supported by a preponderance of the evidence. The court below held that two of the key findings were not so supported and that a third was given an erroneous application. Therefore it could not validly affirm the Board's order, but should have remanded the case for administrative redetermination in the light of the court's action.

A remand was also required by the familiar principle that an administrative order cannot be sustained unless the grounds on which the agency predicated it are valid. In violation of this principle, the court below acted as though it were the administrative agency and the Board its trial examiner.

The decision below contravenes *National Labor Relations Board* v. *Virginia Electric & Power Co.*, 314 U. S. 469. There the Court remanded an administrative order because the agency's ultimate conclusion rested on findings which had insufficient evidentiary support. The Court recognized that the agency could validly have reached the same ultimate conclusion by making other findings supportable by the record before it. Nevertheless it remanded the case so that the agency could decide anew on the existing record after discarding the invalid findings.

The decision below is also contrary to *S.E.C.* v. *Chenery Corp.*, 318 U. S. 80, which remanded an administrative proceeding because the order could not be sustained on the bases on which the agency acted, although it might have been valid if the agency had applied correct premises. The Court stated:

> "The grounds upon which an administrative order must be judged are those upon which the record discloses that its action was based" (at 87).
>
> "The Commission's action cannot be upheld merely because findings might have been made and considerations disclosed which would justify its order as an appropriate safeguard for the interests protected by the Act" (at 94).

> "We merely hold that an administrative order cannot be upheld unless the grounds upon which the agency acted in exercising its powers were those upon which its action can be sustained" (at 95).

See also, *I.C.C.* v. *C.B. & Q.R.R.*, 186 U. S. 320, 341; *Colorado Wyoming Gas Co.* v. *F.P.C.*, 324 U. S. 626, 634; *Atchison Ry.* v. *United States*, 295 U. S. 193, 201-03.[102]

As stated in *Federal Power Commission* v. *Idaho Power Co.*, 344 U. S. 17, 20:

> "* * * the function of the reviewing court ends when an error of law is laid bare. At that point, the matter once more goes to the Commission for reconsideration."

Here the court below "laid bare" three major errors of law. Accordingly, its decision must be reversed so that the order of the Board may be vacated and the case remanded for agency redetermination.

The necessity for this course is underscored by the fact that of the five findings which survived, two had little if any weight against petitioner. As we have seen, the Board itself found that practices involving "financial aid" and "instruction and training" were not currently engaged in by petitioner (R. 88, 92; *supra*, p. 162), and it advised the court below that it "could not have placed great reliance" on the "financial aid" criterion (*supra*, p. 145).[103] In contrast, it is clear from the Report that the Board relied heavily on two of the invalidated findings. It devotes more pages to "secret practices" than to any other criterion with the exception of "policies and directives" (R. 105-117). And the court below characterized the evidence on "nondeviation" as "one of the chief items of evidence in the case" (R. 2148).

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[102] The action of the court below is also in conflict with its own decisions. *Democrat Printing Co.* v. *F.C.C.*, 202 F. 2nd 298; *Mississippi River Fuel Corp.* v. *F.P.C.*, 163 F. 2d 433, 449.

[103] Moreover, the court below recognized that the "financial aid" and "instruction and training" criteria had no great materiality to the ultimate issue (R. 2123).

## PART THREE

## PETITIONER DID NOT RECEIVE A FAIR HEARING BEFORE A VALIDLY CONSTITUTED TRIBUNAL.

### I. The Petitioner Was Denied a Fair Hearing Because the Members of the Board Were Subjected to Extra-Legal Pressures to Decide Against It and Were Personally Biased and Prejudiced Against It. Two Board Members Should Have Been Disqualified on Affidavits of Bias and Prejudice.

We have shown (*supra*, p. 70) that the Act itself made a fair hearing of this case impossible since a decision in petitioner's favor would have reversed the legislative verdict of guilt, repealed the Act by administrative action, and terminated the jobs and salaries of the Board members. These irresistible pressures were reinforced by extra-legal measures which subjected the unconfirmed Board appointees to policing by the Senate Judiciary Committee, whose then chairman, Senator McCarran, was both the nominal author of the Act and in effective control of the confirmation of appointments to the Board. Moreover, the two Board members who composed the panel during most of the hearing [104] and who wrote the recommended decision clearly evinced their personal bias and prejudice against the petitioner.

#### A. The Extra-Legal Pressures on the Board Members.

The President named the five original members of the Board by so-called recess appointments on October 23, 1950. He submitted their nominations to the Senate on November 27, 1950 and again on February 12, 1951. (*First Annual*

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[104] The hearing panel was originally composed of three Board members, but the appointment of the third member lapsed because of non-confirmation during the course of the hearing, and he was not replaced (R. 1).

*Report, Subversive Activities Control Board*, p. 5). However, the Senate Judiciary Committee took no action on these nominations until July 30, 1951, when it reported favorably on Board members Brown and McHale (both members of the hearing panel) and Coddaire, but took no action on Board member LaFollette, the third member and chairman of the panel, and the acting chairman of the Board.[105] The three nominees who were favorably reported were confirmed by the Senate ten days later. (*Second Annual Report, Subversive Activities Control Board*, p. 5.) The LaFollette nomination died in committee with the adjournment of the Eighty-Second Congress on October 20, 1951, at which time Mr. LaFollette ceased to serve (R. 1).

Accordingly, for many months during the pendency of the administrative proceeding,[106] the tenure of the Board members was subject to the pleasure of the Senate Judiciary Committee, whose chairman had the power to block confirmation if their conduct of the proceeding did not conform to his wishes. It was this committee which stated in its report on the legislation that "there is incontrovertible evidence of the fact that the Communist Party of the United States" has all of the characteristics of a Communist-action organization (*supra*, p. 45).

The pressures on the Board members generated by this situation were recognized by the Board's first chairman, Seth W. Richardson. One week before the taking of testimony in this proceeding began, Mr. Richardson publicly admitted that the Board's handling of the case had been "psychologically complicated" by the failure of the Senate

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[105] The fifth original member of the Board and its first chairman, Mr. Seth W. Richardson, resigned on June 6, 1951, because of his health (*First Annual Report, Subversive Activities Control Board*, p. 5).

[106] The petition was filed on November 22, 1950, and after pre hearing motions were disposed of, the panel began to hear testimony on April 23, 1951 (R. 1).

to confirm the members of the Board. *N. Y. Times*, April 16, 1951, p. 25. The existence of these pressures was also the subject of public comment. The *Washington Post* stated in an editorial:

> "Unhappily, however, there is a great deal of force to the contention put forward by Vito Marcantonio that 'this board sits in jeopardy, and if at any time it takes a view contrary to that of the chairman of the Senate committee (Senator Pat McCarran) which is to pass on its nominations the members may never be confirmed in the positions to which they have been appointed' * * *. The Board entirely lacks the independence necessary to its quasi-judicial function." (Quoted in Frantz, *Tooling Up for Mass Repression*, The Nation, Dec. 12, 1953, p. 496.)

See also N. Y. Times, April 15, 1951, p. 1.

The gun of non-confirmation which the Senate Judiciary Committee thus held at the heads of the Board members was loaded with live ammunition. This is established by the evidence developed at the hearing and confirmed by the political execution of Board member LaFollette.

Gitlow, the first witness called by the Attorney General, was in frequent contact with one Benjamin Mandel during his appearance on the witness stand. Mandel was then employed by the Senate Subcommittee on Internal Security, a sub-committee of the Senate Judiciary Committee, and, like the latter, under the chairmanship of Senator McCarran (R. 282, 295-97). The subjects discussed by the witness and Senator McCarran's employee were also established. Gitlow testified, "I discussed the conduct of this case, I discussed the attorneys in the case, I discussed the members of the panel" (R. 295).

Two of the Attorney General's other witnesses, Kornfeder and Crouch, were likewise shown to have been in contact with Mandel, the former almost daily throughout his appearance as a witness (R. 347-49; Tr. 3536-55, 5802-03). The panel, however, excluded cross-examination de-

signed to show that Kornfeder, like Gitlow, discussed the Board members' conduct with Mandel (R. 349).

Nevertheless, the panel members were fully aware from Gitlow's express admission and from the clear implications of the testimony of Crouch and Kornfeder, that their conduct of the proceeding was under surveillance by the chairman of the Senate Committee which, on the one hand, had power to block their confirmation and, on the other hand, had flatly stated that incontrovertible evidence proved petitioner to be a Communist-action organization. The panel chairman bluntly stated his appreciation of the existence and effect of this intolerable situation:

> "Mr. LaFollette: So that my own thinking may be clear for everybody to know, I feel pretty much the same way about this witness discussing my conduct in the hearing room with Mr. Mandel, under the circumstances, as I would if I were a nisi prius judge in an elective office, and a political boss had the right to control my nomination or renomination. I would resent it very much. I don't know that it necessarily proves, of itself, that there was an attempt by this device to intimidate me" (R. 297).[107]

Another revealing incident occurred when Kornfeder (who as already noted, was in almost daily contact with Mandel) evidenced such an arrogant and contemptuous attitude toward Mr. LaFollette that the latter was impelled to surrender the panel chairmanship to Board member (later chairman) Brown. In doing so, Mr. LaFollette stated in part (R. 345-46):

> "In this proceeding, also factually, we recognize, or I do, that there is great public support for anything which the [Attorney General] here proposes, which makes it impossible for me, notwithstanding the stalwart support which I received from my colleague, Dr.

[107] At the inception of the hearing and again after this incident, petitioner moved to adjourn the hearing until the Senate had confirmed the appointments of the Board members (R. 240, 293-95). Both motions were denied (R. 249, 301).

McHale, yesterday, to feel that I can conduct these hearings in a way which will be consistent with orderly procedure.

"I do not believe that I will be able to exercise any control over any witnesses submitted by the [Attorney General] and I think if I cease to exercise the prerogative of presiding we will have a much more orderly process and there will be no delays by any statements made by the presiding officer, which seems to be so offensive." [108]

Kornfeder immediately reported this incident to Senator McCarran's agent, Mandel (R. 348). A few days later, the Board members were "summoned to Capitol Hill * * * for an un-announced 'get acquainted' meeting" with two members of Senator McCarran's Internal Security Sub-Committee. *N. Y. Times*, June 14, 1951, p. 9.

It is obvious that Mr. LaFollette's nomination was killed in committee at least in part as a reprisal for his resistance to the Committee's pressure upon him. The other two members of the panel were confirmed after they had meekly accepted the surveillance and otherwise demonstrated that they could be implicitly trusted to rubber stamp the Act's verdict against petitioner. Indeed, Mr. LaFollette supplied Board member Brown with a weighty credential to Senator McCarran. In his statement surrendering the panel chairmanship from which we have already quoted, Mr. LaFollette referred to his colleague in the following words (R. 346):

"Also, we will have a speedier hearing, I am sure because the Panel Member, Mr. Brown, whom I have asked to preside from now on, has already evidenced the remarkable capacity to make speedy and immediate rulings upon all objections presented to this Panel.

[108] Mr. LaFollette's resignation was set aside by Mr. Richardson, then chairman of the Board (R. 346-7), and LaFollette continued to chair the panel until his appointment terminated upon the adjournment of Congress.

"The fact that they almost uniformly amount to a sustaining of any position taken by the [Attorney General] and a rejection of any position taken by the [petitioner] is purely coincidental, I am sure."

**B. The Personal Bias and Prejudice of the Members of the Board.**

The two members of the panel (Brown and McHale) whose conduct of the hearing commended them to the Senate Judiciary Committee subsequently demonstrated their personal bias and prejudice against petitioner and a gross disregard for their function as quasi-judicial officers. Their conduct was made the subject of affidavits of bias and prejudice (R. 187-190, 196-199), which the Board erroneously denied (R. 190, 209).

During the course of the hearing, Dr. McHale made a speech before the Women's National Democratic Club in which she discussed the proceeding at some length. She referred to one of the issues of fact which had arisen in connection with the "non-deviation" criterion and to the character of the world Communist movement, and expressed a pre-judgment on both (R. 193-96, 187-90). She indicated her view that the hearing was merely a formality by likening the petitioner to the rabbit in the aphorism, "as an old recipe for rabbit stew goes, we must first catch the rabbit" (R. 196).

Immediately after the issuance of the panel's recommended decision and while the proceeding was pending on review before the full Board, Chairman Brown and the Board's general counsel appeared on a radio and television forum sponsored by Georgetown University and devoted to a discussion of this case from an anti-Communist point of view. The chairman and the general counsel commented on the evidence, expressed self-gratulatory delight with the recommended decision, and stated their conviction that petitioner is a Communist-action organization as defined in the Act. In referring to the Act's definition of Communist-

front organizations, Mr. Brown stated that they are organizations controlled by the Communist Party, thereby demonstrating his awareness of and agreement with the Act's prejudgment (R. 197-98, 206-08).

Accordingly, the provisions of the Act, the pressures and actions of the Senate Judiciary Committee, and the personal bias and prejudice of the Board members, combined to make a fair hearing impossible. External pressures and personal prejudice wrote the order against petitioner, without regard to law or fact.

The record here does not require the court to speculate "on the effect of subconscious psychological pressures" on the members of the Board. Cf. *Shaughnessy* v. *Accardi*, 349 U. S. 280, 283. All of the factors which the Court there held would vitiate the decision of an administrative agency were present here. The Board members were, of course, aware of the terms of the Act, of petitioner's condemnation as a Communist-action organization in the report of the Senate Judiciary Committee, and of the status of their appointments before that Committee. They were "directly or indirectly approached" (*ibid.*) by the Senate Committee at the "get acquainted meeting" and through Mandel. Finally, both the chairman of the Board and the chairman of the hearing panel made statements acknowledging that they were affected by these pressures. It is therefore clear from *Accardi* and the other authorities cited (*supra*, pp. 70-71) that petitioner was denied due process.

Furthermore, the order must be set aside on the independent ground of the refusal of the Board to disqualify Dr. McHale and Mr. Brown. Section 7(a) of the Administrative Procedure Act (5 U.S.C. 1006(a)), made applicable by section 16 of the Act, requires disqualification of a hearing officer or an officer participating in the decision, on the basis of a "sufficient affidavit of personal bias or disqualification." The affidavits of bias and prejudice filed by petitioner on the basis of McHale's speech and Brown's

radio-television performance made a sufficient showing against both these Board members, the test being whether the allegations "give fair support to the charge of a bent of mind that may prevent or impede impartiality of judgment." *Berger* v. *United States*, 255 U. S. 22, 33-34.

## II. The Original Appointments to the Board Violated the Constitution. The Court Below Should Have Set Aside the Board's Order Because the Acts of the Board Members Prior to Senate Confirmation of Their Appointments Were Invalid.

The pertinent facts with reference to the appointments of the Board members are the following: The Act was passed by Congress over the President's veto on September 23, 1950. Later the same day, Congress adjourned pursuant to a concurrent resolution providing that it should reconvene on November 27, 1950 (96 Cong. Rec. 15895). On October 23, 1950, the President issued "recess" appointments to five persons as members of the Board. On November 27, 1950, upon the reconvening of Congress, the President transmitted the nominations of these persons to the Senate for its advice and consent. On January 2, 1951, the 81st Congress adjourned *sine die* without having acted on the nominations. The nominations were again submitted to the Senate of the 82nd Congress on February 12, 1951. (First Annual Report, Subversive Activities Control Board, p. 5.) The Senate took no action on these nominations until August 9, 1951 when it confirmed three of the appointees. (Second Annual Report, Subversive Activities Control Board, p. 5.)

Article 2, sec. 2, cl. 3 of the Constitution provides:

> "The President shall have Power to fill up all vacancies that may happen during the Recess of the Senate by granting Commissions which shall expire at the end of their next Session."

**A. The Original Appointments Were Invalid Because No Vacancies Happened During the Recess.**

The offices of Board members could not be filled by recess appointments because they came into being with the passage of the Act on September 23, 1950.

"Vacancies" do not "happen" in the constitutional sense in offices which are newly created by law. In 1813 and again in 1822, the Senate construed Article 2, sec. 2, cl. 3 to refer to vacancies occurring by reason of death, resignation, promotion or removal, and to exclude those which result from the creation of a new office. Story, *Commentaries on the Constitution*, sec. 1559.

Even if "vacancies happened" on the Board upon the passage of the Act, they did not happen "during the Recess of the Senate," but while the Senate was still in session on September 23, 1950.

The only case which passed on the validity of a recess appointment to a newly created office, held that the President had no power to make such an appointment because no vacancy happened, and, in any event, did not happen during the Recess of the Senate. *Schenck* v. *Peay*, 21 Fed. Cas. 672. Cf. *People* v. *Forquer*, 1 Ill. 104.[109]

In the *Schenck* case, the court pointed out (at 674-675) that Webster defines the word "happen" as: "'First, To come by chance; to come without previous expectation. Second. To take place; to occur'." It held that an office newly created by Congress does not "happen" to become vacant within the meaning of the first definition of that term. Nor, if the second definition is applied, does the vacancy "occur" during the recess. Furthermore, the court

[109] The same question was raised in *Ex Parte Ward*, 173 U. S. 452, in an attack by habeas corpus on the appointment of the sentencing judge. The Court disposed of the case without discussing the merits on the ground that the judge's title to office was not subject to collateral attack.

pointed out (*ibid.*) that in defining the term "vacant," Webster states that "'vacancy adds the idea of a thing having been previously filled'." Thus the use of the term "vacancy" also negatives the applicability of the clause to the case of a newly created office.[110]

In accord with the *Schenck* case and the expressions of the Senate in 1813 and 1822, all of the leading commentators accept the view that offices newly created while the Senate is in session may not be filled during the recess. Story, *loc. cit.*; Cooley, *General Principles of Constitutional Law*, p. 104; Pomeroy, *An Introduction to Constitutional Law*, p. 436; 2 Tucker, *The Constitution*, p. 407; Watson, *On the Constitution*, p. 988; Morganston, *The Appointing and Removal Power of the President of the United States*, Sen. Doc. 172, 70th Cong., 2 Sess., p. 136. Two opinions of Attorney Generals are to the same effect: 2 Ops. A. G. 332; 4 Ops. A. G. 362. Three opinions of Attorney Generals are to the contrary: 12 Ops. A. G. 455; 18 Ops. A. G. 28; 19 Ops. A. G. 261.[111]

### B. The Appointments Were Invalid Because They Were Not Made "During the Recess."

If the adjournment of the Senate from September 23 to November 27, 1950 was not "the Recess," then clearly the President had no power to make the appointments on October 23, 1950.

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[110] The cases are evenly divided even as to the power of the President to make a recess appointment to a previously existing office where the vacancy (caused by death, resignation or removal) occurred while the Senate was in session. Cf. *Case of the District Attorney*, 7 Fed. Cas. 731 with *In re Farrow*, 3 Fed. 112, the only cases on the point.

[111] Legislative acquiescence in the position of the *Schenck* case, the text writers, and the first two Attorney General's opinions cited above, is indicated by the fact that in 1928 a monograph reiterating this position was by Senate Resolution ordered printed as a Senate document. Morganston, *op. cit.*, p. iii.

In 23 Ops. A. G. 599, Attorney General Knox in a carefully reasoned opinion held that the term "the Recess," as used in Article 2, refers to the *sine die* recess between the annual sessions of Congress or between an annual and an extraordinary session, as distinguished from an "adjournment" under Article 1, sec. 5, cl. 4, which provides for a temporary suspension of business during a session. He concluded that the interval between an adjournment of the Congress to a day certain and its next sitting date was not "the Recess" in the constitutional sense. Hence, he held, the President had no appointive power for vacancies which happen during that period. Attorney General Dougherty rendered a contrary, but wholly unreasoned, opinion. 33 Ops. A. G. 20. Also contrary to the Knox holding are *Case of the District Attorney, supra,* and a dictum in *Gould* v. *United States,* 19 Ct. Clm. 593.

We submit that the Knox opinion correctly states the law and that the original appointments to the Board were invalid because they were not to offices which were vacant "during the Recess."

**C. If the Appointments Were Valid When Made, They Expired on January 2, 1951.**

Article 2 provides that appointments made during the recess of the Senate "shall expire at the end of their next session." If, contrary to our contention, the adjournment of Congress from September 23 to November 27, 1950, was "the Recess," then November 27 must have been the beginning of its "next session." For clearly, "the Recess" is the interval between sessions. If that be the case, however, the appointments expired on January 2, 1951 when the "next session" ended with the *sine die* adjournment of Congress.

Accordingly, acceptance of the proposition that the appointments were made during a recess compels the conclusion that they expired on January 2, 1951. *The Case of*

*the District Attorney, supra,* which is the lone judicial authority for the view that a period of adjournment to a day certain is a recess, held that the reconvening of the Senate after such an adjournment is its "next session." Accordingly the only case which supports the validity of the original appointments, supplies authority for the proposition that they expired on January 2, 1951.

**D. The Invalidity or Expiration of the Original Appointments Requires That the Order of the Board Be Set Aside.**

It follows from the foregoing that for many months during the pendency of this proceeding, when preliminary motions were decided adversely to petitioner and evidence was taken, there was no lawfully constituted Board in existence. The confirmation of the nominations of a majority of the appointees on August 9, 1951, did not, of course, cure the invalidity of the original appointments, but simply gave them title to office from the date of confirmation. *United States* v. *Kirkpatrick,* 6 U.S. 244, 248. Thus the acts and rulings of the purported members of the Board prior to August 9, 1951 (or, at all events, between January 2 and August 9, 1951) were those of usurpers.

Petitioner has standing to assert the invalidity of the appointments in this proceeding. The rule that the validity of the appointment of a *de facto* officer is not subject to collateral attack, as upon a petition for habeas corpus,[112] has no application in this case, where the attack is direct. Moreover, petitioner raised this issue and sought to have it adjudicated at the inception of the proceeding. It first moved before the Board to quash the proceedings on the ground that the appointments of the Board members were invalid (Tr. 61). The Board denied this motion on the grounds that it was without authority to decide constitutional questions and that the issue should await determination upon judicial review of the Board's order (Tr. 113).

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[112] *Ex Parte Ward, supra.*

Petitioner thereupon sued in the District Court to enjoin further proceedings before the Board upon the ground, among others, that there was no lawfully constituted Board in existence. *Communist Party of the United States of America* v. *McGrath*, 96 F. Supp. 47, 48. In denying petitioner's motion for a preliminary injunction, the court said (*ibid*, p. 47):

> "Furthermore, the constitutional questions raised by the plaintiffs can be saved before the Board and determined upon review by the United States Court of Appeals pursuant to the direction of Congress for judicial review of the Board's actions under the controlling statute.[113]

Accordingly, it appears not only that petitioner made timely objection to the illegal composition of the Board but that the statutory court refused to consider the merits of that objection upon the ground that the question should be saved for review by the Court of Appeals.

The court below, however, by-passed consideration of the merits of the constitutional question raised by petitioner. It did so on the grounds (1) that the effect of any invalidity in the appointments was "minimal" because most of the hearing occurred after confirmation of the appointees, and (2) that in any event the appointees can be regarded as trial examiners (R. 2125).

However, the effect of the invalidity of the appointments cannot be measured by the relative amount of testimony taken before and after confirmation. The court below disregarded the fact that key pre-trial motions were denied by the usurpers (Tr. 113-117), who also made precedent setting rulings on the evidence at the inception of the hearing.

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[113] This Court denied petitioner's application for a stay of proceedings before the Board pending an appeal from the order of the statutory court. *Communist Party of the United States* v. *McGrath*, 340 U. S. 950. Thereafter, the proceeding was dismissed (R. 2, ftn. 2).

The court's suggestion that the unconfirmed appointees can be regarded as trial examiners is palpably untenable, if only because there was no compliance with the provisions for the appointment, tenure, compensation and assignment of examiners, prescribed by section 11 of the Administrative Procedure Act (5 U. S. C. 1010), made applicable to this proceeding by section 16 of the Act.

The effect of the judicial rulings that petitioner's initial challenge of the appointments was premature and its renewed challenge was tardy is to deprive it and other litigants of any remedy against usurpations of administrative office. We submit that the constitutional objection to the appointments to the Board is meritorious, was appropriately raised in this proceeding, and requires a reversal of the decision below.

## PART FOUR

**THE BOARD'S FINDINGS ARE NOT SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE. MOREOVER, THE COURT BELOW ERRONEOUSLY DENIED PETITIONER'S MOTION TO ADDUCE ADDITIONAL EVIDENCE**

### I. It Appears From the Face of the Report and the Decision Below That the Findings of the Board Are Not Supported by a Preponderance of the Evidence.

Under section 14(a), the Board's order must be set aside if the findings of the Board are not supported by a preponderance of the evidence. The Report and the opinion below show on their face that this evidentiary burden was not met for the following reasons:

(1) There is no relevant post-Act evidence to support either the ultimate finding under section 3(3) or the findings under section 13(e) (see *supra*, p. 160).

(2) The court below set aside the Board's findings under two of the criteria of section 13(e) as not supported by the evidence, and under its decision the Board erred in the application of a third criterion (*supra*, p. 175). Furthermore, petitioner was entitled to favorable findings under three of the 13(e) criteria on which the Board made adverse findings (*supra*, pp. 144-49).

(3) The findings are based on erroneous interpretations and applications of the criteria of 13(e), and there is no relevant evidence to support findings adverse to petitioner under the criteria as correctly construed (*supra*, pp. 120-58).

(4) The evidence relied on by the Board and the court below does not support the finding that there is a

world Communist movement as defined by section 2 (see *infra*, pp. 193-99).

(5) The six "basic facts" on which the court below sustained the finding that petitioner is a Communist-action organization are irrelevant to both the section 3(3) definition and the 13(e) criteria (*supra*, pp. 158-60).

(6) The Board's ultimate conclusion rested solely on its findings under section 13(e). But the criteria of this section, as the court below held, have no relevance to the objectives element of the 3(3) definition (*supra*, p. 46). Hence the Board's ultimate finding as to this component of the definition is not supported either by the evidence or its subsidiary findings.

For each one of these reasons, the decision below must be reversed on the ground that it and the Report show on their face that the registration order lacks evidentiary basis.

## II. The Board's Finding With Reference to a World Communist Movement, If Authorized by the Act, Is Not Supported by the Evidence.

We have already seen (*supra*, p. 42) that the court below held that the findings of section 2 of the Act with reference to the existence and nature of a world Communist movement are conclusive upon the Board and the courts.[114] Nevertheless, the court reviewed and sustained the finding of the Board that, on the evidence, "there exists a world Communist movement substantially as described in section 2 of the Act" (R. 2138).

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[114] The Board straddled the question. It first stated (R. 4) that it was "desirable" to make findings as to the world Communist movement. Then it stated (R. 130) that it was unnecessary to decide whether such findings are required by the Act inasmuch as it had already made them. In its brief below (pp. 61-62), the Board acknowledged that the findings of section 2 are conclusive.

If, as we and the court below interpret the Act, the matter is not one for administrative adjudication, then the Act is palpably unconstitutional as fiat legislation (*supra*, p. 56) On the other hand, if this Court decides that the matter is one for determination by the Board, the decision below must be reversed because the evidence fails to establish the existence of a world Communist movement having the charateristics described in section 2.

Section 2 describes a world Communist movement in terms of (1) its organizational form, (2) the source of its direction and control, (3) its objectives, and (4) the means it employs to achieve these objectives. The record is bare of evidence of the existence of a world Communist movement having any of the four characteristics described in section 2.

*Organizational form.* Section 2 finds that the world Communist movement referred to therein operates "through the medium of a world-wide Communist organization" (sec. 2(1)), of which the Communist parties of various countries are "sections" (sec. 2(5)) and "affiliated constituent elements" (sec. 2(8)).

The organizational form of the Communist International corresponded to the foregoing description. However, as the Board and the court below acknowledged, that organization was dissolved in 1943 (R. 7, 2137). It has not been succeeded by any organization that corresponds to the Act's description. The Communist Information Bureau, referred to in the Report (R. 7), plainly is not such an organization. As the Board itself found (R. 17), "The exact nature and characteristics of the Communist Information Bureau are not precisely defined on the Record." Moreover, the record discloses that the Bureau is not an organization of the character described in section 2.

First, as the Report acknowledges (R. 17), the Bureau is not a "world-wide organization," but is confined to the Communist parties of eight European countries (R. 1592). The uncontradicted evidence shows that petitioner has

neither membership in it nor dealings with it (*supra*, p. 121). Further, the Record demonstrates that the Bureau is not a centralized organization of which the members (in the words of section 2) are "sections," under the organization's "direction and control." As is shown by the uncontradicted evidence introduced by the Attorney General and relied upon by the Report, the purpose of the Bureau is to provide a medium for "mutual consultation and voluntary co-ordination of action" among the member parties (R. 7). Finally, the testimony of the Attorney General's own witness, Lautner (which the Report ignores), destroys the Board's conclusion. He testified that shortly after the formation of the Bureau, one of petitioner's top officers informed a meeting of petitioner's functionaries that the purpose of the Bureau was not to reconstitute the Communist International, but merely to provide a means for the exchange of experiences and opinions by member parties (R. 937-938, 971).

*Direction and control.* Section 2(4) finds that the direction and control of the world movement described therein is vested in "the Communist dictatorship of a foreign country."

There can, of course, be no basis for a finding that a world Communist organization presupposed by section 2 is controlled by the Soviet Union, since the evidence negatives the existence of such an organization. Moreover, the record contains no evidence that the Soviet Union or its Communist Party controls the various Communist Parties of the world. On the contrary, the evidence cited by the Board (R. 7), establishes only that the relations of the Communist Party of the Soviet Union and the other affiliates of the Communist Information Bureau are voluntary and consultative.

*Objectives.* Section 2(2) and (3) describes the objective of the world Communist movement as the establishment of "totalitarian dictatorships," which it defines as one-party

systems of government which suppress all opposition, deny fundamental rights and liberties (including freedom of speech, press, assembly and religion), and maintain control through fear, terrorism and brutality.

Concededly, the Communist Party of each country where capitalism prevails has as its ultimate objective the attainment of state power by the working class and its supporters in that country. The term "dictatorship of the proletariat"—the rule of the working class—was originated by Marx to describe the character of the state under socialism (Tr. 15207-15208; 15513-15515, 16309-16312). In *Schneiderman* v. *United States, supra,* the Court, after examining the same "classical" Marxist literature that is in evidence here, said of the dictatorship of the proletariat (at 142):

> "In the general sense the term may be taken to describe a state in which the workers or the masses, rather than the bourgeoisie or capitalists are the dominant class. Theoretically it is control by a class, not a dictatorship in the sense of absolute and total rule by one individual. So far as the record before us indicates, the concept is a fluid one, capable of adjustment to different conditions in different countries. There are only meager indications of the form the 'dictatorship' would take in this country. It does not appear that it would necessarily mean the end of representative government or the federal system." [115]

The only testimony before the Board as to the attributes of a dictatorship of the proletariat confirms the finding of

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[115] Cf. a recent statement by the Communist Party of Great Britain: "Just as the Russian people won political power by the Soviet road which was dictated by their historical conditions and background of Tsarist rule, and the working people in the People's Democracies and China won political power in their own way in their historical conditions, so the British Communists declare that the people of Britain can transform capitalist democracy into a real People's Democracy, transforming Parliament, the product of Britain's historic struggle for democracy, into the democratic instrument of the will of the vast majority of her people." *The British Road to Socialism* (London, 1952) p. 12.

the *Schneiderman* decision. The testimony of petitioner's witness Aptheker was that freedom of the press and religion and freedom to criticize the policies of the government exist in the Soviet Union and that a multi-party system may continue (as in China and the Eastern European countries) where the Communist Party has won ascendancy, until such time as class antagonisms, and with them the basis for more than one party, disappear (R. 1306-08).

It is apparent therefore that the evidence wholly fails to establish the existence of a world Communist movement having the objectives described in section 2.

*Means.* Section 2(1) and (11) describes, a world Communist movement which employs espionage, sabotage, terrorism and violence as the means for accomplishing its objectives.

The record is completely devoid of evidence of the means employed by the Communist Parties of countries other than the United States to attain their objectives. It is equally without evidence, and the Board cites none, that petitioner resorts to espionage, sabotage, terrorism, or violence. On the contrary, petitioner's constitution (A. G. Ex. 374) condemns the use or advocacy of violence, and petitioner's witness Aptheker testified without contradiction that adherents of Marxism have always bitterly denounced and fought against anarchistic concepts of terrorism and sabotage, as has petitioner (R. 1265-67). Moreover, the court below did not concur in the Board's conclusion that petitioner advocates violent or other illegal means for the achievement of its objectives. (See *supra*, p. 155).

The petitioner's witnesses testified, without contradiction, that there is no "world Communist movement" as described in Section 2. According to their testimony, a world Communist movement exists today only in the sense that there are Communist Parties in most nations which are independent of one another, but which share a common working-class science and world outlook, and work for the

eventual establishment of socialism in their respective countries by the free choice of a majority of the people of each country. (Tr. 15229-30, 15950, 15137-39).

It is apparent from the foregoing that the finding of the Board that "there exists a world Communist movement, substantially as described in section 2" has no foundation whatsoever in the evidence. This is confirmed by an examination of the grounds upon which the court below relied in affirming the Board's finding.

The court's conclusion was based (R. 2133-37) on its reading of the *Communist Manifesto;* Stalin's *Problems of Leninism* and *Foundations of Leninism;* [116] the *Theses and Statutes* adopted by the Communist International in 1920; and the *Programme of the Communist International,* adopted at the Sixth Congress of that organization in 1928 and superseded by the resolutions of the Seventh Congress in 1935 (A. G. Exs. 125 and 137). From these works the court below found that there is a world Communist movement having the following characteristics: (1) The movement has as its ultimate objective "a classless, stateless society ruled by the proletariat of the world." [117] (2) "The basic concepts of this ultimate objective are that the sole value is labor and that capitalism and nationalism are merely means for exploiting the masses of workers." (3) The program of the movement "calls for a small hard core of revolutionaries, formed into a disciplined Party in every country," which is to attain control of the government in order to destroy its present form and ultimately weld it into the stateless world society. (5) In the interim period, the Soviet Union, being the first and so far biggest govern-

[116] The American editions of these works of Stalin which were introduced were published in 1934 and 1932, respectively. They were written in 1926 and 1924, respectively, A.G. Exs. 138, 121.

[117] The court does not explain how there can be a proletariat, which by definition is a class, in a classless society, or how it can rule in a stateless society.

ment under Communist control, "must be protected and preserved as Communistic at any cost" (R. 3137-38).

Accordingly, the court below found that there is a world Communist movement in the sense that there are Communist parties in various countries which base their program and activities on a common economic and political outlook, and work toward the ultimate achievement of a common social goal—a universal, classless, stateless society.

The movement found by the court lacks all of the essential characteristics attributed to *the* world Communist movement described in section 2 and palpably is not the movement postulated by that section. Accordingly, if this Court concludes that Congress left this issue for determination by the Board, the decision below must be reversed for a complete failure of proof.

## III. The Findings of the Board Are Based on Incompetent and Discredited Evidence and on Misrepresentation of the Evidence.

The case for the registration order, such as it is, rests on the testimony of witnesses whose unreliability was thoroughly established. The Attorney General paraded to the stand some of the most notorious professional witnesses on the current scene, including Budenz, Matusow, Crouch, Manning Johnson, Gitlow, and Markward. The Department of Justice must have known that many, if not all, of these witnesses were unworthy of credence. As the record shows, the testimony of at least three of them had been rejected as false in prior proceedings.[118] One witness had

[118] Honig's testimony was rejected by Judge Sears, the presiding officer in the first Bridges deportation case (Tr. 6439-40). In the recent perjury prosecution of Harry Bridges, the Ninth Circuit rejected the testimony of Johnson and Crouch that Bridges had attended a Communist Party convention, because unimpeachable documentary evidence established that the alleged attendance was impossible. See *Bridges* v. *United States*, 199 F. 2d 811, 841.

previously admitted committing perjury in appearances for the government, and had declared (and reiterated in this proceeding) a readiness to continue doing so.[119] Another had on several occasions, while a government witness, given perjured testimony (repeated in this proceeding) as to her financial arrangements with the Department of Justice, in order to pose as an unpaid patriot.[120] Another witness (Matusow) was known by the Department of Justice to be psychoneurotic.[121] Still another gave a false version of a conversation which contradicted testimony given by him as a government witness a few weeks before.[122]

Ten of the Attorney General's witnesses [123] had been paid spies for the F.B.I. while in the Party.[124] Seven of the nine other ex-Communist witnesses were also professional anti-Communists, in the sense that they derived all or a substantial portion of their income from anti-Communist activities, testimony, and writings.[125] Three of them were at the time of testifying employees of the Department of

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[119] Manning Johnson (R. 669-74).

[120] Markward (R. 201-05, 734-35).

[121] See testimony of Assistant Attorney General Tompkins in Hearings before Subcommittee of Committee on Appropriations, H.R. 84th Cong., 1st Sess., on Department of Justice Appropriations for 1956, pp. 294-5.

[122] Daniel Scarletto (R. 1091-92).

[123] The Attorney General called twenty-two witnesses, of whom nineteen had once held membership in the Communist Party. The other three witnesses were Mosely, whose testimony related solely to "non-deviation" (see *supra*, p. 137), and two persons who translated or identified a few documents (R. 134-36).

[124] The Board's Report lists nine as "witnesses who joined or rejoined" petitioner "as a result of conferences with the Federal Bureau of Investigation" (R. 134-35). In addition to these, however, Matusow admittedly spied for the F.B.I. while in the Party (Tr. 1295).

[125] Budenz (Tr. 13968-87); Crouch (Tr. 5782-4); Gitlow (Tr. 2609, 2645-6); Johnson (Tr. 7293-7); Kornfeder (Tr. 3469-70, 3477); Lautner (Tr. 1985-92); Nowell (Tr. 4515-7).

Justice.[126] Some of the nineteen former members admitted spying for the F.B.I. on other organizations, including labor unions.[127] Some admitted that they had informed on relatives and friends and on persons whom they, while agents of the F.B.I., had induced to join or evidence interest in the Party.[128]

Subsequent to the hearing, one of the Attorney General's witnesses (Matusow) admitted a series of perjuries and two others (Crouch and Manning Johnson) had their unreliability so publicly exposed that the Department of Justice has stopped using them as witnesses (see *infra*, p. 212). Still others have in various ways been thoroughly discredited.[129]

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[126] Lautner, Nowell, Johnson (see references in preceding footnote). In addition, Crouch had been under contract with the Immigration and Naturalization Service for appearance as a witness in 15 deportation cases (Tr. 5208, 5786).

[127] Janowitz (Tr. 12837-8, 12858-63); Philbrick (Tr. 8130-1, 8135-7, 8141-2); Scarletto (Tr. 13551).

[128] Markward, a well-paid spy for the F.B.I. inside the Party (R. 201-05), solicited subscriptions to the Daily Worker in Negro neighborhoods by explaining that the paper supported equal rights for Negroes. Then she reported to the F.B.I. the names of those whom she had induced to subscribe (R. 751-52). She also reported to the F.B.I. the names of persons she recruited as members of the Communist Party by telling them of its work against racial discrimination (Tr. 7812-14). Cummings, while an F.B.I. spy, induced relatives and fellow factory workers to join the Party; then he reported the names of his recruits to the F.B.I. (Tr. 11011, 11021-4). As to Blanc, see Tr. 8560.

[129] E.g., Gitlow recently testified that among "the ministers who carried the instructions of the Communist Party or collaborated with it" were Rabbi Stephen S. Wise, Rabbi Judah L. Magnes, Rev. John Haynes Holmes, and other eminent clergymen (Hearing before Comm. on Un-American Activities, H.R. 83rd Cong., 1st Sess. July 7, 1953, p. 2077). Markward's identification of Annie Lee Moss as a member of the Communist Party was rejected by the Department of Defense (N. Y. Times, Feb. 24, 1954, p. 1; Jan. 20, 1955, p. 1). Secretary of State Dulles rejected Budenz' positive identification of John Carter Vincent as a member of the Communist Party (Hearings before Internal Security Subc. of Comm. on Judiciary, Sen., 82d Cong., 1st Sess. pt. 2, p. 625; N. Y. Times, March 5, 1953, p. 8).

Cross-examination of the Attorney General's witnesses developed not only their general unreliability, but also that their testimony in this proceeding was shot through with fabrications. The Board stated that "we have considered and resolved the inconsistencies in the testimony of certain of [the Attorney General's] witnesses" (R. 3). This is not true. The Board not only failed to consider the damage done to the credibility and reputation of the Attorney General's witnesses, but also relied heavily on testimony proven to be false and in some cases repudiated or withdrawn by the witness himself. It ignored all testimony of the Attorney General's witnesses which was favorable to petitioner, relied on obviously incompetent evidence, and attributed to the Attorney General's witnesses testimony which they did not give. Its only standard for the acceptance or rejection of evidence was whether or not it supported (by the Board's irrational criteria) the preconceived conclusion.

To illustrate our assertions within reasonable space limits, we will deal with the findings on five subjects which are given major significance in the Report.

### *Petitioner's Disaffiliation From the Communist International.*

Petitioner disaffiliated from the Communist International at a special convention held in November 1940 (R. 13). One of the major props of the Report is that this disaffiliation "did not alter in any substantive way" petitioner's relationship with the International (R. 14, 6, 130).

The only evidence which can support this finding was testimony by the notorious Paul Crouch. Crouch testified that Earl Browder told a meeting of petitioner's leaders, held in connection with the 1940 disaffiliation convention, that the actual relations between the two organizations "would remain exactly the same in the future as they had in the past" (R. 422). The Report accepts this testimony

(R. 14). It ignores the testimony of petitioner's witness, Miss Flynn, that in fact the relations between the two organizations terminated in 1940 (R. 1286). Yet Miss Flynn's testimony was not only uncontradicted, but was confirmed by the complete absence of evidence of communications or dealings between the organizations after the disaffiliation. The Report also conceals the fact that cross-examination revealed that Crouch had never previously testified to Browder's alleged statement in his innumerable appearances as an anti-Communist witness (R. 5534-5601). Finally, the Report suppresses the fact that Crouch's story was directly contradicted by the Attorney General's own witness, Lautner, as well as by Miss Flynn, both of whom attended the leadership meeting referred to by Crouch (R. 991-993, 1284-1286; C. P. Ex. 13).

*The Reconstitution of the Communist Party.*

In 1944, under the leadership of its former general secretary, Earl Browder, the Communist Party was dissolved and the Communist Political Association formed to succeed it. Thereafter, in 1945, believing that this action was erroneous, American Communists reconstituted the Communist Party at a convention held in July (R. 15).

In April 1945, Jacques Duclos, a French Communist leader, published an article in France which sharply criticized Browder's policies and the dissolution of the Communist Party. The article is addressed to French Communists as an answer to questions raised by many of them regarding developments in America (A. G. Ex. 208, p. 656). Some years later, Duclos informed Miss Flynn that he wrote the article to convince those French Communists who favored applying Browder's policies in France of the error of the latter's views (R. 1280). The article first came to the attention of American Communists in May, 1945, as a result of a news dispatch in the New York World Telegram (R. 1291).

The Report finds that "the facts directly surrounding the reconstitution are indicative of foreign domination and control of [petitioner]" (R. 16). It finds that prior to the appearance of the World Telegram story, Dmitri Manuilsky, a Soviet delegate to the San Francisco U. N. Conference, "sent word to [petitioner] to the effect that it should heed Duclos' statement concerning the reconstitution of the Communist Party" (R. 60). These findings rest on a distorted version of hearsay testimony given on direct examination by Budenz, who was the only government witness to testify on the subject, and which itself was exposed as a fabrication.

On direct examination, Budenz testified that early in May 1945, and prior to the receipt in this country of any information as to the existence of the Duclos article, he hastily read one-third of a letter from Joseph Starobin, the Daily Worker correspondent in San Francisco. Over petitioner's objection to this hearsay, Budenz was permitted to testify that the letter reported that Manuilsky had expressed indignation that petitioner had not criticized U. S. Government officials more severely and that it should "observe more carefully the guidance and the counsel of the French Communists" (R. 1136-1137).

Contrary to the Report, therefore, Budenz did not quote Manuilsky as mentioning Duclos' article or as saying anything about reconstituting the Communist Party.

Moreover, the Report ignores the fact that cross-examination established that Budenz had given two earlier versions of the alleged Starobin letter, which were contradictory of his testimony before the Board as well as of each other (R. 1182-1185).[130] The Report also ignores

[130] Budenz testified that he had made a report of this story to the F.B.I., but was unable to state with which, if any, of his three public versions it was consistent (R. 1184-85). Petitioner thereupon moved for the production of this report by the Attorney General (R. 1185). Under the authorities, it was clearly entitled

petitioner's testimony that the reconstitution of the Party was the product of an independent decision of the American Communists, based on their own experience, though undoubtedly influenced by Duclos' analysis (R. 1292-1296).

In an effort to build up its false thesis that the Duclos article was a Moscow directive, the Report finds that Duclos had been in Moscow shortly before the article was published (R. 16). This finding is based on testimony which was stricken at the suggestion of counsel for the Attorney General when cross-examination developed that it was obviously erroneous (R. 858-59).

*Force and Violence.*

The Report finds that petitioner advocates the violent overthrow of the Government (e.g., R. 44, 121).[131] Most of the "documentation" of this finding consists of fragments of the writings of Marx, Engels, Lenin, and Stalin, which were given a contrary interpretation in *Schneiderman* v. *United States, supra.* In addition, the Report supports its finding on this subject by references to the testimony of Honig, Johnson, Meyer, Matusow, Scarletto, and Budenz among others (R. 121).

Both Honig and Johnson so testified on direct examination. The Report, however, ignores their contrary testimony on cross-examination.

Cross-examination of Honig developed that, throughout his membership in the Communist Party from 1927 to 1939,

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either to the report, or to have the witness' testimony on the matter disregarded. *Gordon* v. *United States*, 344 U. S. 414; *United States* v. *Krulewich*, 145 F. 2d 76, 78; *Christoffel* v. *United States*, 200 F. 2d 734, 738; *Edwards* v. *United States*, 312 U. S. 473, 479; *United States* v. *Grayson*, 166 F. 2d 863, 870. The motion was denied by the Panel (R. 1185) and its action affirmed by the Board (R. 128). For this reason alone the Board erred in making findings on the Budenz testimony.

[131] As we have seen (*supra*, p. 155), the court below did not accept this proposition.

he believed and petitioner taught that when a majority of the American people were ready to do away with capitalism and establish socialism, they would be so strong and make their desire so plain that there would be no need for violence. Violence would be required only if the capitalists forcibly attempted to suppress the people's desire for change (R. 504-06).

Cross-examination of Johnson showed that petitioner taught that "overthrow" of the government would not necessarily involve violence, but referred only to a fundamental change in the economic system by the substitution of socialism for capitalism (R. 675-77). Cross-examination further developed that petitioner taught that it would not "attempt a revolution" until it had first won the support of a majority of the American people (R. 677).

Meyer said nothing to support the Board's finding. Matusow gave conflicting testimony on this issue (as on almost every other question on which he was examined), including testimony that petitioner taught in 1949 that socialism would be brought about "by evolution or revolution" (R. 1053-54).

The Budenz testimony relied on by the Report is a rendition of a purported 1940 statement of Eugene Dennis on turning "'imperialist war' into civil war" (R. 114, 127). The Report conceals the fact that in 1946, five years closer to the event, Budenz had given a contradictory version of the same alleged conversation. As then testified to, the conversation had nothing to do with force and violence or fomenting civil war (R. 1178-80).[131a]

The testimony of Scarletto was that at a local Party club meeting in 1950, the club chairman and members urged enlistment in the armed forces for the purpose of sabotaging

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[131a] Mr. Joseph Alsop has aptly described the Budenz memory as "characterized by a remarkable built-in pick-up, the faculty for recalling today what was not recalled last year." *N. Y. Herald Tribune*, Sept. 14, 1951.

the Korean war (R. 47). The Report accepts this testimony without mentioning the fact that only a few weeks earlier the witness had given an entirely different account of the same incident when he testified under oath as a government witness in another proceeding. His testimony on that occasion was that it was he alone who proposed entering the armed services for the purpose of sabotage (R. 1091-92). Thus the Report attributes the advocacy of sabotage to petitioner and its members when the evidence shows that, if it occurred at all, it was the act of an agent provocateur.[132]

Equally blatant is the Report's concealment of the testimony of the Attorney General's witness Lautner on this issue. Lautner was a member of the Communist Party from 1927 until his expulsion in 1950, and was the only one of the Attorney General's witnesses who held an official Party position of any consequence subsequent to 1945 (R. 135). Lautner did not testify that petitioner advocated force and violence at any time during his twenty-three year membership. On the contrary, he conceded that at the time he left the organization in 1950, petitioner taught and advocated the peaceful transition to socialism (R. 979-80, 983-84, 986-88; C.P. Ex. 55, pp. 6-7; C.P. Ex. 58, pp. 125-28).

*Financial Aid.*

The Report's findings on the issue of financial aid are drawn largely from the direct testimony of Gitlow, Budenz, and Matusow.

The Report finds that in 1949, the petitioner through International Publishers received from the Soviet Union book

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[132] Furthermore, Scarletto admitted that the account of the incident which he gave in this proceeding was contradictory to his report of the same incident to the F.B.I. (R. 1092). Yet the panel denied petitioner's motion for production of this report (*ibid.*), and the Board affirmed its ruling (R. 128). It was therefore clear error for the Board to rely on the contradicted testimony (see *supra*, p. 204, ftn. 130).

plates, English translations of books, and page proofs, all without charge (R. 88). This finding is a misrepresentation of hearsay testimony of Matusow. He was permitted to testify over objection that in 1949 the head of International Publishers told him that that company had received such materials at some undisclosed time in the past (R. 1036-37). There is nothing in Matusow's story to establish the date on which the materials were received. Nor is there anything to suggest that petitioner was aware of or benefited by the transactions. Matusow has since confessed that his story was an invention. *False Witness* (1955), pp. 101, 102.

The Report's finding that in 1928 an American trade-union delegation to the Soviet Union was organized at the direction of, and financed by, the Communist International (R. 187) is based upon testimony of Gitlow which was conclusively proved to be a fabrication by his own admissions on cross-examination and by documentary evidence. To give only one example, he testified on direct that the technical staff of this delegation consisted entirely of Communists. He had to change this feature of his story when confronted with documentary evidence that the technical staff consisted of well known non-Communists, including Paul H. Douglas (now a United States Senator), Rexford Guy Tugwell, Stuart Chase, and George S. Counts. (Cf. R. 233-34, 273, with R. 273-78 and C. P. Ex. 1.)

The findings that the Communist International furnished "substantial" sums to petitioner in connection with the 1928 presidential campaign, a 1929 factional dispute, and work in the United Mine Workers (R. 86-7), are likewise derived from Gitlow's direct testimony. On cross-examination it was shown that in prior writings and testimony Gitlow had given three different and mutually contradictory versions of these alleged incidents and the amounts involved (R. 283-295), so that, for example, the amount allegedly supplied in connection with the 1929 factional dispute varied from $50,000 to "upwards of $1,000,000" (R. 291-95).

The finding that in 1939 petitioner's treasurer stated that Soviet funds were not then available for the *Daily Worker* (R. 88), is based on testimony of Budenz. But the Report fails to mention that this was another newly-[illegible] episode which was never before mentioned by Budenz in his numerous prior appearances and copious writings (R. 1180-81), and which was belied by Budenz' testimony before a Senate Committee that he had no knowledge that petitioner had ever obtained any funds from Soviet sources (R. 1182).

The findings that about 1940 the *Daily Worker* received news dispatches from Runag free and that petitioner caused false registration statements to be filed with the State Department misrepresenting this relationship (R. 88, 106) are based on testimony of Budenz. Budenz' direct testimony on these matters was proven to be a mass of falsehoods by documentary evidence and by the changes in his direct testimony when cross-examined. (See R. 1168-73, 1191-98; C. P. Exs. 70-75, inclusive.)

*Representatives of the Communist International.*

The Report identifies J. Peters and Gerhart Eisler as one-time representatives of the Communist International who were "active in the United States after 1940" (R. 60). It thus insinuates that Peters and Eisler were a source of foreign control over petitioner subsequent to petitioner's disaffiliation from the Communist International in 1940. The record exposes the falsity of the insinuation.

The identification of Peters as a representative *from* the Communist International is a misrepresentation of testimony by the Attorney General's witness Nowell that in the early 1930's Peters was *petitioner's representative to* the Communist International (R. 399).[138]

[138] In its brief below (p. 141), the Board acknowledged the Report's erroneous description of Peters.

Evidence to the effect that Eisler was a representative of the Communist International was confined, with the exception of some Budenz testimony, to the period before 1936 (R. 320-25, 660-61, 692-93, 874).

The Attorney General's evidence showed that Eisler left the United States in that year (R. 656). Uncontradicted testimony offered by petitioner showed that Eisler's return to this country in the early 1940's was not on any mission to petitioner. He came here as an anti-fascist refugee in transit to Mexico, but was prevented from reaching his destination by the U. S. immigration authorities, who kept him in the United States against his will (R. 1300-01).

The only testimony linking Eisler to the Communist International after his departure from the United States in 1936 came from Budenz. This was flimsy hearsay, as is revealed by the Board's own statement that Budenz testified "that there was talk of Eisler as a Comintern representative in 1945" (R. 60). In addition, this hearsay was exposed as a typical Budenz invention. For it was shown that the witness had failed to make any such identification when he appeared in 1949 as a witness in the trial of Eisler for perjury, where the latter's alleged connection with the Communist International was a material issue (R. 1187-91; *Eisler* v. *United States*, 176 F. 2d 21, 23, 25).

When dealing with petitioner's witnesses the Board adopted an entirely different standard from that it employed for the professional informers upon whose false testimony it enthusiastically relied. The testimony of petitioner's witnesses was ignored or disbelieved even when in all substantial respects it was uncontradicted. Two examples will illustrate the Board's technic.

The Report "discounts" uncontradicted testimony of Gates because of his claimed arrogance toward counsel for the Attorney General (R. 17-18). The Report does not explain why it rejects testimony to the same effect by Miss

Flynn (*ibid.*), which it does not "discount." Moreover, the Report consistently relies on testimony of the Attorney General's witness Kornfeder. Yet he acted so arrogantly, not only to counsel but also to the then chairman of the panel, that a majority of the panel found his conduct contemptuous (R. 340-44). Needless to say, the Report suppresses this episode.[134]

Another example of the Board's double standard it its disparagement of petitioner's witness Aptheker. To illustrate a point in his testimony, Aptheker referred to an incident when Frederick Douglass, arrested for an attempt to escape from slavery, falsely denied the charge. Aptheker expressed the opinion that Douglass was the moral person and the committing magistrate the immoral person in this incident (R. 1314-16). The Report grasps at this statement to impeach Aptheker by asserting that it "is indicative of a viewpoint that might permit his conscience to misstate facts if they did not favor his side" (R. 39).

This reasoning, fanciful enough in itself, is fantastic in the light of the Report's suppression of the numerous instances in which the Attorney General's witnesses not only "might" but did "permit" their consciences to misstate facts and of its acceptance of the testimony of Manning Johnson despite his admission that he had previously given perjured testimony and was ready to do so again (see *supra*, pp. 199-200).

The Board's application of a double standard of credibility and its reliance on tales of the remote past demonstrably concocted by disreputable professional informers require that the registration order be set aside as unsupported by the evidence.

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[134] In addition, the Report relies on an exhibit, identified by Kornfeder on direct examination, as a publication of petitioner's establishing its adoption of the "twenty-one points" for affiliation to the Communist International (R. 12), notwithstanding the fact that, on cross examinaion, the witness conceded that his identification had been erroneous and that the publication was not petitioner's (R. 349-51). The court below also made the mistake of relying on this exhibit (R. 2139).

## IV. The Court Below Erred in Denying Petitioner's Motion for Leave to Adduce Additional Evidence.

While this proceeding was pending before the court below, petitioner moved pursuant to section 14 of the Act for leave to adduce additional evidence before the Board.[135] The motion and supporting affidavit in substance stated and offered to prove that subsequent to the conclusion of the proceeding before the Board two of the Attorney General's principal witnesses, Crouch and Johnson, committed perjury in other proceedings [136] and that a third, Matusow, admitted a course of perjury.[137] The moving papers further stated that because of the public disclosure of the perjury of these three informers, the Attorney General had ceased to employ them as witnesses (R. 2053-66).[138]

Petitioner's motion and affidavit further showed from an analysis of the Report that in numerous instances the Board had rested material findings of fact adverse to petitioner in whole or in part on the testimony of these three witnesses (R. 2056, 2065-66).[139]

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[135] Section 14 provides for the granting of such a motion upon a showing "to the satisfaction of the court that such additional evidence is material."

[136] Johnson before the International Organizations Loyalty Board in a proceeding with respect to Dr. Ralph J. Bunche; Crouch, in *U. S.* v. *Kuzma*, a Smith Act conspiracy prosecution in the Eastern District of Pennsylvania, and *Matter of Jacob Burck*, a deportation proceeding (R. 2059-63).

[137] These admissions were made to Bishop G. Bromley Oxnam and to Messrs. Russell Brown and Robert Norvall, law associates of former Attorney General J. Howard McGrath (R. 2063-64).

[138] As petitioner's affidavit also shows, the cross-examination of these three informers in their appearance before the Board had developed a pattern of false testimony both in this proceeding and, in the case of Crouch and Johnson, in prior proceedings (R. 2058).

[139] The Board's annotated version of the Report reveals that the Board supported its findings of fact with 36 separate references to

Subsequent to the decision below, Matusow, by affidavits and from the witness stand, recanted as perjurious his testimony in two other proceedings (*U. S.* v. *Jencks*, D. C., W. D. Tex.; *U. S.* v. *Flynn et al.*, D. C., S. D. N. Y..).[140] In addition, Matusow has written and published a book, *False Witness*, in which he details numerous instances in which he gave false testimony under oath, including (pp. 101-102) his testimony before the Board in this proceeding. Finally, the Board recently ruled that it would disregard all of the testimony of Matusow in another proceeding before it because of the admissions made by him to Bishop Oxnam and Mr. Brown. Report of the Board, *Brownell* v. *Labor Youth League*, No. 102-53, pp. 4-5.

The Board filed no counter affidavit in opposition to petitioner's motion. It opposed the motion, which it analogized to a motion for a new trial, on the ground that there was no showing that the additional evidence would probably change the result, and asserted that the Board could have ignored the testimony of the three witnesses *in toto* without altering its ultimate conclusion. It further urged that the motion should be denied because the additional evidence went only to the issue of credibility. (R. 2067-76.)

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the testimony of Crouch, 25 to the testimony of Johnson, and 24 to the testimony of Matusow (R. 2065-66). To cite but four examples: Matusow's is the only testimony relied on by the Board to support its findings that petitioner advocated the violent overthrow of the government in the post-Act period and that it received foreign financial aid subsequent to 1940 (R. 2022, 1964). The Board's key finding that petitioner's 1940 disaffiliation from the Communist International was spurious is based on the testimony of Crouch (R. 1829, 1814, 2038). And the Board relied heavily on the testimony of Johnson for its findings with reference to the authority over petitioner exercised by alleged representatives of the Communist International (R. 1911, 1974, 2030, 2032).

[140] After a hearing in the *Jencks* case, the District Court denied a motion for a new trial based upon Matusow's perjurious testimony. The court in the *Flynn* case on April 22, 1955 granted a new trial to two of the defendants.

The court below denied petitioner's motion without opinion, Judge Bazelon not participating.

The action of the court violated section 14 of the Act. The Board's analogy of a motion under that section to a motion for a new trial is faulty. A motion under section 14 need not establish that the new evidence *will probably* change the result. All that need be established is that such evidence "is material"—i.e., that it *might* change the decision made by the agency.[141] Clearly, the original testimony of the three informer witnesses in question was material since, as appears from the Report, the Board relied on it extensively in making subsidiary findings of fact. The additional evidence proffered by petitioner would have destroyed the credibility of this testimony.[142] Obviously, therefore, the additional evidence was itself material.

The decision below is contrary to the decision of this Court in applying a similar provision of the National Labor Relations Act. *NLRB* v. *Indiana and Michigan Electric Co.*, 318 U. S. 9 There the additional evidence sought to be adduced went to the credibility of three witnesses whom, in the words of the Court (at 20), "the Board's staff thought useful to call, and on whom the examiner plainly relied." Despite the Board's denial that it had relied on the testimony of these witnesses and its statement to the Court that it was willing to omit their testimony from the record, the Court held that the motion to adduce had been correctly granted because the additional "evidence, if taken, *might* change the result." (At 23,

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[141] Section 14 omits the usual requirement that the applicant show grounds for not having adduced the additional evidence in the administrative proceeding. In any event, it is undisputed that all the additional evidence relied on by petitioner developed subsequent to the agency hearing and most of it subsequent to the submission of the case to the court below (R. 2054).

[142] The Board acknowledged as much in the case of Matusow, in ruling that it would disregard all of his testimony in the *Labor Youth League* case. See *supra*, p. 213.

emphasis supplied.) The Court further said (at 28): "The statute demands respect for the judgment of the Board as to what the evidence proves. But the court is given discretion to see that before a party's rights are finally foreclosed his case has been fairly heard. Findings cannot be said to have been fairly reached unless material evidence which might impeach, as well as that which will support, its findings, is heard and weighed."

So here the findings of the Board cannot be said to have been fairly reached unless it hears and weighs the evidence impeaching the three witnesses whose testimony the Attorney General believed to be material and upon which the Board heavily relied. The Board's protestation that it could have ignored the testimony of these witnesses *in toto* and reached the same result, like the similar protestation of the National Labor Relations Board, is therefore unavailing.

Petitioner's motion presents an issue of great public importance. The reckless use by the Department of Justice of professional informers in "security" cases is compromising the administration of justice. It has aroused widespread apprehension and alarm, particularly in the light of current revelations of the untrustworthiness of testimony which the government has bought and paid for. As has recently been stated (*N. Y. Times* editorial, July 8, 1954):

> "If the Department of Justice feels it essential to use informers in the anti-Communist prosecutions under the law, it has the unmistakable duty to follow up relentlessly any indication that they may not be telling the truth. As the law enforcement agency of our government, the Department of Justice has a primary obligation to maintain its own integrity and that of its agents." [143]

[143] Cf. the recently televised statement by the Attorney General that when one of the government's informer witnesses is found to be unreliable, "then it is the government's obligation to follow up to see

When the Department of Justice and administrative agencies are derelict in this obligation the courts should be scrupulous to enforce it by insisting, at a minimum, that the evidence of perjury be heard and considered. So much, at least, is required if the abuse of the judicial process through the use of hired informers is to be curbed and the liberties of individuals and organizations safeguarded against false testimony. The failure of the court below to take this minimal action requires a reversal.

## CONCLUSION

The Act and the order of the Board are the extreme product of an environment that has spawned a host of governmental and extra-governmental measures alien to the American tradition. In the name of national security, violence has been done to the Bill of Rights and deep inroads have been made in our freedom. Unless arrested, this process threatens to take us down the road to a police state.[144]

Current assaults upon democratic liberty were initiated on the premise that it was necessary for the protection of

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that he is punished and that anybody who has been hurt by his testimony, if it's false, is given a new chance." *New York World-Telegram*, March 28, 1955.

[144] As the General Council of the Presbyterian Churches declared in its Letter to Presbyterians, *supra*: "Under the plea that the structure of American society is in eminent peril of being shattered by a satanic conspiracy, dangerous developments are taking place in our national life. Favored by an atmosphere of intense disquiet and suspicion, a subtle but potent assault upon basic human rights is now in progress. * * * Treason and dissent are being confused. * * * A great many people, within and without our government, approach the problem of Communism in a purely negative way. Communism, which is at bottom a secular religious faith of great vitality, is thus being deal with as an exclusively police problem. * * * In the case of a national crisis this emptiness could in the high-sounding name of security, be occupied with ease by a fascist tyranny."

the nation to make Communists the objects of repression. Events, however, have confirmed the inexorable lesson of history that repression cannot be contained. The exceptional measures invoked against Communists have inevitably resulted in the abridgment of the liberties of non-Communists. This has been the experience in almost every area of national life, including government service, private industry, the trade union movement, the clergy, the bar, the arts, the entertainment world, and all forms of voluntary association. Because of their ideas or associations,[145] thousands of individuals have been prosecuted, dismissed from their jobs, blacklisted, ostracized, barred from public platforms, deported, denied the right to travel abroad, or (if foreigners) excluded from the country. No one professing political opinions short of extreme reaction can be confident that he is immune.[146] Even more alarming than the victimization of a growing number of individuals are the pervasive restraints upon the expression of opinion, the burning of books, and the creation of what has been called "the ministry of fear in our country."[147]

Recent months have witnessed some reaction against the departures from fundamental constitutional principles in

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[145] Guilt by association "appeared in our law only in 1940; since then it has grown and spread until this cloud, no larger than a man's hand, covers the whole horizon." *Civil Liberties under Attack* (*A Symposium*) (Univ. of Pa. Press, 1951), p. 17. The doctrine is no longer confined to physical or organizational association, but has been extended (as in the Act and section 5 of the Communist Control Act) to include what may be called guilt by association of ideas.

[146] As Professor Henry Steele Commager recently wrote: "We are all members of many societies, and we may say with John Donne when the principle of association is attacked we ask not for whom the bell tolls, it tolls for us. * * * Just as each new party that came to power during the French Revolution thought it essential to send its predecessors to the guillotine for the lack of true zeal, so the hatemongers of our day are spreading their nets wider and wider until in the end hardly anyone can escape." *Guilt—or Innocence—by Association*, N. Y. Times Magazine, Nov. 3, 1953.

[147] Averell Harriman, quoted in N. Y. Post, May 5, 1953.

matters allegedly touching the national security.[148] But a return to the firm ground of the Bill of Rights will be long postponed if the Act and the order of the Board are sustained. Such a decision would freeze into law the worst excesses of the current hysteria and would create the conditions and supply the tools for a vast extension of repression.

The passage of the Act in itself stimulated and was used to justify further inroads on civil liberties, including the enactment of parallel legislation by state and local governments. Moreover, the threat of its implementation against petitioner and an indeterminate number of other organizations gave a powerful impetus to the growth of fear, inhibiting association and expression.

The immediate effect of the Board's order, if allowed to stand, will be to proscribe all of the advocacy of the Communist Party and subject its members to intolerable sanctions. It will bar Communists from lawful political activity; thus invading the prerogative of the electorate. It

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[148] "There seems little doubt that the atmosphere has been improving in this respect for some time now. There is still plenty of room for further improvement, but the trend is in the right direction —away from exaggerated fears and toward a more reasoned understanding of the balance that must be achieved between national security and individual liberty." New York Times, editorial, June 25, 1955. "When the outgoing president of the American Bar Association is cheered as he calls for a "bloodless revolution" to be led by lawyers to restore our "ancient liberties," there is no doubt that the times have changed. We are in the early stages of a great popular reaction against the hysteria and the demogoguery, the lawlessness and the cruel injustices which we call quite rightly the era of McCarthyism. * * * The great majority of the leaders of American opinion are no longer willing to stand for the theory that espionage, sabotage and subversion can be dealt with only by ignoring the Constitution, and by conniving at what is nakedly and simply lynch law. * * * The ultimate reason for the change is, I believe, the enormous emotional relief which has come since all the great powers have acknowledged publicly that there is no alternative to peace, that they cannot contemplate war." Walter Lippman, N. Y. Herald Tribune, August 25, 1955.

will also lay the foundation for mass prosecutions of petitioner's members for failure to comply with the impossible requirement that they publicly declare that they are criminal conspirators and expose themselves to the Act's intolerable sanctions. For all practical purposes, a final order of the Board will outlaw the Communist Party and make membership in it a crime.

This is the first time in our history that the Communist Party or any other group has been outlawed by federal legislation. No other major democracy outlaws Communists. Only the government of the United States, the most powerful capitalist nation, which proclaims leadership of the free world, asserts that such a measure is necessary for the national safety and compatible with a democratic society.[149]

If the Act and the order of the Board are sustained, the civil and criminal penalties imposed for membership in petitioner will be extended to persons who are not members by any conventional or rational standards. The all-embracing criteria of membership contained in section 5 of the Communist Control Act will jeopardize the livelihood and liberty of countless non-Communists. Such persons as Oppenheimer, Vincent, Davies, Ladejinsky, Condon, Lattimore, Peters, and many thousands of lesser prominence will be natural targets for the civil disabilities imposed on "members" of petitioner and for prosecution upon their failure to register as such.

If the order of the Board becomes final, it will lay a foundation for governmental proscription of many organizations other than petitioner and for the imposition of the

[149] Mr. Justice Douglas has observed that America's "growing tendency in the interest of security to take short cuts, to disregard the rights of the individual, to sponsor the cause of intolerance, and to adopt more and more the tactics of the world forces we oppose * * * have helped lose for America the commanding position of moral leadership which we had at the end of World War II." Address to the American Law Institute, *New Republic*, Nov. 16, 1953.

Act's sanctions against their members. The Board has already ordered two organizations to register as Communist fronts, and proceedings are pending against nine others on the same charge.[150] In addition, the Attorney General recently instituted the first of an announced series of proceedings before the Board to have trade unions declared "Communist-infiltrated." [151]

The number of front and infiltrated organizations can and undoubtedly will be multiplied almost indefinitely in the light of the comprehensive criteria of sections 13(f) and 13A(e).[152] Moreover, if the present categories of organizations prove too restrictive, additional categories can and inevitably will be created. Having moved from action and front to infiltrated organizations, the Act can readily be extended to groups which are "contaminated", "tainted", "tinged" and finally "politically unreliable".

If the Constitution should be held to authorize the proscription of petitioner, there would remain little room for constitutional objections to the application or extension of the Act to almost any other organization. Moreover, the techniques employed against petitioner by the Board, if allowed to stand, will be available for the destruction of

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[150] The organizations ordered to register are the Jefferson School of Social Science and the Labor Youth League. The names of the organizations against which Board proceedings are pending indicate the diverse nature of their activities: Civil Rights Congress, American Committee for the Protection of Foreign Born, Council on African Affairs, Washington Pension Union, National Council for American-Soviet Friendship, Veterans of the Abraham Lincoln Brigade, United May Day Committee, California Labor School, American Peace Crusade.

[151] *Brownell* v. *International Union of Mine Mill and Smelter Workers*, Docket No. 116-56. As appears from the petition, the union was founded in 1893, and is composed of workers in nonferrous metal mining and processing whom it represents as bargaining agent under the National Labor Relations Act.

[152] For illustrations of these criteria in operation, see *supra*, p. 118, ftn. 57; p. 136, ftn. 76.

virtually any group whose views are not governmentally approved. A decision sustaining the Act and the order of the Board would give judicial approval to governmental licensing of all voluntary associations formed to promote political, economic or social objectives.

The invalidity of the Act and the order of the Board are urged here by the Communist Party. But the fundamental issue at stake is the survival of the Constitution, not the Communists. The Act and the Board's order cannot be sustained without validating the premises on which they rest. These are coerced conformity, suppression of peaceable advocacy and assembly, imputation of guilt by association, conviction by legislative fiat, trial by a biased tribunal, judgment on the basis of irrational and vague standards, and reliance on the testimony of professional perjurors. If these execrable policies—condemned here and abroad as "McCarthyism"—may lawfully be applied to petitioner, they will inevitably be extended to the people as a whole. Indeed, the techniques which the Act and the Board employed against petitioner have only recently been used to indict four Democratic administrations and the present Republican administration for "twenty-two years of treason," to impugn the loyalty of two former presidents, and to impeach the integrity of the foreign service and the armed forces.

The proponents of the Act advance the spurious justification that its suppression of democratic liberties is necessary to protect the national security against the menace of Communism. The fact is, however, that the Act is a supreme example of the truth of the statement that, "Security is like liberty, in that many are the crimes committed in its name." *Knauff* v. *Shaughnessy*, 339 U. S. 537, 551.

The Act does not protect but undermines the national security. It destroys the values most essential to be secured and on which our security rests. Mr. Chief Justice Hughes observed that the opportunity for free political discussion

is "essential to the security of the republic." *Stromberg* v. *California*, 283 U. S. 359, 369. The present Chief Justice recently stated:

> "We are living in a world of ideas and are going through a war of ideas. Everywhere there is a contest for the hearts and minds of men.
>
> "Every political concept is under scrutiny. Our American system like all others is on trial both at home and abroad. The way it works; the manner in which it solves the problems of our day; the extent to which we maintain the spirit of our Constitution with its Bill of Rights, will in the long run do more to make it both secure and the object of adulation than the number of hydrogen bombs we stockpile." (Address before the American Bar Association, 40 A. B. A. Jour. 955.) [153]

The Act was enacted in the summer of 1950, when "the Western world as a whole believed that Korea was the opening campaign of the third world war." [154] This was the political estimate that underlay its enactment. Yet many Americans, including the President, opposed the Act, rightly recognizing that in times of crisis it is essential to the national security to protect fundamental freedoms against false appeals to expediency.

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[153] Cf. Lincoln: "What constitutes the bulwark of our liberty and independence? It is not our frowning battlements, our bristling sea-coasts; our army and our navy. These are not our reliance against tyranny. All of those may be turned against us without making us weaker for the struggle. Our reliance is in the Love of Liberty which God has planted in us. Our defense is in the spirit which prized liberty as the heritage of all men, in all lands everywhere. Destroy this spirit and you have planted the seeds of despotism at your doors. Familiarize yourselves with the chains of bondage, and you prepare your own limbs to wear them. Accustomed to trample on the rights of others, you have lost the genius of your own independence and become the fit subjects of the first cunning tyrant who rises among you." *Collected Works*, Rutgers Univ. Press, v. 3, p. 95.

[154] Walter Lippman, N. Y. Herald Tribune, Nov. 11, 1952.

Under no circumstances could the national security have been promoted by the wholesale sacrifice of civil liberties and rise of McCarthyism which resulted from the cold war and the hot war in Korea. Moreover, the justification for the onslaught on the Constitution has proved unfounded. A truce was negotiated in Korea. International tensions have relaxed. The leaders of the West and the Soviet Union are exploring avenues and establishing procedures for the peaceful settlement of differences. The President has stated, on the basis of his experiences at Geneva, that Soviet leaders are as sincere as he in their desire for peace.[155] Each of the four heads of state at Geneva declared his belief that the new spirit of conciliation makes a lasting peace a hopeful and realistic possibility.[156] This perspective of peaceful coexistence of the two systems is incompatible with the premise of the Act, spelled out in section 2.[157]

In a period of "competitive co-existence,"[158] no government which infringes the fundamental liberties of its citizens can hope to win the respect and confidence of other peoples. A decision sustaining the Act and the order of the Board would sacrifice our heritage of freedom and ir-

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[155] N. Y. Times, July 21, 1955.

[156] N. Y. Times, July 24, 1955.

[157] See Toynbee, *The Question: Can Russia Really Change?* N. Y. Times Magazine, July 24, 1955. Walter Lippman has recently written: "If Geneva means that the great powers are agreed that they will not use force to change the existing situations, then they are agreed on something of the highest substance which they have never agreed upon before. Such an acceptance of the military stalemate will compel us to rethink a number of our ideas. One of the first will be the assumption that the revolutionary movements all over the globe originate in Moscow, are directed from Moscow and would fold up if Moscow could be made to behave. That is not true." N. Y. Herald Tribune, Aug. 16, 1955. For an earlier and similar estimate, see Kennan, *Realities of American Foreign Policy* (1954), pp. 42, 85.

[158] James Reston, N. Y. Times, Nov. 24, 1954.

retrievably handicap the nation in the "contest for the hearts and minds of men."

The decision below should be reversed.

Respectfully submitted,

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# APPENDIX—STATUTES INVOLVED

## 1. Subversive Activities Control Act

The Internal Security Act of 1950, 64 Stat. 987, 50 U. S. C. 781 ff., as amended, provides in part as follows:

AN ACT

To protect the United States against certain un-American and subversive activities by requiring registration of Communist organizations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Internal Security Act of 1950".

### TITLE I—SUBVERSIVE ACTIVITIES CONTROL

SECTION 1. (a) This title may be cited as the "Subversive Activities Control Act of 1950."

(b) Nothing in this Act shall be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect.

NECESSITY FOR LEGISLATION

SEC. 2. As a result of evidence adduced before various committees of the Senate and House of Representatives, the Congress hereby finds that—

(1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration

into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization.

(2) The establishment of a totalitarian dictatorship in any country results in the suppression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and results in the maintenance of control over the people through fear, terrorism, and brutality.

(3) The system of government known as a totalitarian dictatorship is characterized by the existence of a single political party, organized on a dictatorial basis, and by substantial identity between such party and its policies and the government and governmental policies of the country in which it exists.

(4) The direction and control of the world Communist movement is vested in and exercised by the Communist dictatorship of a foreign country.

(5) The Communist dictatorship of such foreign country, in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment of, and utilizes, in various countries, action organizations which are not free and independent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.

(6) The Communist action organizations so established and utilized in various countries, acting under

such control, direction, and discipline, endeavor to carry out the objective of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most powerful existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as an agency by which people govern themselves.

(7) In carrying on the activities referred to in paragraph (6), such Communist organizations in various countries are organized on a secret, conspiratorial basis and operate to a substantial extent through organizations, commonly known as "Communist fronts", which in most instances are created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership. One result of this method of operation is that such affiliated organizations are able to obtain financial and other support from persons who would not extend such support if they knew the true purposes of, and the actual nature of the control and influence exerted upon, such "Communist fronts".

(8) Due to the nature and scope of the world Communist movement, with the existence of affiliated constituent elements working toward common objectives in various countries of the world, travel of Communist members, representatives, and agents from country to country facilitates communication and is a prerequisite for the carrying on of activities to further the purposes of the Communist movement.

(9) In the United States those individuals who knowingly and willfully participate in the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement.

(10) In pursuance of communism's stated objectives, the most powerful existing Communist dictatorship has, by the methods referred to above, already caused the establishment in numerous foreign countries of Communist totalitarian dictatorships, and threatens to establish similar dictatorships in still other countries.

(11) The agents of communism have devised clever and ruthless espionage and sabotage tactics which are carried out in many instances in form or manner successfully evasive of existing law.

(12) The Communist network in the United States is inspired and controlled in large part by foreign agents who are sent into the United States ostensibly as attaches of foreign legations, affiliates of international organizations, members of trading commissions, and in similar capacities, but who use their diplomatic or semi-diplomatic status as a shield behind which to engage in activities prejudicial to the public security.

(13) There are, under our present immigration laws, numerous aliens who have been found to be deportable, many of whom are in the subversive, criminal, or immoral classes who are free to roam the country at will without supervision or control.

(14) One device for infiltration by Communists is by procuring naturalization for disloyal aliens who use their citizenship as a badge for admission into the fabric of our society.

(15) The Communist movement in the United States is an organization numbering thousands of adherents,

rigidly and ruthlessly disciplined. Awaiting and seeking to advance a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States by force and violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparation by Communist organizations in other countries have aided in supplanting existing governments. The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the United States and to the existence of free American institutions, and make it necessary that Congress, in order to provide for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the existence of such worldwide conspiracy and designed to prevent it from accomplishing its purpose in the United States.

DEFINITIONS

SEC. 3. For the purposes of this title—

(1) The term "person" means an individual or an organization.

(2) The term "organization" means an organization, corporation, company, partnership, association, trust foundation, or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together for joint action on any subject or subjects.

(3) The term "Communist-action organization" means—

(a) any organization in the United States (other than a diplomatic representative or mission of a for-

eign government accredited as such by the Department of State) which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement as referred to in section 2 of this title; and

(b) any section, branch, fraction, or cell of any organization defined in subparagraph (a) of this paragraph which has not complied with the registration requirements of this title.

(4) The term "Communist-front organization" means any organization in the United States (other than a Communist-action organization as defined in paragraph (3) of this section) which (A) is substantially directed, dominated, or controlled by a Communist-action organization, and (B) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title.

(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) is serving, or within three years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however*, That any labor organization which is an affiliate

in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist movement, shall be presumed prima facie not to be a "Communist-infiltrated organization." [1]

(5) The term "Communist organization" means any Communist-action organization, Communist-front organization, or Communist-infiltrated organization.[2]

(6) The term "to contribute funds or services" includes the rendering of any personal service and the making of any gift, subscription, loan, advance, or deposit, of money or of anything of value, and also the making of any contract, promise, or agreement to contribute funds or services, whether or not legally enforcible.

(7) The term "facility" means any plant, factory or other manufacturing, producing or service establishment, airport, airport facility, vessel, pier, water-front facility, mine, railroad, public utility, laboratory, station, or other establishment or facility, or any part, division, or department of any of the foregoing. The term "defense facility" means any facility designated and proclaimed by the Secretary of Defense pursuant to section 5(b) of this title and included on the list published and currently in effect under such subsection, and which is in compliance with the provisions of such subsection respecting the posting of notice of such designation.

(8) The term "publication" means any circular, newspaper, periodical, pamphlet, book, letter, post card, leaflet, or other publication.

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[1] Added by sec. 7(a) of the Communist Control Act of 1954, 68 Stat. 777.

[2] As amended by sec. 7(b) of the Communist Control Act of 1954, 68 Stat. 778.

(9) The term "United States", when used in a geographical sense, includes the several States, Territories, and possessions of the United States, the District of Columbia, and the Canal Zone.

(10) The term "interstate or foreign commerce" means trade, traffic, commerce, transportation, or communication (A) between any State, Territory, or possession of the United States (including the Canal Zone), or the District of Columbia, and any place outside thereof, or (B) within any territory or possession of the United States (including the Canal Zone), or within the District of Columbia.

(11) The term "Board" means the Subversive Activities Control Board created by section 12 of this title.

(12) The term "final order of the Board" means an order issued by the Board under section 13 of this title, which has become final as provided in section 14 of this title.

(13) The term "advocates" includes advises, recommends, furthers by overt act, and admits belief in; and the giving, loaning, or promising of support or of money or anything of value to be used for advocating any doctrine shall be deemed to constitute the advocating of such doctrine.

(14) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist movement.

(15) The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies

and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(16) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(17) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be conclusively presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(18) "Advocating the economic, international, and governmental doctrines of world communism" means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(19) "Advocating the economic and governmental doctrines of any other form of totalitarianism" means advocating the establishment of totalitarianism (other than world communism) and includes, but is not limited to, advocating the economic and governmental doctrines of fascism and nazism.

CERTAIN PROHIBITED ACTS

SEC. 4. (a) It shall be unlawful for any person knowingly to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship, as defined in paragraph (15) of section 3 of this title, the direction and control of which is to be vested in, or exercised by or under the domination or control of, any foreign government, foreign organization, or foreign individual: *Provided, however,* That this subsection shall not apply to the proposal of a constitutional amendment.

(b) It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government or an officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employee shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information.

(c) It shall be unlawful for any agent or representative of any foreign government, or any officer or member of any Communist organization as defined in paragraph (5) of section 3 of this title, knowingly to obtain or receive, or attempt to obtain or receive, directly or indirectly, from any officer or employee of the United States or of any department or agency thereof or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, unless special authorization for such communication shall first have been obtained from the head of the department, agency, or corporation having custody of or control over such information.

(d) Any person who violates any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $10,000, or imprisonment for not more than ten years, or by both such fine and such imprisonment, and shall, moreover, be thereafter ineligible to hold any office, or place of honor, profit, or trust created by the Constitution or laws of the United States.

(e) Any person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after the commission of such offense, notwithstanding the provisions of any other statute of limitations: *Provided*, That if at the time of the commission of the offense such person is an officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, such person may be prosecuted, tried, and punished for any violation of this section at any time within ten years after such person has ceased to be employed as such officer or employee.

(f) Neither the holding of office nor membership in any Communist organization by any person shall constitute per se a violation of subsection (a) or subsection (c) of this section or of any other criminal statute. The fact of the registration of any person under section 7 or section 8 of this title as an officer or member of any Communist organization shall not be received in evidence against such person in any prosecution for any alleged violation of subsection (a) or subsection (c) of this section or for any alleged violation of any other criminal statute.

EMPLOYMENT OF MEMBERS OF COMMUNIST ORGANIZATIONS

SEC. 5. (a) When a Communist organization, as defined in paragraph (5) of section 3 of this title, is registered or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful—

(1) For any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

(A) in seeking, accepting, or holding any nonelective office or employment under the United States, to conceal or fail to disclose the fact that he is a member of such organization; or

(B) to hold any nonelective office or employment under the United States; or

(C) in seeking, accepting, or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization; or

(D) if such organization is a Communist-action organization, to engage in any employment in any defense facility; or

(E) [3] to hold office or employment with any labor organization, as that term is defined in section 2(5) of the National Labor Relations Act, as amended (29 U. S. C. 152), or to represent any employer in any matter or proceeding arising or pending under that Act.

(2) For any officer or employee of the United States or of any defense facility, with knowledge or notice that such organization is so registered or that such order has become final—

(A) to contribute funds or services to such organization; or

(B) to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would consti-

[3] Added by sec. 6 of the Communist Control Act of 1954, 68 Stat. 777.

tute a violation of any provision of subparagraph (1) of this subsection.

(b) The Secretary of Defense is authorized and directed to designate and proclaim, and from time to time revise, a list of facilities, as defined in paragraph (7) of section 3 of this title, with respect to the operation of which he finds and determines that the security of the United States requires the application of the provisions of subsection (a) of this section. The Secretary shall cause such list as designated and proclaimed, or any revision thereof, to be promptly published in the Federal Register, and shall promptly notify the management of any facility so listed; whereupon such management shall immediately post conspicuously, and thereafter while so listed keep posted, notice of such designation in such form and in such place or places as to give reasonable notice thereof to all employees of, and to all applicants for employment in, such facility.

(c) [4] As used in this section, the term "member" shall not include any individual whose name has not been made public because of the prohibition contained in section 9(b) of this title.

DENIAL OF PASSPORTS TO MEMBERS OF COMMUNIST ORGANIZATIONS

SEC. 6. (a) When a Communist organization as defined in paragraph (5) of section 3 of this title is registered, or there is in effect a final order of the Board requiring such organization to register, it shall be unlawful for any member of such organization, with knowledge or notice that such organization is so registered or that such order has become final—

[4] Repealed by sec. 7(c) of the Communist Control Act of 1954, 68 Stat. 778.

(1) to make application for a passport, or the renewal of a passport, to be issued or renewed by or under the authority of the United States; or

(2) to use or attempt to use any such passport.

(b) When an organization is registered, or there is in effect a final order of the Board requiring an organization to register, as a Communist-action organization, it shall be unlawful for any officer or employee of the United States to issue a passport to, or renew the passport of, any individual knowing or having reason to believe that such individual is a member of such organization.

(c) [5] As used in this section, the term "member" shall not include any individual whose name has not been made public because of the prohibition contained in section 9(b) of this title.

REGISTRATION AND ANNUAL REPORTS OF COMMUNIST ORGANIZATIONS

SEC. 7. (a) Each Communist-action organization (including any organization required, by a final order of the Board, to register as a Communist-action organization) shall, within the time specified in subsection (c) of this section, register with the Attorney General, on a form prescribed by him by regulations, as a Communist-action organization.

(b) Each Communist-front organization (including any organization required, by a final order of the Board, to register as a Communist-front organization) shall, within the time specified in subsection (c) of this section, register with the Attorney General, on a form prescribed by him by regulations, as a Communist-front organization.

(c) The registration required by subsection (a) or (b) shall be made—

[5] See footnote 4.

(1) in the case of an organization which is a Communist-action organization or a Communist-front organization on the date of the enactment of this title, within thirty days after such date;

(2) in the case of an organization becoming a Communist-action organization or a Communist-front organization after the date of the enactment of this title, within thirty days after such organization becomes a Communist-action organization or a Communist-front organization, as the case may be; and

(3) in the case of an organization which by a final order of the Board is required to register, within thirty days after such order becomes final.

(d) The registration made under subsection (a) or (b) shall be accompanied by a registration statement, to be prepared and filed in such manner and form as the Attorney General shall by regulations prescribe, containing the following information:

(1) The name of the organization and the address of its principal office.

(2) The name and last-known address of each individual who is at the time of filing of such registration statement, and of each individual who was at any time during the period of twelve full calendar months next preceding the filing of such statement, an officer of the organization, with the designation or title of the office so held, and with a brief statement of the duties and functions of such individual as such officer.

(3) An accounting, in such form and detail as the Attorney General shall by regulations prescribe, of all moneys received and expended (including the sources from which received and the purposes for which expended) by the organization during the period of twelve full calendar months next preceding the filing of such statement.

(4) In the case of a Communist-action organization, the name and last-known address of each individual who was a member of the organization at any time during the period of twelve full calendar months preceding the filing of such statement.

(5) In the case of any officer or member whose name is required to be shown in such statement, and who uses or has used or who is or has been known by more than one name, each name which such officer or member uses or has used or by which he is known or has been known.

(6) A listing, in such form and detail as the Attorney General shall by regulation prescribe, of all printing presses and machines including but not limited to rotary presses, flatbed cylinder presses, platen presses, lithographs, offsets, photo-offsets, mimeograph machines, multigraph machines, multilith machines, duplicating machines, ditto machines, linotype machines, intertype machines, monotype machines, and all other types of printing presses, typesetting machines or any mechanical devices used or intended to be used, or capable of being used to produce or publish printed matter or material, which are in the possession, custody, ownership, or control of the Communist-action or Communist-front organization or its officers, members, affiliates, associates, group, or groups in which the Communist-action or Communist-front organization, its officers or members have an interest.[6]

(e) It shall be the duty of each organization registered under this section to file with the Attorney General on or before February 1 of the year following the year in which it registers, and on or before February 1 of each succeeding year, an annual report, prepared and filed in such manner and form as the Attorney General shall by regulations prescribe, containing the same information which by sub-

[6] Added by P. L. 557, 83d Cong., 2d Sess., 68 Stat. 586.

section (d) is required to be included in a registration statement, except that the information required with respect to the twelve-month period referred to in paragraph (2), (3), or (4) of such subsection shall, in such annual report, be given with respect to the calendar year preceding the February 1 on or before which such annual report must be filed.

(f)(1) It shall be the duty of each organization registered under this section to keep, in such manner and form as the Attorney General shall by regulations prescribe, accurate records and accounts of moneys received and expended (including the sources from which received and purposes for which expended) by such organization.

(2) It shall be the duty of each Communist-action organization registered under this section to keep, in such manner and form as the Attorney General shall by regulations prescribe, accurate records of the names and addresses of the members of such organization and of persons who actively participate in the activities of such organization.

(g) It shall be the duty of the Attorney General to send to each individual listed in any registration statement or annual report, filed under this section, as an officer or member of the organization in respect of which such registration statement or annual report was filed, a notification in writing that such individual is so listed; and such notification shall be sent at the earliest practicable time after the filing of such registration statement or annual report. Upon written request of any individual so notified who denies that he holds any office or membership (as the case may be) in such organization, the Attorney General shall forthwith initiate and conclude at the earliest practicable time an appropriate investigation to determine the truth or falsity of such denial, and, if the Attorney General shall be satisfied that such denial is correct, he shall thereupon strike from such registration statement or annual report the name of such individual. If the Attorney General shall decline or fail to strike the name of such individual from

such registration statement or annual report within five months after receipt of such written request, such individual may file with the Board a petition for relief pursuant to section 13(b) of this title.

(h) In the case of failure on the part of any organization to register or to file any registration statement or annual report as required by this section, it shall be the duty of the executive officer (or individual performing the ordinary and usual duties of an executive officer) and of the secretary (or individual performing the ordinary and usual duties of a secretary) of such organization, and of such officer or officers of such organization as the Attorney General shall by regulations prescribe, to register for such organization, to file such registration statement, or to file such annual report, as the case may be.

REGISTRATION OF MEMBERS OF COMMUNIST-ACTION ORGANIZATIONS

SEC. 8. (a) Any individual who is or becomes a member of any organization concerning which (1) there is in effect a final order of the Board requiring such organization to register under section 7(a) of this title as a Communist-action organization, (2) more than thirty days have elapsed since such order has become final, and (3) such organization is not registered under section 7 of this title as a Communist-action organization, shall within sixty days after said order has become final, or within thirty days after becoming a member of such organization, whichever is later, register with the Attorney General as a member of such organization.

(b) Each individual who is or becomes a member of any organization which he knows to be registered as a Communist-action organization under section 7(a) of this title, but to have failed to include his name upon the list of members thereof filed with the Attorney General, pursuant to the provisions of subsections (d) and (e) of section 7 of

this title, shall, within sixty days after he shall have obtained such knowledge, register with the Attorney General as a member of such organization.

(c) The registration made by any individual under subsection (a) or (b) of this section shall be accompanied by a registration statement to be prepared and filed in such manner and form, and containing such information, as the Attorney General shall by regulations prescribe.

KEEPING OF REGISTERS; PUBLIC INSPECTION; REPORTS TO PRESIDENT AND CONGRESS

SEC. 9. (a) The Attorney General shall keep and maintain separately in the Department of Justice—

(1) a "Register of Communist-Action Organizations", which shall include (A) the names and addresses of all Communist-action organizations registered under section 7, (B) the registration statements and annual reports filed by such organizations thereunder, and (C) the registration statements filed by individuals under section 8; and

(2) a "Register of Communist-Front Organizations", which shall include (A) the names and addresses of all Communist-front organizations registered under section 7, and (B) the registration statements and annual reports filed by such organizations thereunder.

(b) Such registers shall be kept and maintained in such manner as to be open for public inspection: *Provided*, That the Attorney General shall not make public the name of any individual listed in either such register as an officer or member of any Communist organization until sixty days shall have elapsed after the transmittal of the notification required by section 7 (g) to be sent to such individual, and if prior to the end of such period such individual shall make written request to the Attorney General for the re-

moval of his name from any such list, the Attorney General shall not make public the name of such individual until six months shall have elapsed after receipt of such request by the Attorney General, or until thirty days shall have elapsed after the Attorney General shall have denied such request and shall have transmitted to such individual notice of such denial, whichever is earlier.

(c) The Attorney General shall submit to the President and to the Congress on or before June 1 of each year (and at any other time when requested by either House by resolution) a report with respect to the carrying out of the provisions of this title, including the names and addresses of the organizations listed in such registers and (except to the extent prohibited by subsection (b) of this section) the names and addresses of the individuals listed as members of such organizations.

(d) Upon the registration of each Communist organization under the provisions of this title, the Attorney General shall publish in the Federal Register the fact that such organization has registered as a Communist-action organization, or as a Communist-front organization, as the case may be, and the publication thereof shall constitute notice to all members of such organization that such organization has so registered.

USE OF THE MAILS AND INSTRUMENTALITIES OF INTERSTATE OR FOREIGN COMMERCE

SEC. 10. It shall be unlawful for any organization which is registered under section 7, or for any organization with respect to which there is in effect a final order of the Board requiring it to register under section 7, or determining that it is a Communist-infiltrated organization,[1] or for any person acting for or on behalf of any such organization—

[1] Reference to Communist-infiltrated organizations added by sec. 8(a) of the Communist Control Act of 1954, 68 Stat. 778.

(1) to transmit or cause to be transmitted, through the United States mails or by any means or instrumentality of interstate or foreign commerce, any publication which is intended to be, or which it is reasonable to believe is intended to be, circulated or disseminated among two or more persons, unless such publication, and any envelope, wrapper, or other container in which it is mailed or otherwise circulated or transmitted, bears the following, printed in such manner as may be provided in regulations prescribed by the Attorney General, with the name of the organization appearing in lieu of the blank: "Disseminated by ————————, a Communist organization"; or

(2) to broadcast or cause to be broadcast any matter over any radio or television station in the United States, unless such matter is preceded by the following statement, with the name of the organization being stated in place of the blank: "The following program is sponsored by ————————, a Communist organization".

DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS

SEC. 11. (a) Notwithstanding any other provisions of law, no deduction for Federal income-tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 or determining that it is a Communist-infiltrated organization.[8]

(b) No organization shall be entitled to exemption from Federal income tax, under section 101 of the Internal Revenue Code, for any taxable year if at any time during such taxable year (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board

[8] See footnote 7.

requiring such organization to register under section 7 or determining that it is a Communist-infiltrated organization.[9]

SUBVERSIVE ACTIVITIES CONTROL BOARD

SEC. 12. (a) There is hereby established a board, to be known as the Subversive Activities Control Board, which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board shall be members of the same political party. The terms of office of the members of the Board in office on the date of enactment of the Subversive Activities Control Board Tenure Act shall expire at the time they would have expired if such Act had not been enacted. The term of office of each member of the Board appointed after the date of enactment of the Subversive Activities Control Board Tenure Act shall be for five years from the date of expiration of the term of his predecessor, except, that (1) the term of office of that member of the Board who is designated by the President and is appointed to succeed one of the two members of the Board whose terms expire on August 9, 1955 shall be for four years from the date of expiration of the term of his predecessor, and (2) the term of office of any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be for the remainder of the term of his predecessor. Upon the expiration of his term of office a member of the Board shall continue to serve until his successor shall have been appointed and shall have qualified.[9a] The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed

[9] See footnote 7.

[9a] Provisions relating to tenure amended by the Subversive Activities Control Board Tenure Act, P. L. 254, 84th Cong., 1st Sess., August 5, 1955.

by the President, upon notice and hearing; for neglect of duty or malfeasance in office, but for no other cause.

(b) Any vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum. The Board shall have an official seal which shall be judicially noticed.

(c) The Board shall at the close of each fiscal year make a report in writing to the Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees of the Board, and an account of all moneys it has disbursed.

(d) Each member of the Board shall receive a salary of $15,000 a year,[10] shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.

(e) It shall be the duty of the Board——

(1) upon application made by the Attorney General under section 13(a) of this title, or by any organization under section 13(b) of this title, to determine whether any organization is a "Communist-action organization" within the meaning of paragraph (3) of section 3 of this title, or a "Communist-front organization" within the meaning of paragraph (4) of section 3 of this title; and

(2) upon application made by the Attorney General under section 13(a) of this title, or by any individual under section 13(b) of this title, to determine whether any individual is a member of any Communist-action organization registered, or by final order of the Board required to be registered, under section 7(a) of this title; and

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[10] Originally $12,500. Raised to present figure by Act of July 12, 1952. 66 Stat. 590, 50 U. S. C. Supp. 791(d).

(3) upon any application made under subsection (a) or subsection (b) of section 13A of this title, to determine whether any organization is a Communist-infiltrated organization.[11]

(f) Subject to the civil-service laws and Classification Act of 1949, the Board may appoint and fix the compensation of a chief clerk and such examiners and other personnel as may be necessary for the performance of its functions.

(g) The Board may make such rules and regulations, not inconsistent with the provisions of this title, as may be necessary for the performance of its duties.

(h) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out its functions.

REGISTRATION PROCEEDINGS BEFORE BOARD[12]

SEC. 13. (a) Whenever the Attorney General shall have reason to believe that any organization which has not registered under subsection (a) or subsection (b) of section 7 of this title is in fact an organization of a kind required to be registered under such subsection, or that any individual who has not registered under section 8 of this title is in fact required to register under such section, he shall file with the Board and serve upon such organization or individual a petition for an order requiring such organization or individual to register pursuant to such subsection or section, as the case may be. Each such petition shall be verified under oath, and shall contain a statement of the facts upon which the Attorney General relies in support of his prayer for the issuance of such order.

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[11] Added by sec. 9(a) of the Communist Control Act of 1954, 68 Stat. 778.

[12] "Registration" added by sec. 9(b) of the Communist Control Act of 1954, 68 Stat. 778.

(b) Any organization registered under subsection (a) or subsection (b) of section 7 of this title, and any individual registered under section 8 of this title, may, not oftener than once in each calendar year, make application to the Attorney General for the cancellation of such registration and (in the case of such organization) for relief from obligation to make further annual reports. Within sixty days after the denial of any such application by the Attorney General, the organization or individual concerned may file with the Board and serve upon the Attorney General a petition for an order requiring the cancellation of such registration and (in the case of such organization) relieving such organization of obligation to make further annual reports. Any individual authorized by section 7(g) of this title to file a petition for relief may file with the Board and serve upon the Attorney General a petition for an order requiring the Attorney General to strike his name from the registration statement or annual report upon which it appears.

(c) Upon the filing of any petition pursuant to subsection (a) or subsection (b) of this section, the Board (or any member thereof or any examiner designated thereby) may hold hearings, administer oaths and affirmations, may examine witnesses and receive evidence at any place in the United States, and may require by subpena the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed relevant, to the matter under inquiry. Subpenas may be signed and issued by any member of the Board or any duly authorized examiner. Subpenas shall be issued on behalf of the organization or the individual who is a party to the proceeding upon request and upon a statement or showing of general relevance and reasonable scope of the evidence sought. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. Witnesses summoned shall be

paid the same fees and mileage paid witnesses in the district courts of the United States. In case of disobedience to a subpoena, the Board may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear (and to produce documentary evidence if so ordered) and give evidence relating to the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. No person shall be held liable in any action in any court, State or Federal, for any damages resulting from (1) his production of any documentary evidence in any proceeding before the Board if he is required, by a subpena issued under this subsection, to produce the evidence; or (2) any statement under oath he makes in answer to a question he is asked while testifying before the Board in response to a subpena issued under this subsection, if the statement is pertinent to the question.

(d)(1) All hearings conducted under this section shall be public. Each party to such proceeding shall have the right to present its case with the assistance of counsel, to offer oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. An accurate stenographic record shall be taken of the testimony of each witness, and a transcript of such testimony shall be filed in the office of the Board.

(2) Where an organization or individual declines or fails to appear at a hearing accorded to such organization or individual by the Board pursuant to this section, the

Board may, without further proceedings and without the introduction of any evidence, enter an order requiring such organization or individual to register or denying the application of such organization or individual, as the case may be. Where in the course of any hearing before the Board or any examiner thereof a party or counsel is guilty of misbehavior which obstructs the hearing, such party or counsel may be excluded from further participation in the hearing.

(e) In determining whether any organization is a "Communist-action organization", the Board shall take into consideration—

(1) the extent to which its policies are formulated and carried out and its activities performed, pursuant to directives or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 of this title; and

(2) the extent to which its views and policies do not deviate from those of such foreign government or foreign organization; and

(3) the extent to which it receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization; and

(4) the extent to which it sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movement; and

(5) the extent to which it reports to such foreign government or foreign organization or to its representatives; and

(6) the extent to which its principal leaders or a substantial number of its members are subject to or

recognize the disciplinary power of such foreign government or foreign organization or its representatives; and

(7) the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it fails to disclose, or resists efforts to obtain information as to, its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method); (ii) its members refuse to acknowledge membership therein; (iii) it fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its meetings are secret; and (v) it otherwise operates on a secret basis; and

(8) the extent to which its principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization.

(f) In determining whether any organization is a "Communist-front organization", the Board shall take into consideration—

(1) the extent to which persons who are active in its management, direction, or supervision, whether or not holding office therein, are active in the management, direction, or supervision of, or as representatives of, any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(2) the extent to which its support, financial or otherwise, is derived from any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(3) the extent to which its funds, resources, or personnel are used to further or promote the objectives of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2; and

(4) the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2.

(g) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order requiring such organization to register as such under section 7 of this title; or

(2) that an individual is a member of a Communist-action organization (including an organization required by final order of the Board to register under section 7(a)), it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order requiring him to register as such under section 8 of this title.

(h) If, after hearing upon a petition filed under subsection (a) of this section, the Board determines—

(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts; issue

and cause to be served upon the Attorney General an order denying his petition for an order requiring such organization to register as such under section 7 of this title; and send a copy of such order to such organization; or

(2) that an individual is not a member of any Communist-action organization, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an order denying his petition for an order requiring such individual to register as such member under section 8 of this title; and send a copy of such order to such individual.

(i) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

(1) that an organization is not a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an order requiring him to cancel the registration of such organization and relieve it from the requirement of further annual reports; and send a copy of such order to such organization; or

(2) that an individual is not a member of any Communist-action organization, or (in the case of an individual listed as an officer of a Communist-front organization) that an individual is not an officer of a Communist-front organization, it shall make a report in writing in which it shall state its findings as to the facts; issue and cause to be served upon the Attorney General an order requiring him to (A) strike the name of such individual from the registration statement or annual report upon which it appears or (B) cancel the

registration of such individual under section 8, as may be appropriate; and send a copy of such order to such individual.

(j) If, after hearing upon a petition filed under subsection (b) of this section, the Board determines—

(1) that an organization is a Communist-action organization or a Communist-front organization, as the case may be, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such organization an order denying its petition for the cancellation of its registration and for relief from the requirement of further annual reports; or

(2) that an individual is a member of a Communist-action organization, or (in the case of an individual listed as an officer of a Communist-front organization) that an individual is an officer of a Communist-front organization, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such individual an order denying his petition for an order requiring the Attorney General (A) to strike his name from any registration statement or annual report on which it appears or (B) to cancel the registration of such individual under section 8, as the case may be.

(k) When any order of the Board requiring registration of a Communist organization becomes final under the provisions of section 14(b) of this title, the Board shall publish in the Federal Register the fact that such order has become final, and publication thereof shall constitute notice to all members of such organization that such order has become final.

PROCEEDINGS WITH RESPECT TO COMMUNIST-INFILTRATED ORGANIZATIONS

SEC. 13A.[13] (a) Whenever the Attorney General has reason to believe that any organization is a Communist-infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In any proceeding so instituted, two or more affiliated organizations may be named as joint respondents. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board or any court shall be expedited to the greatest practicable extent.

(b) Any organization which has been determined under this section to be a Communist-infiltrated organization may, within six months after such determination, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-infiltrated organization.

(c) Each such petition shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

(d) The provisions of subsections (c) and (d) of section 13 shall apply to hearings conducted under this section, except that upon the failure of any organization named as a party in any petition filed by or duly served

[13] Added by sec. 10 of the Communist Control Act of 1954, 68 Stat. 778.

upon it pursuant to this section to appear at any hearing upon such petition, the Board may conduct such hearing in the absence of such organization and may enter such order under this section as the Board shall determine to be warranted by evidence presented at such hearing.

(e) In determining whether any organization is a Communist-infiltrated organization, the Board shall consider—

(1) to what extent, if any, the effective management of the affairs of such organization is conducted by one or more individuals who are, or within three [13a] years have been, (A) members, agents, or representatives of any Communist organization, and Communist foreign government, or the world Communist movement referred to in section 2 of this title, with knowledge of the nature and purpose thereof, or (B) engaged in giving aid or support to any such organization, government, or movement with knowledge of the nature and purpose thereof;

(2) to what extent, if any, the policies of such organization are, or within three years have been, formulated and carried out pursuant to the direction or advice of any member, agent, or representative of any such organization, government, or movement;

(3) to what extent, if any, the personnel and resources of such organization are, or within three years have been, used to further or promote the objectives of any such Communist organization, government, or movement;

(4) to what extent, if any, such organization within three years has received from, or furnished to or for the use of, any such Communist organization, government, or movement any funds or other material assistance;

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[13a] Changed from two to three years by P. L. 173, 84th Cong., 1st Sess., July 26, 1955.

(5) to what extent, if any, such organization is, or within three years has been, affiliated in any way with any such Communist organization, government, or movement;

(6) to what extent, if any, the affiliation of such organization, or of any individual or individuals who are members thereof or who manage its affairs, with any such Communist organization, government, or movement is concealed from or is not disclosed to the membership of such organization; and

(7) to what extent, if any, such organization or any of its members or managers are, or within three years have been, knowingly engaged—

(A) in any conduct punishable under section 4 or 15 of this Act or under chapter 37, 105, or 115 of title 18 of the United States Code; or

(B) with intent to impair the military strength of the United States or its industrial capacity to furnish logistical or other support required by its armed forces, in any activity resulting in or contributing to any such impairment.

(f) After hearing upon any petition filed under this section, the Board shall (1) make a report in writing in which it shall state findings as to the facts and its conclusion with respect to the issues presented by such petition, (2) enter its order granting or denying the determination sought by such petition, and (3) serve upon each party to the proceeding a copy of such order. Any order granting any determination on the question whether any organization is a Communist-infiltrated organization shall become final as provided in section 14(b) of this Act.

(g) When any order has been entered by the Board under this section with respect to any labor organization or employer (as these terms are defined by section 2 of the National Labor Relations Act, as amended, and which are organizations within the meaning of section 3 of the Subversive Activities Control Act of 1950), the Board shall

serve a true and correct copy of such order upon the National Labor Relations Board and shall publish in the Federal Register a statement of the substance of such order and its effective date.

(h) When there is in effect a final order of the Board determining that any such labor organization is a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, such labor organization shall be ineligible to—

(1) act as representative of any employee within the meaning or for the purposes of section 7 of the National Labor Relations Act, as amended (29 U. S. C. 157);

(2) serve as an exclusive representative of employees of any bargaining unit under section 9 of such Act, as amended (29 U. S. C. 159);

(3) make, or obtain any hearing upon, any charge under section 10 of such Act (29 U. S. C. 160); or

(4) exercise any other right or privilege, or receive any other benefit, substantive or procedural, provided by such Act for labor organizations.

(i) When an order of the Board determining that any such labor organization is a Communist-infiltrated organization has become final, and such labor organization theretofore has been certified under the National Labor Relations Act, as amended, as a representative of employees in any bargaining unit—

(1) a question of representation affecting commerce, within the meaning of section 9(c) of such Act, shall be deemed to exist with respect to such bargaining unit; and

(2) the National Labor Relations Board, upon petition of not less than 20 per centum of the employees in such bargaining unit or any person or persons act-

ing in their behalf, shall under section 9 of such Act (notwithstanding any limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the selection of a representative thereof for collective bargaining purposes, and (B) to determine whether the employees thereof desire to rescind any authority previously granted to such labor organization to enter into any agreement with their employer pursuant to section 8(a) (3)(ii) of such Act.

(j) When there is in effect a final order of the Board determining that any such employer is a Communist-infiltrated organization, such employer shall be ineligible to—

(1) file any petition for an election under section 9 of the National Labor Relations Act, as amended (29 U. S. C. 157), or participate in any proceeding under such section; or

(2) make or obtain any hearing upon any charge under section 10 of such Act (29 U. S. C. 160); or

(3) exercise any other right or privilege or receive any other benefit, substantive or procedural, provided by such Act for employers.

JUDICIAL REVIEW

SEC. 14. (a) The party aggrieved by any order entered by the Board under subsection (g), (h), (i), or (j) of section 13, or subsection [14] (f) of section 13A, may obtain a review of such order by filing in the United States Court of Appeals for the District of Columbia, within sixty days from the date of service upon it of such order, a written petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the Board shall certify and

[14] Matter between commas added by section 11 of the Communist Control Act of 1954, 68 Stat. 780.

file in the court a transcript of the entire record in the proceeding, including all evidence taken and the report and order of the Board. Thereupon the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides. The findings of the Board as to the facts, if supported by the preponderance of the evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by the preponderance of the evidence shall be conclusive, and its recommendations, if any, with respect to action in the matter under consideration. If the court shall set aside an order issued under subsection (j) of section 13 it may, in the case of an organization, enter a judgment canceling the registration of such organization and relieving it from the requirement of further annual reports, or in the case of an individual, enter a judgment requiring the Attorney General (A) to strike the name of such individual from the registration statement or annual report on which it appears, or (B) cancel the registration of such individual under section 8, as may be appropriate. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in title 28, United States Code, section 1254.

(b) Any order of the Board issued under section 13, or subsection (f) of section 13A,[15] shall become final—

[15] See footnote 14.

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the Board has been affirmed or the petition for review dismissed by a United States Court of Appeals; or

(4) upon the expiration of ten days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Board be affirmed or the petition for review dismissed.

PENALTIES

SEC. 15. (a) If there is in effect with respect to any organization or individual a final order of the Board requiring registration under section 7 or section 8 of this title—

(1) such organization shall, upon conviction of failure to register, to file any registration statement or annual report, or to keep records as required by section 7, be punished for each such offense by a fine of not more than $10,000, and

(2) each individual having a duty under subsection (h) of section 7 to register or to file any registration statement or annual report on behalf of such organization, and each individual having a duty to register under section 8, shall, upon conviction of failure to so register or to file any such registration statement or annual report, be punished for each such offense by

a fine of not more than $10,000, or imprisonment for not more than five years, or by both such fine and imprisonment.

For the purposes of this subsection, each day of failure to register, whether on the part of the organization or any individual, shall constitute a separate offense.

(b) Any individual who, in a registration statement or annual report filed under section 7 or section 8, willfully makes any false statement or willfully omits to state any fact which is required to be stated, or which is necessary to make the statements made or information given not misleading, shall upon conviction thereof be punished for each such offense by a fine of not more than $10,000, or by imprisonment for not more than five years, or by both such fine and imprisonment. For the purposes of this subsection—

(1) each false statement willfully made, and each willful omission to state any fact which is required to be stated, or which is necessary to make the statements made or information given not misleading, shall constitute a separate offense; and

(2) each listing of the name or address of any one individual shall be deemed to be a separate statement.

(c) Any organization which violates any provision of section 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000. Any individual who violates any provision of section 5, 6, or 10 of this title shall, upon conviction thereof, be punished for each such violation by a fine of not more than $10,000 or by imprisonment for not more than five years, or by both such fine and imprisonment.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

SEC. 16. Nothing in this title shall be held to make the provisions of the Administrative Procedure Act inapplicable to the exercise of functions, or the conduct of proceedings, by the Board under this title.

EXISTING CRIMINAL STATUTES

SEC. 17. The foregoing provisions of this title shall be construed as being in addition to and not in modification of existing criminal statutes.

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## 2. Immigration and Nationality Act

Pertinent provisions of sections 22 and 25 of the Subversive Activities Control Act have been carried forward in the Immigration and Nationality Act, 66 Stat. 163, adopted June 27, 1952, 8 U. S. C. secs. 1182, 1251, 1424, 1451, as follows:

SEC. 212. (a) Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

* * * * * * *

(28) Aliens who are, or at any time have been, members of any of the following classes:

* * * * * * *

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon

which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization.

SEC. 241. (a) Any alien in the United States (including any alien crewman) shall, upon the order of the Attorney General, be deported who—

* * * * * * *

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

* * * * * * *

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization.

SEC. 313. (a) Notwithstanding the provisions of section 405(b), no person shall hereafter be naturalized as a citizen of the United States—

* * * * * * *

(2) . . . (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 7 of the Subversive Activities Control Act of 1950; or (H) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-front organization dur-

ing the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization.

SEC. 340. * * * (c) If a person who shall have been naturalized after the effective date of this Act [16] shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 313, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

[16] The introductory clause of section 25(d) of the Act reads "If a person who shall have been naturalized after January 1, 1951 * * *."

### 3. Communist Control Act

The Communist Control Act of 1954, 68 Stat. 775, 50 U. S. C. 841-44, provides in part as follows:

FINDINGS OF FACT

SEC. 2. The Congress hereby finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present con-

stitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

PROSCRIBED ORGANIZATIONS

SEC. 3. The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are hereby terminated: *Provided, however,* That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended.

SEC. 4. Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control, conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the pur-

pose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended, as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

SEC. 5. In determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person:

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;

(3) Has made himself subject to the discipline of the organization in any form whatsoever;

(4) Has executed orders, plans, or directives of any kind of the organization;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization;

(10) Has mailed, shipped, circulated, distributed, delivered, or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to anyone else in behalf of the objectives of the organization;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

* * * * * * [17]

SEC. 12. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the title, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

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[17] The omitted sections amend the Subversive Activities Control Act.

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# Supreme Court of the United States

OCTOBER TERM, 1955

No. 48

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner,*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

**On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit**

## REPLY BRIEF FOR PETITIONER

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# Supreme Court of the United States

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## REPLY BRIEF FOR PETITIONER

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### I. The First Amendment

#### A

In our principal brief we pointed out that one of the First Amendment vices of the Act is that it is not limited to, and is unnecessary for, the elimination of any evil which Congress has the power to control. The Act, as we showed, suppresses petitioner as a whole, and with it petitioner's admittedly extensive peaceable advocacy and assembly (Pet. Br. 26-33, 91-107).

The respondent does not contest our demonstration that the Act is and was intended to be an outlawry statute. Nor does it dispute our legal argument that an outlawry statute is invalid.

Again, respondent does not attempt to meet our argument that the clear and present danger exception has no application to the Act, and that the section 2 finding of

such a danger is immaterial (Pet. Br. 96-97). Yet it proceeds as if it had refuted the argument. The whole thrust of respondent's brief is that the Act is valid because Communism is a great danger, or at least that Congress said so (Br. 94-97). The respondent's thesis comes down to the untenable proposition that if there is a danger (or even if Congress merely has declared one), Congress may hurl an H-bomb on its general direction, on the "reasonable" theory that no matter what else is slaughtered the peril will be eliminated.

Another point with which the respondent does not cope is our demonstration that the Act, and to an even greater extent the Board's order and the affirmance below, violate the First Amendment because they impose the destructive registration requirement and intolerable sanctions on the basis of beliefs and protected expression (Pet. Br. 113-19, 170-74). The respondent makes no effort to refute either our analysis or the legal conclusions which we drew therefrom.

B

The respondent's First Amendment discussion of the registration provisions is vitiated by its untenable assimilation of the Act to non-invidious and non-discriminatory genuine disclosure statutes. The respondent ignores the defamatory nature of registration under the Act,[1] the onerous sanctions imposed on those called upon to register, and the likelihood of criminal prosecution of any who do register. These features make disclosure by registration impossible. They also demonstrate that it was never intended, as does the fact that disclosure is not an adequate or appropriate remedy for espionage, sabotage, seditious

[1] John Lord O'Brian, recently observed in a Godkin Lecture at Harvard: "Defamation, historically the most foul of all weapons used to impair integrity, has become a commonplace of reckless usage both in governmental proceedings and in the comment of the general public." O'Brian, *National Security and Individual Freedom* (1955), 65.

advocacy, and the other evils claimed to justify the Act, all of which are punishable under existing criminal legislation.

Respondent's discussion isolates the registration requirements of the Act from the sanctions, apparently in recognition of the fact that the sanctions are incompatible with respondent's assumption that the Act is merely a disclosure statute. For the same reason, respondent repeatedly suggests that the Court disregard the sanctions in this litigation (Br. 42, 88-9, 163-64). This suggestion was more strongly urged by respondent in the court below, which rejected it (R. 2081-84). The suggestion is clearly unsound.

The Act provides that once a registration order becomes final, two sets of consequences follow automatically. First, the organization and its officers are under a duty, enforceable by criminal penalties, to file a registration statement. Second, the organization and its members incur onerous disabilities and liabilities. The latter penalties are not imposed for failure to register, but are operative *whether the organization registers or not.* No further action is required to put them into effect. Like the registration requirement, they are direct and immediate consequences of the order, written into it by the Act. It was an immaterial matter of draftsmanship that Congress attached these consequences to the order by force of the Act, instead of directing the Board to write them into the order, as in the case of the registration requirement.

The registration order thus fires a double-barrel shot gun against petitioner. It is disingenuous to suggest that, in examining the consequences of the order, the Court should disregard the shot from one barrel and the wounds it inflicts. It is manifestly impossible to make an intelligent determination of the constitutionality of the order without considering all of the sanctions which it automatically invokes.

The respondent distinguishes *Thomas* v. *Collins*, 323 U. S. 516, on the ground that it involved "no problem of sedition, subversion" or foreign control (Br. 101). The principle of *Thomas* v. *Collins* is that registration may not be made a condition of the right to make a lawful speech. The Board's argument recognizes that the Act violates this principle, but suggests extenuating factors. We think, however, that it is an untenable assumption that the Court would have decided *Thomas* v. *Collins* otherwise if the state had had some reason to believe that Thomas was a security risk or a foreign agent. So long as his speech would not endanger security, his right to make it could not validly be conditioned on registration, no matter what his general character might be.

The fact that speech cannot be abridged on the basis of the identity or character of the speaker is established by *DeJonge* v. *Oregon*, 299 U. S. 353. It held that a person could not be prevented from making a lawful speech merely because, as the Court assumed, he and his organization were security risks (Pet. Br. 114, 93, 97; see also *Herndon* v. *Lowry*, 301 U. S. 242). The Board distinguishes *DeJonge* on the grounds that "There the disability imposed was criminal punishment * * *, not the much milder form of 'restraint' in the form of registration and disclosure requirements" (Br. 101). But in the first place, the registration requirements of the Act and their attendant sanctions are not mild restraints, being at least as onerous as most criminal penalties. Secondly, *DeJonge* did not rest on the factor of criminal punishment. Its thesis, which applies to civil as well as criminal sanctions, was stated as follows (at 364-65):

> "These [First Amendment] rights may be abused by using speech or press or assembly in order to incite to violence and crime. The people through their legislatures may protect themselves against that abuse. But the legislative intervention can find constitutional justification only by dealing with the abuse."

The impermissible theory of the Act that all of an organization's advocacy can be proscribed once the organization is governmentally branded is epitomized by the requirement (sec. 7(d)(6)) that the registration statement list all printing and duplicating equipment (Pet. Br. 142). Respondent makes no effort to defend the validity of this provision, but ignores it altogether.

C

The respondent asserts that the Act's invidious labelling requirement "imposes no censorship" because the content of the matter mailed or broadcast "is immaterial" (Br. 166). But obviously a restraint of expression regardless of content is a more flagrant abridgment of speech and press than a limitation of content. It is only on the basis of content (as where there is obscenity, fraud, or matter creating a clear and present danger of insurrection) that Congress has any power to inhibit speech and press (Pet. Br. 105-07).[18]

There being available no justification based on content, the respondent argues that the invidious label may be required so that the public may be informed of petitioner's alleged ulterior motives (Br. 168-69). The respondent's argument throws overboard the principle that the clear and present danger exception is the only qualification of the First Amendment's unequivocal command. Never before so far as we are aware, has it even been suggested that

[18] Cf. President Eisenhower's advice to the Dartmouth graduates of 1953: "Don't join the book burners. * * * Don't be afraid to go in your library and read every book as long as any document does not offend our own ideas of decency. That should be the only censorship. How will we defeat communism unless we know what it is? What it teaches—why does it have such an appeal for men? * * * Now we have got to fight it with something better. Not try to conceal the thinking of our own people. They are part of America and even if they think ideas that are contrary to ours they have a right to have them, a right to record them and a right to have them in places where they are accessible to others. It is unquestioned or it is not America." *N. Y. Times*, June 15, 1953.

Congress may restrain speech which threatens no substantive evil because of the suspected motives of the speaker. If such a power is held to exist, then the First Amendment will lose its significance.

Contrary to respondent's argument, Congress has no power to "protect" the population by "exposing" the ulterior motives of those who address the public. In this area the people must protect themselves without the guardianship of the legislature. We believe that the amicus brief of the American Civil Liberties Union is correct in stating (24-5):

> "Certainly, knowledge of whether a person is a Communist, or of his various motivations, biases, and preconceptions may be valuable in appraising the validity of his ideas, and the benefit of associating with him. But in a democracy, the function of obtaining or using this knowledge cannot be transferred from the hands of the citizen to the Government. As Mr. Justice Jackson said in a succinct statement of democratic faith: 'It is not the function of our Government to keep the citizen from falling into error.'"

## D

The respondent justifies the Act's sanctions by the argument that they are reasonable exercises of Congressional power in areas within the federal jurisdiction. If this were true, the sanctions would meet the test of due process, but not necessarily the more stringent clear and present danger test of the First Amendment (Pet. Br. 100-01). Respondent overlooks the fact that the member sanctions must be justified under First Amendment standards because they are imposed solely for the exercise of and heavily deter the right of association.

The fact is, however, that the Act's sanctions do not even satisfy the reasonableness requirement of due process. They are reasonable only on the respondent's H-bomb theory of Congressional power.

Thus the Respondent argues that since Congress can protect the mails and broadcast channels against fraudulent communications, it can "protect" them against non-fraudulent communications of petitioner or other unpopular organizations. Since Congress can compel non-invidious identification of broadcast sponsors, it can require petitioner and other unpopular organizations to defame themselves in their broadcasts. Since Congress can forbid federal employees from engaging in partisan politics, it can forbid them and employees of private "defense facilities" from making contributions to petitioner and other unpopular organizations for legitimate uses which have nothing to do with partisan politics. Since Congress can guard defense facilities against sabotage and espionage, it can exclude from employment at such facilities members of petitioner and other proscribed organizations even if they have no desire, tendency, or opportunity to engage in sabotage and espionage. Since *Douds* held (we think incorrectly) that Congress can, as a means of preventing political strikes affecting interstate commerce, put pressure on unions to remove Communists from leadership positions, it can prohibit Communists and members of other proscribed organizations from holding non-leadership union employment having nothing to do with strike policy or interstate commerce.[2] Since Congress can prevent persons from travelling abroad to commit espionage, it can prevent Communists and members of other proscribed organizations from travelling abroad for such innocuous purposes as collecting a legacy, studying ancient ruins, or comforting a dying

[2] Respondent contends that we were in error in stating (Pet. Br. 103) that section 5(a)(1)(E) does not purport to be an exercise of the commerce power. It asserts that "the paragraph is limited to the holding of office in or employment with labor organizations as defined in the National Labor Relations Act, the scope of which in turn is limited by the commerce clause" (Resp. Br. 192). Respondent's assertion is incorrect. The definition of "labor organization" in the latter statute (28 U. S. C. 152(6)) is made without reference to interstate commerce, the commerce restriction in that statute being elsewhere.

parent. Since Congress can revoke naturalizations obtained by fraud, it can revoke naturalizations by inventing an irrational presumption of fraud (Rep. Br. 164-99). None of this is good law.

What the respondent's theory comes down to is that all members of proscribed organizations (including the huge number of "members" of petitioner artificially created by section 5 of the Communist Control Act) may be conclusively presumed to be criminals and deprived, without hearings for the individual or other ado, of any privileges Congress wishes to withhold. This is simply the McCarthy theory that the Constitution does not apply to Communists and people he calls Communists.

## II. The Privilege Against Self-Incrimination

In our principal brief (83) we urged that the Act and the registration order are invalid because they compel petitioner's officers to incriminate themselves by performing an act—the signing and filing of petitioner's registration statement—which constitutes an admission of their membership in petitioner and "a knowledge of its workings."[3]

The respondent contends (Br. 104-12) that adjudication of this issue is premature in this proceeding. It urges, first, that the privilege may never be asserted by the officers, and that those officers who desire to assert the privilege can do so on the registration form to be filed with the Attorney General.

This argument overlooks the crucial fact that the assertion of the privilege to the Attorney General is itself an incriminating admission that the persons asserting it are officers of the petitioner (Pet. Br. 87-88). The opportunity for claiming the privilege which respondent proposes is

[3] Petitioner has standing to litigate this issue because the registration requirement directly injures it (Pet. Br. 72).

simply an opportunity for the officers to incriminate themselves. The procedure suggested by the respondent would confront the officers with an illusory alternative: to make the incriminating admission that they are officers of the organization by signing and filing the registration statement, or to make the same admission by asserting the privilege not to sign and file the statement.

The officers of petitioner must somewhere be able to obtain judicial protection against the requirement of the registration order that they make the incriminating disclosure that they are petitioner's officers. Since an assertion of the privilege by them, under the circumstances of the case, would surrender the privilege, the assertion cannot be a prerequisite to adjudication of their rights. This proceeding provides the only opportunity they have to secure the benefit of the privilege.[4] Hence the issue is not premature.

Respondent also contends that the privilege issue is premature because a claim of privilege, if and when asserted, might be found to have been waived by certain of petitioner's officers because of facts peculiar to their individual situations.[5] This argument has the same vice as the contention that the issue is premature because the officers might not claim the privilege at all. The point is that the Act allows no effective opportunity for the officers to claim the privilege. Hence it is impossible to withhold adjudication until the claim is made or until, having been made, it is determined whether the claimant had waived the priv-

---

[4] It cannot be urged that the officers can enjoy the protection of the privilege by remaining silent until indicted for failure to file a registration statement. For, as the respondent acknowledges (Br. 109), the privilege is a protection against prosecution as well as conviction.

[5] Respondent's argument is made in disregard of the well-settled proposition that the privilege is not waived by prior admissions made extra-judicially, or in another proceeding, or even at a different stage of the same proceeding (Pet. Br. 89).

ilege. No one knows who will be the officers of petitioner at the time when it becomes necessary to file a registration statement. They may well be, or include, persons whose right to the privilege will not be complicated by any question of waiver. Yet if the Court abstains from deciding the privilege issue now because of some speculative possibility of waiver, the last opportunity for protecting the constitutional privilege of these persons will have gone by. In short, adjudication cannot await disposition of an issue which could only arise on assertion of the privilege, because the Act allows no opportunity for the assertion.

The respondent's refusal to recognize that, in the setting of the registration order, an assertion of the privilege is itself incriminating blinds it to the applicability of *Boyd* v. *United States*, 116 U. S. 616, which held a federal statute invalid on its face, because it conflicted with the privilege against self-incrimination. *Boyd* decisively refutes all of respondent's arguments.

As the respondent points out, the statute considered in *Boyd* presented a suspected tax evader with the alternative of (1) producing his books to refute the charges against him or (2) suffering the charges to be taken as confessed. The respondent states that, "In the context of such a statute, a claim of privilege would have been quite meaningless." It was for this reason, as respondent observes, that the Court voided the statute without reference to the doctrine that the privilege must be asserted if it is to be availed of (Br. 114-5). For the same reason, the Court did not permit the statute to survive for application to future cases in which the privilege might have been waived.

The "alternative" which confronts an officer of petitioner under a registration order is no more satisfactory than that in *Boyd*. The officer must choose between making an incriminating admission by signing a registration statement and making the same admission by claiming his privilege not to sign the statement. Here an assertion of the privi-

lege would be worse than "quite meaningless." It would itself be incriminating. Hence, as in *Boyd*, the principle that the privilege must be claimed in order to be relied upon is inapplicable.

The respondent's blind spot also appears in its argument that, "Even assuming that a claim of privilege will be made and must be honored, this would make the order to register at most unenforceable, not void" (Br. 112). This argument proceeds on the same fallacious premise that petitioner's officers must claim the privilege in order to have it honored. As we have seen, however, there is no place other than this proceeding in which their privilege can "be honored." And the only way in which that can be accomplished in this proceeding is by holding the registration order invalid.[6]

The situation here is identical with that presented in *Boyd* where, as respondent states (Br. 116), "The statute was held void as necessarily conflicting with the privilege." The Act and the registration order must be held void for the same reason.

The respondent's final contention is that, on the authority of *United States* v. *White*, 322 U. S. 694, the privilege is not available to petitioner's officers (Br. 117-21). Respondent's brief ignores one of the crucial factors which distinguishes the situation here from that in *White*. *White* relaxed the Fifth Amendment only to the extent of holding that the officer of an organization is not privileged to withhold records of the organization on the ground that their *contents* might incriminate him. Here, it is not the contents of the records but the identification of the person signing the statement as an officer and member of petitioner which is incriminating. Such self-identification cannot be compelled (Pet. Br. 83, 86-7).

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[6] Moreover, as *Boyd* shows, a statute which on its face violates a constitutional right is void notwithstanding the possibility that it may have a valid application to hypothetical persons under speculative conditions.

The second vital distinction is that *White* involved the bare act of producing the records of the organization, while a registration order requires the officers to prepare and file an original statement (Pet. Br. 84-6). The respondent's argument that there is no significant difference between the two requirements (Br. 117-21) contradicts the Court's expressions in *White, Wilson* v. *United States*, 221 U. S. 361, and *Shapiro* v. *United States*, 335 U. S. 1, and does violence to the principle of the Fifth Amendment (Pet. Br. 84-85).

## III. The Act and Due Process

### A. The Act as Fiat Legislation

Under the section 3(3) definition, there can be a Communist-action organization only if there is a world Communist movement as defined by section 2. The Act, however, does not leave the existence of such a movement open to administrative or judicial determination. The legislative findings as to the existence, nature, and control of the world Communist movement are binding on the Board and the courts, and the court below so held (R. 2132-3). Accordingly, the Act violates due process since it predetermines, by legislative fiat, facts essential to guilt (Pet. Br. 56-59).

The respondent acknowledges that the existence of a world Communist movement as described in section 2 is not "subject to litigation in a particular proceeding under the Act" (Br. 127-8). Simultaneously, it recognizes that the existence of the world Communist movement is crucial to making the Act "operative against petitioner" (Br. 125). It contends on two grounds that this legislative predetermination of crucial facts does not violate due process.

First it argues that the section 3(3) definition contains two components, both of which "must be fulfilled for the definition to apply" (Br. 124). This is beside the point. Both components of section 3(3) presuppose the existence

of the world Communist movement described in section 2, and neither can possibly apply if such a movement does not exist. The vice of the Act is that the necessary factual foundation for both components is determined by legislative fiat.

Secondly, the Board argues that the existence and nature of the world Communist movement are legislative facts, "general conclusions which support the policy of a particular law," and not adjudicative facts, "which, on proof in adversary litigation, bring a specific person or organization within the purview of the legislation, or otherwise make the general terms of the legislation specifically applicable" (Br. 126).

The findings in section 2 were, of course, intended to "support the policy of" the "particular law." The difficulty, however, is that Congress did not stop there. Instead, it made liability under the Act dependent on the existence of "facts" which are only found legislatively. It did this by incorporating in section 3(3) the findings of section 2 as assumptions of fact which must be accepted by the Board and reviewing courts.

As the analysis in our principal brief showed (58), and as elementary common sense demonstrates, the existence of a world Communist movement as defined in section 2 is an indispensable factual element to a conclusion that a particular organization, (1) is controlled by the government or organization which controls that movement, and (2) operates to advance the objectives of that movement. Accordingly, the existence of such a movement is a fact necessary to bring an organization "within the purview of the legislation" and to "make the general terms of the legislation specifically applicable." The Board's brief makes no attempt to disprove our analysis and offers no counter analysis of its own. It merely offers the ipse dixit that the existence of a world Communist movement is not an adjudicative fact.

The hypothetical analogy suggested by the Board (Br. 128, ftn. 33) does not help its case. If indeed Congress should enact legislation authorizing an administrative agency to prohibit types of business activity found on the basis of evidence to deepen "the" world-wide economic depression, due process would require that a company involved in a proceeding before the agency be permitted to prove that there was in fact no depression which its activities could deepen. What impresses the Board about this analogy is the inefficiency of a system which would permit countless businesses to relitigate the same basic question. But the point is that Congress does not legislate such gaucheries. When Congress enacts economic legislation to alleviate a depression, it does not make the existence of a depression the foundation of the administrative findings, even though it may be the reason for the enactment. Instead, it authorizes the administrative agency to make findings as to whether certain practices deemed harmful by Congress are being employed, such as unfair competition, wage cutting, price-cutting, etc.[7]

It is only in the Act that Congress has incorporated legislative findings into the ultimate standards to be applied by the administrative agency. It is only in the Act that an element essential to the determination of liability is based on an assumption of facts found by Congress and not subject to administrative or judicial adjudication.

This legislative predetermination was not impelled by a need to avoid such wasteful relitigation as that contemplated by the Board's hypothetical analogy. For Congress intended that only one organization, the petitioner, should be charged as a Communist-action organization. But Congress knew that it had already enacted legislation prohibiting the seditious and insurrectionary conduct described in section two, and requiring foreign agents to register. It

[7] The legislation may also, of course, be of temporary duration or subject to termination by a joint resolution or presidential proclamation declaring the end of the emergency.

also knew that the Attorney General had been unable to make out a case against petitioner under these statutes. The problem to which the authors of the Act addressed themselves was how to dispense with the embarrassing necessity of proving their accusations against petitioner. That is why the Act was passed, and that is why the legislative predetermination of the existence of "the world Communist movement" was incorporated into the operative provisions of the Act (Pet. Br. 35-40).[8]

For the same reason, the authors of the Act also found it necessary to coerce an administrative determination of the other facts essential to guilt. It did this in section 2 by making findings on the identical subjects which were ostensibly to be determined by the Board, even to the point of identifying the petitioner as "the" Communist-action organization (Pet. Br. 42-45). Respondent makes no attempt to defend this aspect of the legislative predetermination.

**B. The Irrationality of Section 13(e)**

We argued that section 13(e) of the Act authorizes the Board to find that an organization is a Communist-action organization within the section 3(3) definition on the basis of evidentiary criteria which are irrelevant to the definition. Thus the Act permitted the Board to find petitioner guilty of one thing on proof of another, in plain violation of due process (Pet. Br. 46-53, 64-69).

The respondent's over-all reply to our contention is that the inquiry as to the relevancy of the standards of section 13(e) to the 3(3) definition is unimportant (Respt. Br. 132-34). It asserts that 13(e) does not supply "tests or criteria" of a Communist-action organization, but merely "relevant considerations or guides to the consideration of

[8] The demonstration in our principal brief (35-40) that the Act is an expedient to dispense with proof of guilt is corroborated and further documented by the respondent's own description of the background and legislative history of the Act (Br. 43-65).

evidence bearing upon the question." The "sole and exclusive test," it insists, is supplied by section 3(3). (Br. 132-33.) But this contention is merely an exercise in semantics, since "considerations or guides" are "tests or criteria," and the question is whether they are "relevant." Section 3(3) cannot be the "exclusive" test since Congress saw fit to enact 13(e) and to provide that in reaching its determination the Board should take into account the items listed in that section.

The respondent also urges (*ibid.*) that section 13(e) cannot invalidate the Act because its standards are not exclusive and do not preclude the Board from considering other factors relevant to the definition. The argument ignores the holding in *Bailey* v. *Alabama*, 219 U. S. 219 (Pet. Br. 66), that a statute which authorizes a judgment to be reached on irrational premises is invalid on its face notwithstanding that the trier of fact may base its judgment on rational premises. Respondent also ignores the elementary logic that if any one of the propositions on which a conclusion is based is invalid, the conclusion has not been demonstrated to be valid.[9]

Furthermore, if the respondent's argument could rescue the Act, it would invalidate the order of the Board. For it appears from the face of the Report (R. 1-137) that the Board rested its order solely upon its findings under the eight criteria of section 13(e). The Report examines each criterion separately, makes a finding adverse to petitioner under each, and concludes, without more, that petitioner is a Communist-action organization. Nowhere does the Report consider the evidence apart from its relevance to the criteria, or attempt to relate the evidence to the ultimate

[9] It follows that the Act is invalid if any one of the section 13(e) criteria is irrelevant to the ultimate issue (Pet. Br. 66).

facts set forth in the section 3(3) definition.[10] Accordingly, if the respondent is correct in its present contention that the Board was required to consider factors in addition to those enumerated in 13(e) and that section 3(3) provides the exclusive criteria for Board consideration, the order must be set aside for the failure to meet this requirement.

Respondent intimates (Br. 134) that it is unnecessary to determine whether the criteria are relevant to the definition for the further reason that almost everybody (including the Court) knows that petitioner is a Communist-action organization, and hence that a trial of that question is an unimportant formality. The suggestion is that because petitioner might be found guilty in a public opinion poll, no proof was required.

The respondent is driven to these lengths in its efforts to by-pass consideration of the 13(e) criteria because its defense of the criteria is plainly unavailing.

1. We showed that section 13(e) cannot supply a rational basis for decision because none of its criteria is relevant to the "objectives" component of the section 3(3) definition—i.e., that the accused organization operates primarily to advance the objective of overthrowing the

[10] The case was presented by the Attorney General and tried by the hearing panel on the same theory of the function of section 13(e). The petition, after an introductory section, is divided into eight separate parts corresponding to the eight criteria of section 13(e) (R. 143-59). All of the petition's allegations were subsumed under, and pleaded as relevant to, one or another of the eight criteria. The hearing panel, with the acquiescence of the Attorney General, required the latter to indicate the particular criteria under which he was offering particular lines of evidence. This requirement was made and agreed to on the theory that section 13(e) provided an exclusive standard of relevance, and that evidence not relevant to one or more of the criteria was inadmissible (see, e.g., Tr. 2444-45; 3133; 3202; 3795-96; 3804). Neither the Attorney General nor the panel took the position that evidence irrelevant to any of the eight criteria was, nevertheless, admissible as relevant to the ultimate facts to be established.

Government by violence or other illegal means and replacing it by a foreign-controlled dictatorship. (Pet. Br. 46).

It appears from the respondent's own analysis of section 13(e) that seven of the eight criteria do not relate to the "objectives" component of the definition but, at most, are relevant only to "foreign domination and control" (Resp. Br. 134-50). The respondent does argue that the first criterion ("directives and policies") is relevant to the objectives component. It urges that consideration of "the extent to which [the accused organization's] policies are formulated and carried out * * * to effectuate the policies of the foreign government or foreign organization" referred to in section 2 requires consideration of the policies of the foreign government as a whole. It says that, "These would certainly include at least those major objectives referred to in §2 as presenting a clear and present danger to the security of the United States, i.e. * * * the forcible overthrow of the government." (Br. 135-36.)

This analysis is faulty for two reasons.

In the first place, section 13(e)(1) contains two standards which are stated in the disjunctive. The Board is directed to consider the extent to which the organization's policies are made and implemented *either* (1) pursuant to foreign directives, *or* (2) to effectuate the policies of the foreign government. Obviously, the first of these alternatives has nothing to do with the content of the organization's policies or objectives, and the respondent does not argue to the contrary. It is only the second alternative which, according to the respondent, is relevant to the issue of seditious objectives. But section 13(e)(1) does not require the Board to consider this alternative. Hence the Board is authorized to find that an accused organization operates to advance the seditious objectives described in section 2 in the absence of evidence which satisfies the only clause of 13(e) that respondent claims has any relevance to such objectives.

Further, the respondent acknowledges that the second alternative of 13(e)(1) requires consideration of the policies of the foreign government as a whole, including "any 'good' objectives—objectives which might 'be shared by' and 'benefit' the United States" (Br. 136). Obviously, however, evidence of these "good" objectives cannot be proof that the organization operates to advance seditious objectives. Therefore the second alternative itself permits consideration of irrelevant evidence.

The correctness of our contention that section 13(e) as a whole has no relevance to the objectives component of the 3(3) definition is confirmed by the position which the respondent urged upon the court below and which the court adopted in its opinion.

The respondent took the position below that it is unnecessary to prove, and that the Act does not require proof, that an accused organization operates to advance the seditious objectives which section 2 attributes to the world Communist movement.[11]

The court below adopted the respondent's then interpretation of the Act. This is established by the excerpts from the opinion quoted by us (Pet. Br. 67) and referred to by respondent (Br. 137-38, ftn. 35). It is clear from these excerpts that the court believed that the "policies" criterion of section 13(e)(1) can be fully satisfied by proof that the accused organization seeks the establishment of a "totalitarian dictatorship" in this country, regardless of the fact

[11] We called attention to this fact in our principal brief (46), and the respondent does not contradict our statement. In its brief below, the respondent stated (p. 72): "As we have shown, however, the whole theory that underlies the registration features of this Act in relation to a Communist-action organization is that the mere fact of foreign domination justifies Congress in imposing disclosure requirements. Whether the individual foreign controlled policies are good or evil is irrelevant." The respondent added in its brief below (p. 111) that "the advocacy of force and violence is not the prime issue in this proceeding, but * * * is a relevant matter to be considered on the issue of allegiance."

that the means used or advocated for the attainment of this objective are entirely peaceable and lawful (see Pet. Br. 68). That this was the position of the court below is further evidenced by the fact that, in affirming the order of the Board, it found it unnecessary to determine whether or not the evidence established that petitioner advocated the violent overthrow of the Government (see Pet. Br., 155-56), an issue which the Board had informed it was not of prime importance and was relevant only to the allegiance criterion.

As we have shown, the position taken below by the respondent and adopted by the court was correct. Accordingly, the Act is unconstitutional because it establishes an irrational system of proof. It was the respondent's belated recognition of this fact which forced it to change its position. If the Court should, however, accept respondent's present position, the Board's order must nevertheless be set aside. For in that event, the case was decided by the Board and the court below upon an erroneous interpretation and application of the Act.

2. With respect to the foreign control component of the section 3(3) definition, section 13(e) supplies criteria which, at best, are nebulous, circumstantial and largely irrelevant (Pet. Br., 47-52). The respondent's counter-analysis of the criteria confirms our criticism. Its attempt to rescue the criteria takes two forms.

First, respondent urges that even if each criterion has no tendency to prove foreign control when considered separately, the deficiency is remedied by considering them cumulatively (Br. 134, 146). But the sum of eight zeroes is zero, and the respondent fails to explain how the vacuity of the individual standards is cured in the ensemble.

Second, it argues that while the criteria as written may have little or no relevance to foreign control, this vice can be cured by surrounding each criterion with a series of qualifications and encrusting it with factors which Con-

gress neglected to supply.[12] Thus the respondent concedes that the bare fact of reporting (which is all that section 13(e)(5) involves) may "suggest nothing in the way of control or domination" (Br. 143). Respondent then proceeds to catalogue a long list of "surrounding circumstances," not enumerated in the Act, which it says "might very well indicate" domination and control. Again, respondent acknowledges that the receipt of foreign financial aid (which is all that section 13(e)(3) involves) has little tendency to prove domination of the donee by the donor (Br. 140-41). It agrees with us that the relevant consideration is not the fact of aid, but the terms and conditions on which it is given. Yet respondent fails to explain why Congress enumerated the irrelevant, but omitted the relevant, factor. Similarly, respondent concedes that the fact that members of an organization receive foreign instruction and training has little significance in the absence of evidence that the organization is obliged to or does conform to the teaching in the conduct of its affairs (Br. 142). Yet section 13(e)(6) requires no evidence of the latter.

Respondent interprets the "non-deviation" criterion to require evidence that the "local organization mirrors in each facet of its activities through the years the policies of a foreign state" (R. 139-40). Yet in applying the criterion, the Board and the court below rejected this interpretation (Pet. Br. 137-44). Accordingly, if respondent's present contention is sound, the order of the Board and the decision below were based on an erroneous premise (see *infra*, pp. 33-35).

The respondent's discussion of the "discipline" and "allegiance" criteria (Resp. Br. 143-44, 147-50) does not meet our objection (Pet. Br. 50-52) that both are irrational because they permit the Board to impute to an organization the disciplinary status or subjective attitudes

[12] If the argument is sound, it condemns the Board's order, since the Board applied the criteria strictly as written. See *infra*, p. 29.

of some of its officers and members notwithstanding that they may be an unrepresentative minority whose views are not shared by the organization itself.

Respondent concedes that each of the two "purpose" requirements of the "secret practices" criterion involves circular reasoning (Br. 145-46). It urges that the criterion is nevertheless rational because the two requirements are stated in the disjunctive. The argument seems to be that the irrationality of both requirements is cured by virtue of the fact that only one of them need be proved. We cannot fathom this logic.

### C. The Necessarily Biased Board

Under the Act, all future business of the Board was dependent on its finding that petitioner is a Communist-action organization. A finding in favor to petitioner would (as two chairmen of the Board themselves recognized) have made the Board *functus officio* and in effect repealed the Act (Pet. Br. 54-56). We argued, therefore, that the Act violated due process by creating a Board which was under irresistible pressure to decide in one direction and which had a personal, official and financial stake in the result (Pet. Br. 70-71).

The respondent does not dispute our analysis of the Act, nor does it discuss the numerous authorities cited by us which demonstrate that the Act therefore violates due process. Instead, it misrepresents our contention as "charging that the structure and scheme of the Act are such that it would be impossible to staff the Board with members who would not enter upon their duties with the intention of violating their oaths of office" (Br. 130). The issue, however, has nothing to do with violations of oaths of office. What due process requires is that the tribunal be free from pressures to decide against a litigant and from an interest in the event. Violation of the oath of office is a standard for impeachment, but is not required for disqualification. Does the Solicitor General assert that when

the government moved to disqualify Judge Youngdahl in the *Lattimore* case, it was charging that he would violate his oath if he continued to sit?

**D. The Denial of Due Process to Members**

The Act imposes onerous disabilities on individuals solely because of their organizational membership. It conclusively presumes that every member is a loyalty and security risk who must be denied vital privileges, regardless of his lack of personal knowledge of the organization's claimed deleterious nature. In these respects, we argued, the Act violates due process (Pet. Br. 72-5).[13]

The respondent defends the member sanctions on the ground that they apply only to persons who remain members with knowledge or notice that the organization has been condemned after an administrative hearing and judicial review. It scoffs at the notion "that it is not permissible to impose sanctions on a member if he does not agree * * * with the formal finding made by the Board and upheld by the courts" (Br. 203-4).

But the notion is right and respondent is wrong. A person cannot constitutionally be branded and discriminated against as a loyalty and security risk merely because he is so stubborn (as well as courageous and possibly right) as to disagree with an estimate of the Board and the courts. Otherwise he is punished for nothing more than nonconformity.

This is established by *Adler* v. *Board of Education*, 342 U. S. 485. The statute involved in *Adler*, like the Act, provided for a hearing to the organization and judicial review. Nevertheless, in upholding the statute, the Court stated (at 494-5, emphasis supplied):

> "Membership in a listed organization found to be within the statute *and known by the member to be*

[13] The Act also violates due process because it excludes members from privileges to which loyalty and security considerations are not germane (Pet. Br., 101-05; *supra*, pp. 7-8).

> *within the statute* is a legislative finding that the member by his membership supports the thing the organization stands for, namely, the overthrow of government by unlawful means. We cannot say that such a finding is contrary to fact or that 'generality of experience' points to a different conclusion. Disqualification follows therefore as a reasonable presumption from such membership and support. Nor is there here a problem of procedural due process. *The presumption is not conclusive but arises only in a hearing where the person against whom it may arise has full opportunity to rebut it.*"

According to respondent, the only element in the quoted text that is necessary to satisfy due process is that the organization be "found to be within the statute." Its argument eliminates the other two elements which the Court recognized as indispensable—knowledge by the member that the organization is (not was found to be) of the objectionable kind, and an opportunity to the member to rebut the presumption arising from such knowing membership.

Respondent seeks to escape *Adler* by misinterpreting our reliance on it. We did not contend, as respondent supposes (Br. 205), that *Adler* requires that the member be permitted to relitigate the character of the organization. What we said (Pet. Br. 73), and what *Adler* holds, is that a finding that an organization is disloyal cannot, consistently with due process, conclusively establish the "disloyalty" of its members. The members must be allowed an opportunity to rebut any presumption of "disloyalty" arising from membership before sanctions can be imposed upon them. Since the Act provides no such opportunity, it violates due process.[14]

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[14] The sanctions are invalid for the additional reason that they are imposed on the members notwithstanding the fact that an organization may be found to be a Communist-action organization without proof that it engages in any illicit advocacy or criminal activity whatsoever (see Pet. Br. 46; *supra*, pp. 17-20). Cf. the statute in *Adler* where the disqualification of the members was conditioned on a finding that the organization advocated the violent overthrow of the Government.

It is not true, as respondent contends (Br. 204-05), that sanctions for disloyalty may be imposed on a present member without regard to his lack of personal knowledge that the organization has evil purposes. As *Adler* establishes, scienter is a prerequisite because its presence is necessary to a rational inference of disloyalty from organizational membership. As the Court recognized in *Wieman* v. *Updegraff*, 344 U. S. 183, 190, membership in a "subversive" organization "may be innocent in the absence of scienter." The principle which makes scienter necessary applies to present membership as well as to past. *Adler* considered scienter a requisite, yet the statutory exclusion there involved applied only to present members.

The respondent misreads *Wieman* in representing that it applies only to past membership. The test oath struck down in that case related to both present membership and membership within the preceding five years. The decision, however, was squarely based on the oath's failure to allow for the absence of scienter, without distinction between present and past members. *Wieman* itself stated (at 188) that it was decided "in the context of" three decisions (*Adler*; *Garner* v. *Board of Public Works*, 341 U. S. 716; and *Gerende* v. *Board of Supervisors*, 341 U. S. 56), which it considered to have established scienter as a constitutional requisite. Yet two of these cases (*Adler* and *Gerende*), involved only present membership.

Respondent's theory that organizational membership per se makes individuals loyalty and security risks is particularly terrifying in view of the fact that it justifies sanctions imposed not only on members of petitioner and other organizations proscribed under the Act, but also on the huge segment of the American population which artificially and unwittingly acquires "membership" in petitioner by the operation of section 5 of the Communist Control Act.

The respondent's suggestion that petitioner lacks standing to challenge this denial of due process to its members

is based on a misrepresentation of our position. Respondent states that "petitioner raises this issue on behalf of its members, none of whom are [sic] before the Court" (Br. 202, ftn. 60). We raised the invalidity of the member sanctions on behalf of petitioner, pointing out that since "the disabilities imposed by the members directly affect and injure petitioner," petitioner may challenge them (Br. 72). The respondent's brief confirms our analysis, for it argues (204-05) that the member sanctions are valid because the members can escape them by resigning from petitioner. Thus, according to the respondent, what makes the member sanctions constitutional vis-a-vis the members is that they operate to destroy petitioner by eliminating its membership. Surely petitioner can challenge on its own behalf measure whose purposes and effect is to destroy it.

## IV. The Act as a Bill of Attainder

We have dealt (Pet. Br. 63) with the respondent's contention, based on an unsound dictum in *Douds*, that the sanctions on the members are not punishment because the members can escape them by resigning from the organization. This argument confuses retroactivity with punishment, and the prohibition against bills of attainder with that against ex post facto legislation. The point is that recantation coerced by the threat of punishment is itself punishment.

The respondent recognizes that the organization has no escape from the punishment inflicted on it by a registration order, but asserts that the punishment indispensable to a bill of attainder "must be visited on individuals" (Br. 207). We do not believe that the prohibition against bills of attainder is so narrow. Moreover, the argument overlooks the real significance of the registration requirement, the sanctions on the organization, and the compulsion exerted on members to leave the organization in order to escape the

Act's sanctions. The effect of these provisions is to compel the members to quit the organization. They thereby deprive the members of their privileges of association and concerted expression. This deprivation is inescapable; it is based on past conduct; and it has no reasonable relation to the personal fitness of the members to enjoy the privileges which the Act denies them. By any standard, therefore, the Act punishes the members.

## V. Section 5 of the Communist Control Act

Respondent (Br. 157-58) makes a twofold reply to our contention (Pet. Br. 76-79) that the criteria of section 5 of the Communist Control Act for determining membership in the Communist Party are vague and irrational. First it says that the thirteen criteria which the section lists are not exclusive. But the vice of authorizing a jury to consider the thirteen irrelevant factors is obviously not cured by permitting it to consider other factors which may be relevant. Second, respondent says that the criteria are to be applied by the jury "under instructions from the court," and that it must be presumed that the guidance of the court will be intelligent. But respondent does not explain how it is possible to give "intelligent guidance" for the use of irrational standards of proof.

Respondent argues that since the introductory paragraph of section 5 refers to the determination of membership of "the accused person," the section has no bearing on the liability of the officers to list persons other than themselves in the registration statement (Resp. Br. 158-59). Such a literal reading would add a further irrational feature to the registration requirements of the Act. Respondent does not dispute that individuals must apply the criteria of section 5 in determining whether to register themselves if the organization has failed to list their names (Br. 159). Under the respondent's interpretation, a person is not a member for the purpose of registration by the organization,

but is a member for the purpose of self-registration. Clearly, this double standard could not have been intended.

If section 5 is held to enumerate valid criteria of membership whenever membership of an accused person is in issue, the courts will undoubtedly apply the same criteria in all other proceedings where membership is in issue, including prosecutions of petitioner and its officers for failure to list the names of all "members". That Congress intended this result appears from paragraph (14) of section 5 which describes the previous thirteen paragraphs, without limitation, as "subjects of evidence on membership or participation in the Communist Party."

Respondent urges finally (Br. 156) that our attack upon section 5 is premature. This contention is patently fallacious if, as we contend, petitioner and its officers must, at their peril, apply the standards of section 5 in preparing a registration statement.

Moreover, the question is not premature even if section 5 is not applicable to the obligation of petitioner and its officers to list the names of petitioner's members. As we showed, section 5 makes it dangerous for any person to associate with petitioner, have business dealings with it, or express views on any subject similar to those held by it. If he does so he may thereby incur the criminal penalties which the Act imposes on members of petitioner for violating the employment and passport sanctions and for failure to register themselves (Pet. Br. 75-82). He is also exposing himself to prosecution for various other offenses, such as violation of the membership clause of the Smith Act, perjury and false statements for denials of membership in petitioner, etc. Section 5, therefore, works a present and direct injury on petitioner by frightening away its audience and suppliers of business and professional services. It quarantines petitioner and its views completely. Petitioner therefore has standing to challenge the validity of the section in this proceeding (see Pet. Br. 72).

## VI. The Misapplication of the Act

### A. The Erroneous Construction and Application of Section 13(e)

We have earlier noted the discrepancy between the Board's reliance on the criteria of section 1[illegible]) as the exclusive grounds for its ultimate conclusion, and respondent's present theory that these criteria are neither exclusive nor significant (*supra*, p. 16).

The Board's application of 13(e) was also inconsistent with its other current theory that the section's criteria *can* be rationally applied because the Board must consider not merely the "bare" fact to which a criterion refers, but also the more material facts to which the criterion does not refer, including, the "total picture," the "context," the "entire factual background," the "surrounding circumstances," and "the degree." (Resp. Br. 141-44; *supra*, p. 21.) In applying the criteria, the Board paid no attention to the total picture, the context, the factual background, the surrounding circumstances, or questions of degree. So much is clearly visible from the Board's Report, which confines itself to a discussion and finding as to the bare fact referred to in each criterion.

Accordingly, under the Board's current interpretation of the Act, the order must be set aside because it is based on a complete misapprehension of the function of section 13(e).

The Board's ultimate finding rested on its eight findings adverse to petitioner under section 13(e). It is now beyond dispute that the Board's reliance on four of these findings was misplaced. At least two of the findings were invalidated by the court below, and, as respondent points out two more concededly rest on remote evidence (Br. 217, ftn. 5; Pet. Br. 145-9, 154). Hence the respondent's brief defends only four findings (Br. 217-37).

It now appears, therefore, that the Board should have credited petitioner with favorable findings under four of the eight criteria. The Report nowhere assigns relative weights to the Board's findings under each criterion, and for all that appears, the Board relied at least as heavily on the four abandoned findings as on the four it still defends. Accordingly, a reversal is clearly required. (See authorities cited Pet. Br. 176-7.)

As to the four findings which respondent still defends, it fails to meet the criticisms made in our principal brief.

*"Directives and Policies"*

We stated in our principal brief that there was no evidence cited by the Board or in the record of receipt of foreign directives in any possible legitimate sense of the word, at least since petitioner's 1940 disaffiliation from the Communist International. As we also stated, there was no evidence that petitioner had any relations with the Communist International after its disaffiliation, that the Communist International survived its dissolution in 1943, that any organization ever succeeded the Communist International, or that petitioner has had any international affiliation since 1940. All the evidence is to the contrary (Pet. Br. 121). The respondent cites no evidence which contradicts the statements we made.

The absence of evidence of directives forced the Board to invent the palpably absurd theory, developed at great length in the Report, that the Marxist classics are Soviet directives (Pet. Br. 122-30). The respondent states that the Board did not base its "directives and policies" findings "exclusively upon the classics of Marxism-Leninism," and that "those works form but one part of the mass of evidence on which those findings were predicated" (Br. 223-24). The respondent does not, however, identify or analyze the "mass of evidence." This chore was done in our principal brief. There we pointed out that the Board relied on the

following matters, in addition to its theory that the Marxist classics are Soviet directives: (1) claimed receipt and following of Soviet directives prior to the 1940 disaffiliation of petitioner from the Communist International; (2) petitioner's adherence to the Marxist principle of democratic centralism; (3) petitioner's views on imperialism and its programs with respect to labor, the Negro people, and youth, which, since they are based on Marxist principles, "proved" to the Board that petitioner obeys the "Soviet directives" in the Marxist classics; (4) a few scattered irrelevancies which constituted the Board's post-Act "evidence" under this standard, such as the fact that the *Daily Worker* had a correspondent in Moscow (Pet. Br. 121-37, 164).

The respondent's brief does not dispute the accuracy of our summation of the Board's "evidence," nor does it explain how these absurdly irrelevant matters are probative. The respondent simply fails to refute, or even to come to grips with, our showing that for want of relevant evidence under the "directives and policies" criterion, the Board distorted the criterion and found compliance with "directives" on the basis of wildly irrelevant matter.

The respondent's brief does defend the theory that Marxism-Leninism is a set of Soviet directives, by asserting that the Board was referring to Marxism-Leninism "as understood, used and followed by" petitioner (Br. 219). But again the assertion is unfounded. The Board's finding that the Marxist classics are the source of Soviet directives was based on passages taken from the books themselves as construed by the Board (R. 21-38), not on evidence of petitioner's understanding of the books. This appears not only from the Report but from respondent's own review in its brief (221-23) of the Report's treatment of the subject.[15]

[15] The Report also referred to certain oral testimony to support its views as to the meaning of Marxism-Leninism. This consisted of conclusory testimony of Lautner and Budenz giving their personal interpretation of Marxist Theory (R. 39-40), and the testimony of

Moreover, one of the grounds on which the Board refused to accept petitioner's testimony as to its understanding of Marxist principles is that the testimony was not in accord with the Marxist texts as understood by the Board (R. 38-39).

But even if it were true that petitioner understood that Marxist theory was a set of Soviet "directives", to which it subjected itself by adhering to the theory, this would not prove the "directives and policies" standard as correctly construed. For that standard must refer to enforceable orders, not to voluntary adoption of an ideological position. Otherwise, the standard would have no possible tendency to prove the 3(3) definition, and the First Amendment defects of the Act would be multiplied. (See *infra*, pp. 44-45.)

*"Non-Deviation"*

The respondent's justification of the "non-deviation" standard on its face demonstrates that the Board misapplied the standard. The respondent argues that "non-deviation" is a valid criterion because, "The fact that a local organization mirrors in each facet of its activities through the years the policies of a foreign state is surely pertinent to proof of its control by that state" (Br. 139-40). If this is what 13(e)(2) means, the Board misapplied it in at least three respects.

In the first place, the Board could not legitimately find that "each facet" of petitioner's activities corresponded to Soviet policies. On the contrary, the evidence was uncontradicted that petitioner took positions on many matters on which the Soviet Union did not express a view (R. 1225-27). Moreover, the Report itself reveals that the evidence on which the Board relied to support its finding on "non-deviation" did not relate to "each facet" of petitioner's

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others that petitioner's official position was that it believed in and should be guided by Marxist-Leninist principles (R. 41). The respondent's failure to discuss this irrelevant testimony in its brief is obviously discreet.

activities, but was confined to selected questions of international relations (R. 80; Pet. Br. 137).[16]

Secondly, the Board did not consider whether or not petitioner's views on these selected issues *mirrored* Soviet views. Mirroring requires an existing Soviet view which petitioner could reflect. The Board disregarded this requirement, by holding that the "non-deviation" test was satisfied by a showing that petitioner and the Soviet Union held similar views. It rejected and refused to consider two kinds of evidence which would have rebutted whatever inference of mirroring might arise from evidence of similarity.

The first subject relevant to mirroring which the Board refused to consider was whether the Soviet view preceded or followed petitioner's view, and hence whether or not there was an exising view which petitioner could mirror (Pet. Br. 138-40). The respondent seeks to escape this circumstance by citing seven (of the 45) "parallelisms" in which, since Soviet action was involved, the Soviet view presumably came first (Br. 229-30). But this is no justification for the Board's reliance on the 38 parallelisms in which the priority of views was not established.

The Board also refused to consider whether the similarity of the specified views of petitioner and the Soviet Union was the result, not of mirroring, but of the independent application by each of the premises and analytical approach supplied by Marxist principles. And it precluded petitioner from proving that such indeed was the case (Pet. Br. 143).[17]

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[16] The respondent's brief misrepresents the facts when it states (225), "Petitioner does not deny the fact of the identity of its program and policy with that of the Soviet Union." See R. 1225-27. The respondent's brief itself eventually reduces its charge to a mirroring of views "on every significant aspect of world politics" (Br. 226).

[17] It is significant, in this respect, that the Attorney General's own expert witness on "parallelism" admitted that his testimony could not establish that the similarity of views was not the product of independent thought (Pet. Br. 143-4).

This refusal of the Board to apply a "mirroring" test is ignored by respondent's brief and is impossible to justify.

Finally, the Board's application of the "non-deviation" standard is fatally at variance with its current interpretation of the standard because the Board refused to consider whether or not the policies it examined were in fact "the policies of a foreign state" (i.e., of the Soviet Union). To impart any rationality to the non-deviation test, it must be confined to policies which are peculiar to the Soviet Union or, at most, shared with it by Communists of other countries. If a policy is generally accepted or widely held by non-Communists; if the view is merely a factual position which may well be accurate (such as that the Chiang Kai-shek regime when on the mainland was corrupt); if the view tends to promote the interest of the United States, and is the official policy of the United States government, then it is not a "Soviet view". The fact that a domestic organization subscribes to such views does not support a conclusion that it is dominated and controlled by the Soviet Union. Nevertheless, the Board refused to receive or consider evidence that the views in question were generally accepted, widely held by non-Communists (including, in some cases, the government of the United States), demonstrably true, and in the interests of the United States (Pet. Br. 140-42). It approved the position taken by the Attorney General at the administrative hearing, that "it does not matter * * * whether the Soviet view was held by many people, by some people, or by all the people" (Pet. Br. 141).

The Board now belatedly recognizes the invalidity of the position on which it made its "non-deviation" finding, for it concedes that a common belief in arithmetic or a common opposition to racial discrimination is not evidence of the existence of foreign domination or control (Br. 227). It declares, however, that the case is different when there are "sudden reversals" of position on political questions, citing three claimed instances (Br. 227, 229-30). It asserts, "The evidence at bar was of the latter type" (Br. 227-8).

The assertion is false. Aside from the three instances cited by the Board's brief, there was not even a claim that the views involved "sudden reversals".[18] Moreover, no justification is or can be offered for the Board's refusal to allow the petitioner to prove that the claimed reversals of position were attributable to circumstances other than foreign control.[19] And even if there were unexplainable "sudden reversals", the Board was unjustified in relying on the numerous parallelisms which were not reversals.

The Board not only misinterpreted the "non-deviation" standard in applying it, but also attached erroneous significance to its finding on the subject. The court below held that the "non-deviation" criterion was relevant only to the foreign control component of the section 3(3) definition, and not to the objectives component (R. 2121-22). It did so because it recognized that the criterion embraces views which are in the best interests of the United States (*ibid.*, Pet. Br. 142). We accused the Board of having plainly erred, because, contrary to the holding of the court, it utilized its finding on non-deviation to support its ultimate finding on *both* components of the definition (Pet. Br. 142, 175). The respondent asserts that there is no basis for contending that the Board and the court below "were in disagreement as to the evidential effect of the 'non-deviation' finding" (Br. 226-27, ftn. 68). We believe that we were correct. The Board's Report contains no indication that its "non-deviation" finding was not used to support both components of the ultimate conclusion. That it was so used is demonstrated by the Board's brief below, which stated (87, emphasis added):

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[18] For a sampling of the views relied on by the Board, see Pet. Br. 141, ftn. 80. The respondent's brief itself recognizes (230) that not all the parallelisms were claimed sudden reversals.

[19] "Many thoughtful people and patriotic American citizens in 1938 and 1939 were not enthusiastic about our getting into war. Violent changes in the thinking of our people occurred in a short period of time before and after Germany broke with Russia." *United States* v. *Lattimore*, 112 F. Supp. 507, 519.

> "A reading of the Annotated Report in the Appendix of this brief (pp. 147-158) clearly shows that it is reasonable to infer domination and control *and operation to advance the world Communist movement* from the application made of this ["non-deviation"] criterion. Indeed, under the evidence the Board could not infer otherwise."

And even in its brief before this Court the Board at one point maintains the position that "non-deviation" "is evidence, to be weighed with all the other evidence, that the foreign power controls the domestic organization *and that the domestic organization operates primarily to advance the objectives of the world Communist movement*" (Br. 226, emphasis supplied).

*"Discipline"*

In our principal brief we described all the evidence on which the Board relied under the "discipline" criterion. The inescapable conclusion from our summary was that the Board misapplied 13(e)(6) by utilizing petitioner's self-adopted internal disciplinary practices to "prove" that petitioner's officers and members were under foreign discipline (Pet. Br. 150-52).

The respondent's brief does not dispute the accuracy of our summary of the evidence on which the Board relied, nor does it explain how instances of internal discipline can have anything to do with the foreign "discipline" test of section 13(e). Its defense is that there is "other evidence" apart from the "discipline" standard which "inexorably points to the fact that petitioner is Soviet-controlled" (Br. 232). It does not cite the evidence to which it alludes, and there is none. In any event, respondent's argument is not responsive to the question whether the Board's finding of foreign discipline was based on a misapplication of the "discipline" standard.

The Board's application of the "discipline" standard is one more example of its failure to conform to the interpre-

tation of section 13(c) now advanced by it to support the section's validity. We argued that the "discipline" standard is irrational on its face, because it permits an organization to be condemned on the basis of the attitude of some of its leaders or members, notwithstanding that those may be an unrepresentative or dissenting minority and that the organization itself is completely independent (Pet. Br. 50). Respondent replies (Br. 144):

> "But the possibility of this result does not negate the propriety of the inquiry, which is into 'the *extent* to which' the organization's leaders and members are under foreign discipline * * * it is the *degree* * * * which the Board is directed to consider. If the evidence is equivocal or insignificant * * * the record will so show. It cannot be assumed in advance that the Board will be governed by trivial evidence or evidence having no real probative force with respect to the ultimate issue, or that Congress so intended." (Emphasis in original.)

The Board, however, in applying the "discipline" standard, made no finding as to, and did not consider, the "extent" or "degree" of the foreign discipline. And it clearly was "governed" by trivial evidence which had no probative force with respect to the criterion or to the ultimate issue.

*"Allegiance"*

Our principal brief examined the four bases on which the Board rested its "allegiance" findings and argued that all four represented a misapplication of the standard (Pet. Br. 154-8). The respondent's brief defends only one of the Board's four premises, namely, the conclusion that petitioner advocates the violent overthrow of the government (Br. 233-7).[20]

Insofar as the Board's conclusion rested on Marxist literature, it was, of course, inconsistent with *Schneider-*

[20] This represents a "sudden reversal" by the Department of Justice, which did not allege such advocacy in the petition and contended at the administrative hearing that evidence of such advocacy was relevant only to the findings of section 2 (Pet. Br. 154, ftn. 91).

*man v. United States*, 320 U. S. 118. The respondent feebly distinguishes *Schneiderman* on the ground that the Board had before it Marxist literature published after 1927, as well as before (Br. 236-37). But the Board did not distinguish between the earlier and the later literature. In fact, the Report relies primarily on the early literature, as it must since the current writings in evidence, which it studiously ignores, refute its finding (see, e.g., Pet. Exs. 55, 58).

Moreover, one of the two "later" works to which the Board points in support of its contention (Br. 237) is not a "later" work at all. Stalin's *Foundations of Leninism* was considered in *Schneiderman* (at 150-51) under its earlier title, *The Theory and Practice of Leninism*. Indeed, *Schneiderman* (at 151, ftn. 38) quotes from *Foundations* the identical excerpt quoted and relied upon by the Report in support of its finding on "allegiance" (R. 119).

The respondent also defends the finding on advocacy of violent overthrow on the ground that it was based not only on Marxist literature, but also on the testimony of ten witnesses who had formerly been members of petitioner, and whose membership "spanned the entire existence of the Party until January 1951" (Br. 234-5).

The first thing to observe is that of these ten witnesses (named in the Report at R. 121), the membership of only one extended into the post-Act period. This was the ineffable Harvey Matusow, to whom even the Board is now unable to give any credence (Pet. Br. 213). The other nine witnesses had been separated from petitioner as far back as 1929 (Gitlow, the "former General Secretary of the Party"—Br. 235); 1934 (Kornfedder); 1936 (Nowell); 1939 (Honig); 1940 (Johnson); 1942 (Crouch); 1945 (Meyer and Budenz, the latter "a former managing editor of the *Daily Worker*"—Br. 235); and 1949 (Hidalgo) (R. 134-35). Thus the Board's finding rests on remote evidence, and was contrived by ignoring the more contemporaneous contrary testimony of the Attorney General's own witness.

Lautner, who was separated from the Party in 1950 (R. 135), a date later than any of the nine witnesses last mentioned (Pet. Br. 207).[21]

Moreover, of the ten witnesses relied on by the Board, three (Johnson, Crouch and Matusow) were the subject of petitioner's motion to adduce additional evidence to show that their testimony could not be credited on any subject (Pet. Br. 212-16). Yet the respondent defends the denial of the motion on the ground that the testimony of Johnson, Crouch and Matusow was of no consequence to the Board's order (Br. 279-84).

Again, despite the Board's assertions to the contrary (Br. 235-36, ftn. 74), the record, we insist, bears out our contention that Meyer's testimony could not support the force-and-violence finding, that Honig and Johnson on cross-examination contradicted their original testimony on the subject, and that Budenz' contribution was proved to be a typical invention. (See Pet. Br. 205-7, and record references there given.)

The above explains why the court below did not express concurrence with the Board's finding on violent overthrow, but affirmed the "allegiance" finding (we insist incorrectly) without reference to petitioner's claimed advocacy of force and violence (Pet. Br. 155-56).

**B. The Erroneous Use of Pre-Act Evidence**

The respondent agrees with us that the Act required the Board to base its findings and order upon relevant policies and practices of petitioner subsequent to the date of the Act. It further agrees that petitioner's conduct prior to

[21] The Board's claim that we misstated Lautner's testimony (Br. 236, ftn. 74) is without foundation, as can be readily seen by examining the portions of the record cited at Pet. Br. 207 and those claimed to be of a contrary tenor cited in the Board's Brief at 236, ftn. 74.

that date can be relevant only to the extent that it may help to interpret or explain the significance and purpose of post-Act conduct. (See Pet. Br. 160-61; Resp. Br. 238-39).

In our principal brief (162-66) we summarized every item of post-Act evidence referred to in the Report and relied upon by the Board. The respondent does not challenge the accuracy of our summary, except to say (Br. 241-42) that one item was stated "more pointedly" by the Board than by us. An inspection of these items of post-Act evidence, disinterred from the overwhelming mass of discussion of pre-Act evidence, belies the respondent's undocumented assertion (Br. 238) that the findings and order of the Board "are based on petitioner's current practices and activities * * *." Nor does respondent challenge our statement (Pet. Br. 166) that none of the six factors which the court below relied upon as determinative of the case against petitioner involved relevant post-Act conduct.

Respondent denies (Resp. Br. 240-42) that the post-Act evidence set forth in our summary is, as we contend, irrelevant and immaterial both to the criteria of section 13(e) and to the section 3(3) definition of a Communist-action organization. However, it points to only two items of the post-Act evidence, neither of which lends any support to its position.

The first item relied on by respondent is that subsequent to the date of the Act petitioner adopted views similar to those of the Soviet Union on certain international questions (Resp. Br. 241). The Report reveals (R. 83-84) that these views were that the People's Republic of China should be seated in the United Nations, that the United States and the United Nations should not have intervened in the Korean war, that the Synghman Rhee regime was reactionary, that a Korean cease-fire should be negotiated, and that prohibition of the use of atomic weapons, as proposed in the Stockholm peace petition, was in the interest of world peace. As the court below held, however, and as respond-

ent sometimes seems to concede, this application of the "non-deviation" criterion has no relevance whatsoever to the "objectives" component of the section 3(3) definition (see *supra*, pp. 35-36). Nor does petitioner's advocacy of these views, which were likewise advocated by many non-Communists, have any tendency to prove the "domination and control" element of the definition as now construed by respondent itself (see *supra*, p. 34).

The only other item of post-Act evidence on which respondent relies (Br. 241-42) is the fact that many years ago a number of petitioner's present leaders visited and studied in the Soviet Union. As respondent's quotation from the Report reveals (*ibid.*), the only conclusion the Board drew from that fact was that these leaders:

> "* * * have accepted the views and policies of the Soviet Union and have carried such policies into [petitioner], making them the views and policies of [petitioner]."

This finding has no evidentiary support. But even if it had, it is nothing but another application of the "non-deviation" criterion. And certainly the finding that petitioner and some of its leaders voluntarily "accepted" Soviet policies cannot establish that the Soviet Union "dominates and controls" either the leaders or the organization.[22]

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[22] Unable to point to any of petitioner's current activities which can support the order, respondent resorts to statistics to lend the post-Act evidence a spurious quantitative significance. It says (Br. 242) that 56 exhibits (out of 507) were published after the date of the Act, but it does not indicate the relevance of any of them, and they have none. Respondent lists 26 of these exhibits (Br. 242, ftn. 78). All of them with one exception (a certified copy of the indictment and other judicial records in the *Dennis* case) consist of books or articles published in newspapers and magazines. Sixteen of the 26 were offered in evidence through the witness Mosely to prove "non-deviation." Seven were placed in evidence by the Attorney General at the close of his case and were not the subject of any testimony. The remaining three consist of the published proceedings of petitioner's 1950 national convention. Respondent further says (*ibid.*) that 500 (out of 14,400) transcript pages were occupied by the testi-

Respondent's defense of the Report confirms our statement (Pet. Br. 166) that, at most, the post-Act evidence establishes only that petitioner (1) is an American political party which subscribes to the principles of Communism and (2) advocates certain policies on international questions which it believes to be in the interest of peace and which are similar to policies of the Soviet Union. After a fifteen-month hearing, 14,400 pages of testimony, and 507 exhibits, respondent rests its case on matters that petitioner has long and publicly proclaimed, and which it re-asserted in its answer to the petition (R. 165-66).

The respondent avoids a defense of the Board's reliance on a presumption of "continuance" (Pet. Br. 168) by denying that the Board employed one (Resp. Br. 240). The Report, however, contradicts this denial (R. 130).[23] Furthermore, respondent does not take issue with our statement (Pet. Br. 169) that the court below based its affirmance on a similar presumption. Nor does it challenge our demonstration that the court's reliance on such presumption, like the action of the Board, was plainly erroneous and requires a reversal (Pet. Br. 168-69).

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mony of witnesses whose membership in petitioner extended beyond the date of the Act. This is a statistical overstatement, since most of the testimony of these witnesses related to pre-Act matters. Respondent does not indicate how many of the 500 pages contain testimony relating to petitioner's activities after the date of the Act. Although it states that these witnesses "testified extensively concerning the post-Act period," it nowhere describes this testimony or indicates its relevance, and it has none.

[23] The Report states (*ibid.*): "The law assumes in the absence of proof to the contrary, which [petitioner] did not establish to our satisfaction, that a condition or set of facts shown not too remotely in the past (all circumstances considered) to have existed, still continues. In the circumstances here presented we do not consider that the passage of the Act, in and of itself, affects this presumption respecting it."

**C. The Insufficiency of the Evidence**

The respondent cites the size of the record to support its argument that the Court should not review the sufficiency of the evidence (Br. 209-11). The size of the record, however, is of no consequence, since a reading of it is unnecessary to a determination that the Board's findings are not supported by a preponderance of the evidence as required by the Act. Moreover, it is amply clear that the court below did not make a fair assessment of the record on the issue of sufficiency. Both of these facts can be determined from a reading of the Board's Report, loaded though it is, and the opinion below.

The following facts emerge from such a reading:

1. Of the eight key findings made by the Board under section 13(e), the respondent can now only defend four. It has been forced to abandon the two findings (on "reporting" and "secret practices") which were invalidated by the court below, and two others (on "financial aid" and "instruction and training") which admittedly rested on utterly remote evidence. (See *supra*, pp. 29-30.) The fact that the court below sustained the Board's reliance on these two now abandoned findings, itself shows that the court did not make a fair assessment of the record.

2. It is plain from the Report and the opinion below that the Board's order is not supported by relevant evidence of post-Act conduct. (See *supra*, pp. 39-42; Pet. Br. 160-70).

3. As to the four key findings still defended by respondent ("directives and policies," "non-deviation," "discipline," and "allegiance"), it is plain from the Report that the absence of probative evidence to support them drove the Board to torture the terms of section 13(e) and to rely on evidence having no rational relationship to its standards or to the ultimate issue defined by section 3(3). (See *supra*, pp. 30-39.)

4. We showed in our principal brief that the Board's finding that there exists a world Communist movement "substantially as described in section 2 of the Act" was not supported by any evidence of the four factors which define the supposed movement. We also showed that the court's affirmance of the Board's finding on the subject was based on irrelevant matters (Pet. Br. 193-99.) The respondent's brief evades our demonstration on the subject, and defends the Board's finding merely by referring to some excerpts from early Marxist works (Br. 246-51).

5. The Report and the opinion below show that there is no evidentiary support for the ultimate finding that petitioner is a Communist-action organization.

As we showed in our principal brief (158-60), the six factors relied on by the court below to sustain the ultimate finding have no rational tendency to prove it. The respondent's brief does not contest our demonstration.

The only finding of the Board which is claimed to have any relevancy to the objectives component of the 3(3) definition is its finding on "directives and policies" (*supra*, p. 18). This finding, however, as we have seen, is a concoction based on the absurd thesis that Marxist literature constitutes "Soviet directives" (*supra*, pp. 30-32).

Nor is there any evidence which can prove the foreign control component of the 3(3) definition. If, as the Board contends, the Soviet Union gives "directives" to petitioner, then petitioner, if it carries them out, does so only because it wishes to. If, as the Board further contends, petitioner's views do not "deviate" from those of the Soviet Union, if some of its leaders and members recognize Soviet "discipline" or avow a superior "allegiance" to the Soviet Union, such "non-deviation," "discipline," and "allegiance" are voluntary and ideological only. There is no way by which the Soviet Union can enforce obedience to its directives, or acceptance of its views, and discipline, or loyalty to it. If financial aid were being given, the threat of its

withdrawal could possibly be a device of control. But the Board itself has found that there has been no such aid in many years.

This sort of adherence, even if it were proved, would not and could not constitute foreign direction, domination and control under section 3(3). The control envisaged by that section must be an effective, enforceable control, not a mere voluntary acceptance of policies, even if they have a foreign origin. Otherwise the definition would be hopelessly vague, and the Act would further violate the First Amendment by penalizing nothing more than an ideological agreement with "foreign" views.

We believe that our point has been well stated in the amicus brief of the National Lawyers Guild (p. 41):

> "The fact is that any reason for interfering with First Amendment rights of organizations under 'foreign control' is completely absent in the case of voluntary associations operating within the United States. Such associations are masters of their own decisions. Neither they nor their members are subject to any physical or police control from abroad. The organization operates under American laws, in an American environment, subject to everyday American customs, ideas and traditions, and it must secure the approval of American public opinion. Apart from financial contributions—a special issue, but not one involved here—the kind of 'control' exercised by a foreign government or organization is ideological in character. The American association or individual can always withdraw. What is designated by the Act as 'control', therefore, is in reality little more than ideological influence."

The respondent's brief abandons the Report, the opinion below, and the record. It rests on nothing but its ipse dixit and appeals to prejudice, hoping that references to claimed events in Czechoslovakia, Canada, Korea, and Australia, and to reports of Congressional committees, will be an acceptable substitute for proof.

**D. The Unfair Hearing and the Affidavits of Bias and Prejudice**

1. The respondent dismisses as innocuous and speculative the evidence supporting our claim that pressure was exerted on the Board members by the Senate Judiciary Committee at the very time when the Committee had before it for confirmation the nominations of the Board members (Pet. Br. 178-83). The Board's approach, however, ignores the realities of life. The chairman of the hearing panel, Board Member LaFollette, recognized the pressure to which respondent is oblivious (Pet. Br. 181). Moreover, the respondent overlooks the fact that the panel prevented the petitioner from fully developing the facts concerning the surveillance of the Board (Pet. Br. 180-81).

2. As to the affidavit of bias and prejudice filed against Board Member McHale, the respondent (Br. 272) suggests innocuous interpretations of her remarks. Dr. McHale's speech was brief, it appears in the printed record at R. 193-6, and we ask that the Court examine it and draw its own conclusions.

The respondent (Br. 275) likewise glosses over Board Chairman Brown's remarks made on an anti-Communist television-radio program while the case was still pending before the Board. The substance of these remarks appears in the printed record at R. 197-8 and 206-8, and we ask that the Court examine them. The Board also relies on the fact that Mr. Brown had already participated in issuing a recommended decision at the time the remarks were made. But Mr. Brown still had quasi-judicial functions to perform, including passing on exceptions to the recommended decision and participating in the final decision.

Even if the remarks of Dr. McHale and Mr. Brown had not exhibited bias and prejudgment, their public discussions of the pending case, before a political club in one instance and on an anti-Communist program in the other, were themselves such gross improprieties as to require disqualification of two of the four Board members who issued the Board's order.

**E. The Failure to Remand the Proceeding for Administrative Redetermination**

In our principal brief we urged that the court below was required to remand the proceeding for administrative redetermination because of its action in striking two key findings of the Board (on "reporting" and "secret practices") and in holding, in effect, that a third finding (on "nondeviation") was given an erroneous application (Pet. Br. 175-77).

Respondent claims that the findings as to "secret practices" and "reporting" were not stricken, but "modified" (Br. 260). The court, however, specifically stated as to "secret practices" that "we strike the finding as to purpose" (R. 2151). And as to "reporting" the court stated that "we would strike this finding as phrased" (R. 2149).

The pertinent question, however, is not the appropriateness of the label describing what the court did, but the effect of its action. The effect was to make each finding irrelevant both to the criterion under which it was made and to the section 3(3) definition.

Since the existence of one of the purposes described in section 13(e)(7) is an indispensable element of the "secret practices" criterion (Pet. Br. 51, 153-54) the decision below that there was a failure of proof of purpose necessarily invalidated the Board's finding that the evidence satisfied the criterion. Furthermore, it is obvious that the bare fact that petitioner engaged in precautionary practices has no relevance to the section 3(3) definition of a Communist-action organization.

Similarly, the holding below that the evidence failed to establish "constant, systematic reporting as of now" (R. 2149) necessarily invalidated the finding of the Board that the evidence satisfied section 13(e)(5). For the court itself (*ibid.*) held that the term "reports" as used in that section means such current, constant, systematic reporting.

The court's suggested substitute finding (*ibid.*) that "upon occasion" leaders of the party report to representatives of the Soviet Union" is contrary to the evidence (see Pet. Br. 150). But even if such a finding had evidentiary support, it would have no relevance to the section 3(3) definition. The respondent acknowledges as much when it states that the fact of "reporting" can have relevance to the definition only in connection with "such surrounding circumstances as the length of time the reporting goes on, the frequency of its occurrence, the conditions of secrecy under which it is carried out, the contents of the reports, the reasons therefor, and all the other background data" (Br. 143).

Accordingly, however, one may label the action of the court below, the effect of that action was to invalidate the Board's findings on these two criteria as bases for its order.

Respondent denies (Resp. Br. 259-60) that the Board applied the "non-deviation" criterion in a manner that the court held erroneous by using the finding under that criterion to support its ultimate conclusion as to the nature of petitioner's objectives. As we have seen, however (*supra*, p. 35), the denial is inaccurate.

Respondent attempts to distinguish *N.L.R.B.* v. *Virginia Electric & Power Co.*, 314 U. S. 469, by stating that there it was unclear from the record on just what evidence the administrative findings were based (Br. 261, ftn. 84). The Court, however, specifically stated (at 479) that it was remanding the proceedings for administrative redetermination because, "it appears that the Board rested heavily on findings with regard to the bulletin and the speeches, the adequacy of which we regard as doubtful." Again the Court said (at 476):

> "But here the Board's conclusion that the Independent was a company-dominated union seems based heavily on findings which are not free from ambiguity and doubt. We believe that the Board, and not this Court, should undertake the task of clarification."

Respondent's reliance on *N.L.R.B.* v. *Newport News Co.*, 308 U. S. 241 (Br. 261), is misplaced. For there the Court stated (at 244): "The Board's subsidiary findings of fact are not the subject of serious controversy," and it found (at 251) that the order of the Board was supported by "the uncontradicted facts."

The decision in *Virginia Electric* is controlling, and indeed the case for a remand is stronger here. The Board not only based its conclusion on findings adverse to petitioner under all eight criteria, but relied heavily on its findings with respect to "secret practices," "reporting," and "nondeviation" (Pet. Br. 177).[24] Thus the reviewing court cannot say that the Board would have reached the same result in the absence of the invalid findings.

The Act does not, as respondent suggests (Br. 261), authorize the reviewing court to substitute its judgment for that of the Board and to affirm an order on the ground that a preponderance of the evidence supports the Board's ultimate conclusion, even if it does not support key findings on which the conclusion rests. Section 14 of the Act does not direct the court to consider whether or not the *order* of the Board is supported by a preponderance of the evidence. What it requires is that the Board's *findings as to the facts* be so supported. Since the court below concluded that the record did not support key findings on which the Board based the order, the Act required a remand for administrative redetermination.

**F. The Motion for Leave to Adduce Additional Evidence**

Respondent does not challenge our statement (Pet. Br. 214) that the additional evidence petitioner offered to adduce would have completely destroyed the credibility of the Attorney General's witnesses, Matusow, Crouch and John-

[24] Our contention is confirmed by the concession respondent again makes (Resp. Br. 217) that the Board attached little weight to its adverse findings on "financial aid" and "instruction and training."

son. Nor does it deny the fact (Pet. Br. 212) that the Board made extensive use of the testimony of these witnesses in making its findings of fact.

Respondent quotes at length from its memorandum below in opposition to petitioner's motion, arguing that the Board could have disregarded the testimony of the three witnesses and reached the same result (Br. 279-83). But respondent has no answer to *N.L.R.B.* v. *Indiana and Michigan Electric Co.*, 318 U. S. 9 (see Pet. Br. 214-15), where the Court rejected this argument.

Respondent's position here is inconsistent with the Solicitor General's recent confession of error upon the petition for certiorari to review the denial of a new trial in *Kretske* v. *United States*, No. 91, this term. There, as the government stated, the evidence of guilt was clear and the newly discovered evidence was only impeaching (see Memorandum for the United States, p. 7).

## VII. The Invalidity of the Appointments to the Board

Respondent contends that Article 2, section 2, clause 3 of the Constitution authorizes the President to make recess appointments to offices newly created by Congress during its session and remaining unfilled after its adjournment (Br. 291-98). Its argument is based primarily on considerations of administrative convenience. The framers of the Constitution, however, were perfectly aware that problems of administrative efficiency might arise from the requirement of Article 2, section 2, clause 2 that the appointive power of the President shall be exercised with the advice and consent of the Senate. Clause 3 accommodates the principle that executive power must be limited to considerations of administrative convenience only in the special circumstances, which the clause describes in terms that are carefully chosen and precisely formulated.

Clause 3 authorizes a presidential appointment without the advice and consent of the Senate only (a) where there is a "vacancy"; (b) where the vacancy "happens"; and (c) where it happens during "the Recess". If this provision means what its authors obviously intended from their choice of words, it is clear that none of these three conditions is satisfied in the case of an office which is newly created by an act of Congress (see Pet. Br. 186-87).

Respondent makes no reply to our contention that a vacancy does not "happen" in the constitutional sense when an office is newly created by law, but only when the vacancy results from death, resignation, promotion or removal. Yet this construction of the term "happen" was the basis for the action of the Senate in 1813 and 1822 and the principal ground for the decision in *Schenk* v. *Peay*, 21 Fed. Cas. 672 (Pet. Br. 186). It is also the ground for the distinction drawn by the commentators between the presidential appointive power in the cases of pre-existing and newly created offices (Pet. Br. 187).

Moreover, there is a plain distinction, even in terms of administrative convenience, between an office newly created by Congress and a vacancy in a pre-existing office. As to the latter, it can be urged, for example, that the death of an incumbent might occur during a session of Congress but not come to the knowledge of the President until after the adjournment, in which case he would not have had an opportunity to consult the Senate while it was in session. Contrariwise, the existence of a newly created office is always known by both the Congress and the President so that, if the matter is deemed of sufficient urgency, the Senate can remain in session to receive and act upon a nomination.

The statement by Madison relied on by respondent (Br. 294) makes no reference to the case of a newly created office. He states that it is only "*in cases of necessity and urgency*" that the power to make recess appointments was understood to comprehend vacancies that first occur during the session. The only examples of such cases that he puts

suppose that the President secured the advice and consent of the Senate, but that the appointments were frustrated by circumstances of which neither the President nor the Senate was aware—i.e., the death of the nominee before confirmation, or the refusal of the nominee to accept the appointment after Congress adjourned.

Respondent suggests (Br. 297) that there has been legislative acquiescence in the line of Attorney Generals' decisions which it cites, but it can refer to no legislative action which supports that suggestion. In fact, only five Attorney Generals' opinions deal with newly created offices, and two of these hold against the existence of the power to make recess appointments (Pet. Br. 187). Furthermore, the three opinions which support the existence of the power in the case of such newly created offices are contrary to the position taken by the Senate (Pet. Br. 186, 187, ftn. 111). Finally, those opinions which sustain the power as to pre-existing offices are not persuasive since they demonstrate that the existence of the power, even in that case, "has been practically asserted by Presidents only, and has not been recognized without constantly recurring suggestions by them of doubts as to its existence under the Constitution." *Case of the District Attorney*, 7 Fed. Cas. 731, 744.

## CONCLUSION

The respondent discusses the Act and the order of the Board as though they affected no one but petitioner. It emphasizes that no other organization or individual is before the Court and insists that the isolated question which the case presents is the validity of the order that petitioner register as a Communist-action organization. It urges that "These facts will mold the frame in which the Court will view the case." (Resp. Br. 42).

We have shown in our principal brief and in this reply that even on this narrow view of the issues, the Act and

the order are plainly invalid. Yet we do not believe that the Court will adopt so limited a perspective in its approach to the grave constitutional and procedural questions which the case presents. True, these questions are brought here by an organization whose economic and political philosophy is undoubtedly repugnant to the Court. But that fact in nowise diminshes their gravity and importance to the future of the nation.

The proscription of the Communist Party would itself serve notice to the world that America has lost faith in the democratic process. But something even more fundamental is at stake. As the President observed when the Act was passed, it represents "a clear and present danger to our institutions" because it involves "breaking down the Bill of Rights in order to get at the Communists" (Pet. Br. 5, 6). Thus, the basic issue which emerges from the record is not Communism but the Constitution—not whether Communists are outside the pale, but whether the guarantees of individual liberty on which the Republic was founded shall survive to protect the whole people.

A similar question confronted the nation in its infancy when the Alien and Sedition Laws were enacted in the belief that war with revolutionary France was inevitable. Senator Mason of Virginia succinctly stated the issue of 1798 when he expressed the hope:

> "that the people will be brought to reflect before it is too late, and not suffer themselves to be deluded by a false and groundless clamor about French influence and a French party in this country, until all the foundations of their liberty are sapped, all the barriers of the Constitution broken down, and themselves reduced to a state of vassalage." [25]

[25] Letter to Matthew Lyon. *The Scourge of Democracy* (Fairhaven, Vt., 1798). The Act also recalls another shameful episode in our history, the 1920 expulsion of the Socialist members of the New York Assembly over the vigorous protest of Charles Evans Hughes and many others. Chaffee describes the inception of that proceeding as follows: "The Lusk Committee's resolution did not

Today, when the danger of war has subsided and international tensions are being reduced by peaceful negotiation, a hope similar to Senator Mason's is being voiced throughout America. The realization of that hope will be immeasurably advanced if the Act and the Board's order are set aside, and the liberties guaranteed by the Constitution are thus reaffirmed as the keystone to the security of our nation and its people.

Respectfully submitted,

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---

even recite that the members were charged with certain offenses, but stated facts as if already proved, an Alice-in-Wonderland performance of 'sentence first—verdict afterwards.' It declared that they were members of the Socialist Party, which adhered to the revolutionary forces of Soviet Russia and endorsed the principles of the Communist International of Moscow, and this was pledged to the forcible and violent overthrow of all organized governments." *Free Speech in the United States* (1948), p. 271.

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# In the Supreme Court of the United States

OCTOBER TERM, 1954

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER

*v.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

## BRIEF FOR THE RESPONDENT IN OPPOSITION

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# In the Supreme Court of the United States

OCTOBER TERM, 1954

No. 718

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER

*v.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

## BRIEF FOR THE RESPONDENT IN OPPOSITION

### OPINIONS BELOW

The majority (Op. 1–76, R. 2083–2158)[1] and dissenting (Op. 76–89, R. 2158–2171) opinions in the Court of Appeals have not yet been reported. The Report of the Subversive Activities Control

[1] Like petitioner, we shall use "R." to refer to the printed Joint Appendix in the Court of Appeals and the proceedings in that court. For the Court's convenience, references herein to the opinions in the Court of Appeals will include both the "R." reference and the page number of the pamphlet copy (which we shall indicate by "Op.").

Board appears at R. 1–137 and also at R. 1803–2051.[2]

## JURISDICTION

The judgment of the Court of Appeals was entered on December 23, 1954 (R. 2172), and a petition for rehearing (R. 2173–2198) was denied on January 14, 1955 (R. 2199, 2200). The petition for a writ of certiorari was filed on April 13, 1955. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 and Section 14 (a) of the Subversive Activities Control Act of 1950 (see Pet. App. 121–122).

## QUESTIONS PRESENTED

1. Whether the legislative findings and criteria included in the Subversive Activities Control Act deprived petitioner of a fair hearing. (Pet. Ques. 1.)

2. Whether the consequences of registration under the Act are such as to invalidate the registration requirement under the due-process clause. (Pet. Ques. 1.)

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[2] The Report as it appears at R. 1–137 is the unannotated version, published as Sen. Doc. No. 41, 83d Cong., 1st sess. At R. 1803–2051 it appears in annotated form, *i. e.*, with record references keyed to the Joint Appendix below (herein referred to as "R."). The annotated version was filed in the court below as an appendix to respondent's brief. Whenever we have occasion to refer to the Report, we shall first give the reference to the unannotated version and then, in brackets, the reference to the annotated version, *e. g.*, "R. 1–137 [1803–2051]."

3. Whether the fact that at such time as the order requiring petitioner to register becomes final some individual will be required to effect registration for petitioner raises questions in this proceeding as to the validity of the Act under the self-incrimination clause and, if so, whether the Act is for this reason invalid. (Pet. Ques. 1.)

4. Whether the consequences of registration with respect to future activities of petitioner are such as to invalidate the Act as an interference with free speech and peaceable assembly in violation of the First Amendment. (Pet. Ques. 1.)

5. Whether the court below erred in affirming the order of the Board as founded on a correct construction of the requirements of the Act and as supported by a preponderance of the evidence. (Pet. Ques. 2–7.)

6. Whether the court below properly rejected petitioner's attack on the Board as biased. (Pet. Ques. 8.)

7. Whether the court below properly exercised its discretion in denying petitioner's motion for leave to adduce additional evidence. (Pet. Ques. 9.)

8. Whether the recess appointments of three of the Board's members were valid, and whether in any event the Board's final order is valid, it being undisputed that the Board was properly constituted at the time of the order and from a date early in the course of the hearings herein. (Pet. Ques. 10.)

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## STATUTES INVOLVED

The pertinent provisions of the Subversive Activities Control Act of 1950 (Title I of the Internal Security Act of [September 23,] 1950, c. 1024, 64 Stat. 987, 50 U. S. C. 781 *ff.*), as amended, the Immigration and Nationality Act [of June 27, 1952], c. 477, 66 Stat. 163, and the Communist Control Act of [August 24,] 1954, c. 886, 68 Stat. 775, are set forth in Appendix B to the petition for certiorari (Pet. 86–131).

## STATEMENT

On November 22, 1950, the Attorney General, pursuant to Section 13 (a) of the Subversive Activities Control Act of 1950 (hereafter referred to as the Act), filed with the Subversive Activities Control Board (respondent herein, and hereafter referred to as the Board) a petition (R. 143–159) for an order directing the present petitioner, the Communist Party of the United States, to register with him as a "Communist-action organization" in the manner required by Section 7 (a), (c), and (d) of the Act. On February 14 and April 3, 1951, respectively, petitioner filed an answer (R. 160–161) and amended answer (R. 161–187) in which, *inter alia*, it denied being a Communist-action organization as defined by Section 3 (3) of the Act.

Hearings for the purpose of taking evidence commenced on April 23, 1951, before three members of the Board sitting as a hearing panel

(R. 1). On October 20, 1951, one member of the hearing panel (Charles M. LaFollette) became unavailable to the Board by virtue of the adjournment of Congress without taking action on his nomination. The hearing proceeded before the remaining two members of the panel, who were present and participated during the entire hearing. The hearings ended on July 1, 1952. (R. 1, 2.)

On October 20, 1952, the hearing panel issued its recommended decision finding petitioner to be a Communist-action organization and recommending that the Board order it to register as such. Thereafter exceptions to the recommended decision and various motions were filed and argued. (R. 2.) On April 20, 1953, the Board issued its Report (R. 1–137 [1803–2051]) and order (R. 138 [2052]) directing petitioner to register in accordance with the finding that it was a Communist-action organization. The Report was unanimous.[3] "Upon the overwhelming weight of the evidence in this proceeding," the Report concluded, "we find that [petitioner] is substantially

[3] The Report was signed by three members of the Board (R. 132 [2042]). The fourth member of the Board filed a short concurring opinion in which he stated that he was "fully in accord with and concur in the findings and in the determination that the Respondent herein, the Communist Party of the United States of America, is a Communist-action organization under subsection (3) of Section 3 of the Act and required to register as such under Section 7" (R. 133 [2042–2043]).

directed, dominated, and controlled by the Soviet Union, which controls the world Communist movement referred to in Section 2 of the Act; and that [petitioner] operates primarily to advance the objectives of such world Communist movement" (R. 132 [2042]).[4]

On June 17, 1953, petitioner, pursuant to Section 14 (a) of the Act, filed in the United States Court of Appeals for the District of Columbia Circuit a petition for review (R. 139–142) of the Board's order. Following submission of the case on briefs and oral argument, the court, on September 13, 1954, set the case for reargument, the order directing counsel to discuss, *inter alia*, "the effect, if any, of the Communist Control Act of [August 24,] 1954, upon the order here under review" (R. 2081). On December 23, 1954, following the submission of further briefs and oral argument, the order of the Board was affirmed (R. 2172), one judge dissenting. The

[4] Under Section 3 (3) of the Act, this finding brought petitioner within the definition of a "Communist-action organization." The evidence on which the Board's finding was based is set forth in detail in the Report at R. 4–128 [1809–2034]), the bracketed reference containing the supporting references to the testimony and exhibits. The Board's Report summarizes the evidence on both sides. Where issues of credibility are encountered on important points, the Board has recorded its position. Similarly, where there are conflicts in testimony on particular issues, the Board has resolved them. There is therefore, we feel, no need to attempt to summarize the voluminous evidence supporting the Board's particular findings and ultimate finding.

court, while modifying two of the Board's subsidiary findings of fact (Op. 72, 73–74, R. 2154, 2155–2156; see *infra*, pp. 30–33), held nevertheless, after a painstaking review of the evidence (Op. 48–75, R. 2130–2157), that the "ultimate finding of the Board"—*i. e.*, that petitioner "is substantially directed, dominated and controlled by the Soviet Union, which controls the world Communist movement referred to in Section 2 of the Act" and "operates primarily to advance the objectives of such world Communist movement"—"is supported by the basic findings which are in our opinion supported by a preponderance of the evidence, and that the ultimate finding is itself supported by a preponderance of the evidence" (Op. 75–76, R. 2157–2158).

Other pertinent facts will be stated at appropriate points in the Argument.

## SUMMARY OF ARGUMENT

### A. Constitutionality of the Act

#### 1. The legislative findings and statutory criteria under the due process clause

The contention that Congress incorporated into the Act a "built-in finding" against petitioner "by legislative fiat" by reason of the findings embodied in Section 2 as to the existence of a "world Communist movement" and a "Communist movement in the United States" confuses two sets of facts—the legislative facts and the adjudicative facts. To come within the purview of the Act, an organization must be found by the Board, on evidence whose sufficiency is sub-

ject to judicial review, to be substantially controlled by the foreign country or organization controlling the world Communist movement and to operate primarily to advance the objectives of that movement.

The Act is basically a regulatory measure. The so-called "sanctions" which become applicable upon an organization's registration or a final order to register have prospective effect only, thus lacking a fundamental characteristic of bills of attainder—the imposition of punishment for *past* conduct. Criminal penalties for noncompliance with the Act's terms can be imposed only after trial by jury.

The Act does not authorize a determination that an organization is a Communist-action organization on the basis of irrational or vague criteria. The listed criteria indicate types of evidence relevant to the ultimate factual issue of whether an organization fulfills the Act's definition of a Communist-action organization. Section 13 (e) contains no formula, nor are the listed criteria in any sense exclusive.

**2. The consequences of registration on officers and members of petitioner.**

The Act does not deprive petitioner's members of liberty and property merely by reason of their association, without proof of *scienter*. The "sanctions" are applicable only where it is shown that the member concerned has knowledge or notice

that the organization has registered or been finally ordered to register as a Communist-action organization.

**3. The requirement of registration and self-incrimination**

The contention that the Act "violates the privilege against self-incrimination" is at least premature in this proceeding. The privilege is a personal one, not available to an organization as such. In the case of a demand for the production of an organization's records, an officer of the organization may not refuse to produce them even if they would tend to incriminate him personally. *United States* v. *White,* 322 U. S. 694. Moreover, even if the *White* rule were considered inapplicable here, the privilege would protect only the person called upon to submit the registration statement. And even as to him, he would have to claim his privilege. It cannot be assumed at this time that officials of petitioner will inevitably claim the privilege when called on to effect petitioner's registration, especially since the top officials of petitioner, who would be the ones required to file the registration statement, have never attempted to conceal their membership or their places of leadership.

**4. The consequences of registration and the First Amendment**

The Act is not violative of First Amendment freedoms. If Congress, in order to protect interstate commerce, can validly deny the privileges of union office to members of the Communist Party

because of the program of that Party (*American Communications Assn.* v. *Douds*, 339 U. S. 382), it can, in order to protect the Government itself, impose restrictions upon adherents of a world Communist movement such as that described in the Act. The disclosure requirements of the Act are reasonable in the light of the legislative findings set forth in Section 2. The "sanctions" imposed on covered organizations and their members are reasonably related to the evil at which Congress was aiming.

**B. The proceeding before the Board**

1. The Court of Appeals' modification of two of the eight subsidiary findings of the Board did not necessitate remand of the case to the Board. Affirmance of the Board's order was proper in view of the court's finding that the Board's ultimate finding of fact was fully supported by a preponderance of the evidence.

2. The Board did not place too much reliance on pre-Act evidence in reaching its conclusion that petitioner is a Communist-action organization. An organization's past is clearly pertinent to its present nature.

3. The Board and the Court of Appeals did not misconstrue or misapply any of the evidentiary criteria of Section 13 (e). The contention that the Board found "a century-old, constantly evolving system of political thought [Marxism-Leninism]" to constitute "a series of Soviet 'direc-

tives'" to petitioner is based on a distortion of the Board's report. The "non-deviation" criterion refers to "identity or coincidence and not to chronological adoption."

4. The contention that the Board and Court of Appeals "erroneously construed and applied the Act's definition of the world Communist movement" is based on the incorrect assumption that the existence of "a world Communist movement" as found by Congress in Section 2 of the Act was subject to redetermination in the administrative proceeding.

5. In view of the substantial concurrence of the Court of Appeals in the Board's findings, there is no occasion for further review by this Court of the sufficiency of the evidence.

**C. The attack on the Board as biased**

1. The argument that the Board was "necessarily biased" against petitioner because it would have rendered itself *functus officio* if it found petitioner not to be a Communist-action organization is unsound. It is tantamount to a charge that the Board members were bound to violate their oaths of office.

2. The hearing was not unfair. The speech of Dr. McHale of which petitioner complains did not manifest prejudgment of the issues. The appearance of Board Chairman Brown on a television program in which he discussed the case occurred *after* he and Dr. McHale, constituting

the hearing panel, had handed down their recommended decision.

### D. Petitioner's motion for leave to adduce additional evidence

The Court of Appeals appropriately exercised its discretion in denying petitioner's motion for leave to adduce additional evidence before the Board. The court could properly conclude from the motion papers and the Board's opposing memorandum that even if the testimony of the three witnesses who allegedly gave false testimony were completely disregarded the final result could not be different.

### E. The validity of the appointments of members of the Board

The recess appointments of the three Board members in question were valid when made and remained valid at all times thereafter until final Senate confirmation. Petitioner's challenge of the appointments is based on technical arguments which have been considered and found untenable by the authorities. Furthermore, even if there were technical merit in any of the arguments, the validity of the Board's final order would not be affected, since it is undisputed that the appointments were valid from August 9, 1951, a date shortly after the beginning of the taking of testimony and long prior to the issuance of the order under review.

## ARGUMENT

### A. Constitutionality of the Act

#### 1. The legislative findings and statutory criteria under the due process clause

a. Petitioner contends (Pet. 47–50, 14–16) that the legislative findings embodied in Section 2 of the Act as to the existence of a "world Communist movement" (subsection (1)) and a "Communist movement in the United States" presenting "a clear and present danger to the security of the United States" (subsection (15)) constitute a partial predetermination of the issue that the Board was called upon to decide, namely, whether petitioner is a "Communist-action organization" within Section 3 (3). Section 3 (3), it is pointed out, defines such an organization as one substantially controlled by the government or organization controlling the world Communist movement referred to in Section 2 and operating primarily to advance the objectives of that movement. It is urged that this partial predetermination "by legislative fiat" "violates due process" (Pet. 47) and incorporates into the Act a "built-in finding" against petitioner (Pet. 50).

Petitioner's contention seems in essence to be that due process requires that the legislative findings of Section 2 be the subject of redetermination in the administrative proceeding in a "free adjudication of the facts" (Pet. 48). We submit that the argument confuses two sets of facts—the *legislative* facts which reasonably tend to establish a situation which Congress, on investi-

gation, has found to require legislative action, and the *adjudicative* facts which, on proof in adversary litigation, bring a specific organization or person within the purview of the legislation enacted. See McCormick, *Judicial Notice,* 5 Vand. L. Rev. 296, 315–318. Legislative facts are general conclusions which support the policy of a particular law, and can be attacked only by showing that Congress acted arbitrarily or unreasonably or beyond its delegated powers. *Alabama State Federation of Labor* v. *McAdory,* 325 U. S. 450, 465–466; *United States* v. *Carolene Products Co.,* 304 U. S. 144, 152–153. The facts on which the legislature acted can frequently be the subject of judicial notice; in other cases the courts may make inquiry to determine whether there is a reasonable basis for the legislative action. *Borden's Farm Products Co.* v. *Baldwin,* 293 U. S. 194, 210; *Chastleton Corp.* v. *Sinclair,* 264 U. S. 543, 548; see McCormick, *Judicial Notice,* 5 Vand. L. Rev. 296, 315–318. But at most the inquiry is as to whether the legislature has acted reasonably. Here, Congress recorded in Section 2 the basis for its action, the threat to the United States presented by the world and American Communist movement.

As this Court said with respect to these very findings, in *Galvan* v. *Press,* 347 U. S. 522, 529:

> On the basis of extensive investigation Congress made many findings, including that

> in § 2 (1) of the [Internal Security] Act that the "Communist movement * * * is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship" * * *. Certainly, we cannot say that this classification by Congress is so baseless as to be violative of due process and therefore beyond the power of Congress.

Even if Congress had specifically identified petitioner by name as the "Communist organization in the United States" to which it refers in Section 2 (15), the adjudicative or operational facts which would bring it within the definition of Section 3 (3) would not have thereby been legislatively predetermined in a sense offensive to the requirements of due process. A Communist organization which is not "substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement" *or* which does not "operate primarily to advance the objectives of such world Communist movement" would be excluded by the definition. There would not, in short, be anything in the Act, even if Congress had thus named petitioner, to have prevented the Board from finding that petitioner lacked the essential features on which the Act made the requirement

of registration depend.[5] That Congress may have believed that petitioner would fall within the definition of Section 3 (3) is of no moment so far as the requirements of due process are concerned. We assume that Congress supposes in the case of many of the statutes it passes that specific organizations or persons will be subject to their terms. As the court below observed, "A statute is not necessarily null merely because it fits a known person. Many valid statutes do" (Op. 40, R. 2122). The important point is that Congress required proof of the operative facts by a preponderance of the evidence, and made the Board's decisions subject to judicial review before any requirement of the Act could become effective.[6]

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[5] For this reason the fact that Section 4 of the Communist Control Act of 1954 (see also Section 2 of that Act) referred to petitioner by name as a "Communist-action" organization does not, we submit, contrary to petitioner's contention (Pet. 50), add weight to its basic argument. In any event, since that Act was passed after the issuance of the order under review, it is evident that the Act's designation of petitioner by name could not have influenced the Board's deliberations or otherwise affected the administrative proceeding.

[6] The decisions cited by petitioner (Pet. 48), of which *Tot* v. *United States*, 319 U. S. 463, is representative, concern the validity of statutory presumptions under the due-process clause. They hold that, in the language of *Tot* (*id.*, 467), "a statutory presumption cannot be sustained if there be no rational connection between the fact proved and the ultimate fact presumed, if the inference of the one from proof of the other is arbitrary because of lack of connection between the two in common experience." But the Subversive Activities Control Act creates no statutory presumptions (see Op. 43, R. 2125). Such decisions, therefore, do not aid petitioner's attack on the legislative findings included in the Act.

b. Petitioner's contention (Pet. 50–51) that the Act "is invalid as a bill of attainder because it identifies petitioner as the object of the statutory sanctions and imposes punishment on petitioner and its members without a judicial trial" is similarly without merit. Bills of attainder are "legislative acts * * * that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial." *United States* v. *Lovett*, 328 U. S. 303, 315. "Punishment is a prerequisite." *Garner* v. *Los Angeles Board*, 341 U. S. 716, 722. And the conduct punished must be *past* conduct. *American Communications Assn.* v. *Douds*, 339 U. S. 382, 413–414.

The Subversive Activities Control Act is not a statute of this type. It is basically a regulatory measure requiring registration and disclosure of membership and financial data on the part of organizations which either admit being or are duly found to be within its scope (Section 7). Of course, like all registration statutes it provides criminal penalties for willful failure to register when required [7] and for making

[7] The Act provides that "each day of failure to register * * * shall constitute a separate offense" (Section 15 (a)). Petitioner complains that this makes the penalty for non-registration "potentially astronomical" (Pet. 7). It is clear, however, that there cannot be any such accumulation of penalties unless an organization chooses to incur them by

willfully false registration statements (Section 15 (a) and (b)). In addition, it contains certain so-called "sanctions" (see Op. 5, R. 2087) which become applicable upon registration or final order to register. Some of these sanctions apply to covered organizations as such. For example, organizational mail and broadcasts must be labeled and identified in the manner and under the conditions specified in Section 10, in order that the public may be able to identify such mail and broadcasts as emanating from a "Communist organization." In addition, certain withholdings of legislative grace in the nature of tax benefits are provided for (Section 11). Other "sanctions" pertain to members of covered organizations. For example, after an organization has registered or been finally ordered to register, its members become ineligible for non-elective employment by the United States as well as for employment in defense facilities and with labor organizations as defined in the National Labor Relations Act (Section 5). They also become ineligible to obtain

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continued non-compliance after a final order. The organization is not obliged to incur liability under Section 15 (a) to test the validity of the registration requirements. Cf. *Gulf, Colorado & Santa Fe Ry. Co.* v. *Texas*, 246 U. S. 58, 62; *Ex parte Young*, 209 U. S. 123, 145–148. The duty arises only after the validity of the registration requirements has been determined and a final order has resulted. Thus, liability results only from its willful refusal to comply with a requirement laid down by Congress and upheld by the courts.

or use passports (Section 6).[8] The validity of these sanctions may possibly not be presented at the present stage (cf. *Electric Bond & Share Co.* v. *Securities and Exchange Commission*, 303 U. S. 419, 434 *et seq.*), but in any case none of these have retroactive effect. By their terms they apply only to persons continuing membership in a covered organization after it has registered or been ordered to register. Since the sanctions in no sense impose disabilities for "*past* actions," they lack a fundamental characteristic of bills of attainder—the imposition of punishment for *past* conduct. *American Communications Assn.* v. *Douds*, 339 U. S. 382, 413–414; cf. *Garner* v. *Los Angeles Board, supra*, 341 U. S. 716, 722–723. See Op. 40, R. 2122. And, of course, with respect to such punishable acts as failure to disclose membership in seeking prohibited employment (Section 5 (a) (1)) and applying for or using a passport while continuing to be a member of a covered organization (Section 6 (a)), knowledge or notice that the organization is registered or has been ordered to register is an essential ingredient of the offense,

[8] In addition, if aliens, they become excludable and deportable under certain conditions (Section 22, carried forward by §§ 212 (a) (28) (E) and 241 (a) (6) (E) of the Immigration and Nationality Act of June 27, 1952; see Pet. 125–126). Such provisions are not penal in character. See *Galvan* v. *Press*, 347 U. S. 522, 529–530; cf. *Harisiades* v. *Shaughnessy*, 342 U. S. 580.

and punishment can be imposed only after trial by jury (Section 15 (c)).

c. Petitioner next contends (Pet. 51–54, 16–18) that the Act "violates due process because it authorizes a determination that an organization is a Communist-action organization on the basis of irrational and vague criteria" (Pet. 51). The insubstantiality of this contention is forcefully demonstrated in the opinion below (Op. 40–46, R. 2122–2128). We submit that petitioner fails to show, as it claims to show, that the opinion below "begs the question" (Pet. 52). A perusal of the eight criteria listed in Section 13 (e)—and see particularly the "directives and policies" criterion of Section 13 (e) (1)—shows their rational basis as indicating types of evidence relevant to the ultimate factual issue of whether the organization meets the decisive test of a "Communist-action organization" as set forth in Section 3 (3), namely, whether it is controlled by the foreign government or organization controlling the world Communist movement and operates primarily to advance the objectives of that movement as described in Section 2. Section 13 (e) contains no formula, nor are the listed criteria in any sense exclusive. Petitioner's argument assumes that Section 13 (e) permits an organization to be held subject to registration as a Communist-action organization under the Act if it is controlled by the foreign government or or-

ganization referred to in Section 3 (3) even if *all* of its objectives are as "benign" (Pet. 52), say, as the improvement of race relations. This interpretation patently distorts the meaning of Sections 2, 3 (3), and 13 (e) when read together, as they must be, in determining the requirements of the Act.

**2. The consequences of registration on officers and members of petitioner**

a. Petitioner contends (Pet. 55–57, 8–9) that the Act "violates due process by depriving petitioner's members of liberty and property merely by reason of their association, without proof of scienter and without according them a hearing" (Pet. 55). Of course, no members are before the Court, but the contention, if properly here, is thoroughly refuted by the opinion below (Op. 25–28, R. 2107–2110). As is there pointed out, a necessary condition of the applicability of any of the Act's "sanctions" against members of an organization is knowledge or notice that the organization has registered or been finally ordered to register (Op. 25–26, R. 2107–2108). "If the organization has registered as a Communist-action organization without an order to do so, it has voluntarily agreed that it is such an organization. If a final order has been entered against it, its nature as such an organization has been determined by full administrative proceedings, fully reviewed by the courts. So

notice or knowledge of registration carries knowledge or notice of the nature of the organization; its nature has been either admitted or established" (Op. 26, R. 2108). The *scienter* requirement of *Wieman* v. *Updegraff*, 344 U. S. 183, 188–191, on which decision petitioner relies (Pet. 56), is thus fully met, as the opinion below points out (Op. 27–28, R. 2109–2110).*

b. Petitioner also argues (Pet. 57–58, 7) that "the registration requirement of the Act violates due process by virtue of the fact that Section 5 of the Communist Control Act [of 1954] makes it impossible to determine who must be registered as members" (Pet. 57). This contention is based on a mistaken interpretation of Section 5 of the 1954 Act, which appears at Pet. App. 130–131. That section does not, as petitioner supposes, establish controlling "criteria for membership in the Communist Party" (Pet. 57).

The evident purpose of Section 5 of the 1954 Act is to list certain items of *relevant evidence* to be considered by juries under proper instructions in determining whether some one is *actually* a member of the Communist Party, not to lay

* The opinion below observes that "Membership in an organization is of course a fact, and if one is actually a member he knows it" (Op. 26, R. 2108). Petitioner takes issue with this, saying, "it is not correct that 'members' [of it] have knowledge of their 'membership'" (Pet. 56–57). The argument is based, however, on a mistaken interpretation of Section 5 of the Communist Control Act of 1954, as we show in the text.

down individual criteria of membership of which any single one might suffice. Petitioner's attempt to depict the section as a trap for the unwary—as a snare for catching as members persons who do not know they are members—cannot therefore stand analysis.[10]

**3. The requirement of registration and self-incrimination**

Petitioner contends (Pet. 58–59) that the Act "is invalid because it violates the privilege against self-incrimination" (Pet. 58). "The legislative scheme of the Act," it argues, "culminates in an attempt to coerce confessions of membership in the Communist Party * * *. This is a crass violation of the privilege against self-incrimination. *Blau* v. *United States,* 340 U. S. 159" (Pet. 59). We submit that the majority opinion below[11] (see Op. 16–25, R. 2098–2107) convincingly shows that the question of self-incrimination is not effectively presented in this proceeding.

Most important, the privilege against self-incrimination is a personal privilege, available

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[10] Petitioner's argument on this point involves the same kind of reasoning underlying its contention that the criteria of Section 13 (e) are irrational. See pp. 20–21, *supra.*

[11] Judge Bazelon dissented from the decision of the court below (Op. 76, R. 2158) on the ground that the Act necessarily requires individuals to disclose their own membership in a criminal conspiracy and therefore should be held invalid in this proceeding notwithstanding the fact that no official has as yet declined to register for petitioner on self-incrimination grounds.

neither to an organization as such nor (in the case of a demand for the production of an organization's records which would allegedly tend to incriminate personally members of the organization, *including the officers required to produce them*) to the officers of the organization having custody of its records in their representative capacity. *United States* v. *White*, 322 U. S. 694. That this principle applies to the Communist Party is clear. *Rogers* v. *United States*, 340 U. S. 367, 371–372. The rule is relevant to the case at bar. The Act, it is true, calls for the preparation and submission of a registration statement by covered organizations containing the names and addresses of officers and members and an accounting of moneys received and expended (Section 7 (d)) and not the production of physical records as such. But as the majority opinion observes, "membership lists and accountings for money furnished by an organization are reproductions of or extracts from organization records" (Op. 17, R. 2099).

Moreover, even if the *White* rule were considered inapplicable in the context of the instant case, it is clear that the privilege against self-incrimination would protect only the person called upon to submit the registration statement, and would protect him only in so far as his own name was involved; that is, he could not under the guise of protecting himself against *self*-incrimination seek to shield others.

We recognize, as did the court below (Op. 19, R. 2101), that the official of petitioner who filed the registration statement (see Section 7 (h)) would by the act of filing, even if he were to omit his own name from the membership list, be admitting that he is a member and an officer of petitioner. But this does not mean, as the majority point out (Op. 19–23, R. 2101–2105), that the statute or the order requiring petitioner to register is invalid.

In the first place, it is well settled that the privilege against self-incrimination is a privilege which must be personally and explicitly claimed. *Rogers* v. *United States, supra,* 340 U. S. 367, 370; *United States* v. *Monia,* 317 U. S. 424, 427; *United States* v. *Murdock,* 284 U. S. 141, 148; *Vajtauer* v. *Commissioner of Immigration,* 273 U. S. 103, 113. The question as to the effect of the privilege will not arise until the order of the Board becomes final and petitioner is required to register.

Secondly, it cannot be assumed at this time that a claim of privilege will inevitably be made when petitioner is confronted by the statutory requirement that it register, so that (according to the argument) the constitutionality of the requirement should be settled in this proceeding. This argument not only runs counter to the settled rule of deferring decision of constitutional questions until they are ripe for review, but is particularly inappropriate in this case since, as the majority opinion observes, the top officials of petitioner,

who would be the ones called on to file the registration statement (see Section 7 (h)), "have never attempted to conceal their membership or their places of leadership" (Op. 20, R. 2102). Hence there is "no basis for assuming that they would claim protection against a mere revelation of their [own] membership" (*ibid.*).[12]

A question which might also arise if a future claim of privilege should be made (see Op. 22–23, R. 2104–2105), is as to the possible effect, if invoked by the Attorney General, of the new immunity statute on the claim (see 18 U. S. C. 3486 (c), as created by the Act of August 20, 1954, c. 769, § 1, 68 Stat. 745).[13]

Accordingly, while we recognize the importance of the underlying issue, we think the court below was correct when it concluded (Op. 23, R. 2105) that neither the Act nor the order requiring an organization *as such* to register can be held

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[12] As pointed out in the dissenting opinion below (Op. 86, R. 2168, n. 39), one of the grounds urged by petitioner in a suit which it brought to enjoin the proceedings before the Board was that "to properly defend itself at such hearings Communist Party officials would necessarily have to testify and that such testimony would necessarily entail their admission of Communist Party affiliations." After its suit to enjoin the proceedings was denied, officials of petitioner did appear and testify at the Board hearings (see R. 136 [2049]).

[13] If a claim of privilege should in fact be made in connection with the registration of petitioner, questions might also arise as to whether the claim should be rejected under the principle of waiver. See Op. 20–22, R. 2102–2104. *Cf. Rogers v. United States*, 340 U. S. 367, 372–373.

invalid because of the possibility that questions as to the availability of the privilege to an officer or member of the organization might arise under various hypothetical future situations.

**4. The consequences of registration and the First Amendment**

Petitioner challenges the Act as violative of First Amendment freedoms (Pet. 59–66, 7–11). Inasmuch as the Court of Appeals analyzed this contention in all its aspects (Op. 10–16, 32–38, R. 2092–2098, 2114–2120), we need not go over the same ground here. The court below reasoned, *inter alia*, that "if Congress, in order to protect interstate commerce, can validly deny the privileges of union office to members of the Communist Party because of the program of that Party [as held in *American Communications Assn.* v. *Douds*, 339 U. S. 382], it can, in order to protect the Government itself, impose restrictions upon adherents of a world Communist movement such as that described in this statute" (Op. 15, R. 2097).

The Act is fundamentally a registration statute requiring the disclosure of certain information—principally relating to membership and finances—by local action organizations under the control and domination of a foreign power and operating primarily to advance the objectives of the world Communist movement, which Congress has found and declared after due investigation to pose a threat to the national security. Reasonable dis-

closure requirements have never been thought to be inconsistent with First Amendment freedoms. See *United States* v. *Harriss*, 347 U. S. 612, 625–6; *Viereck* v. *United States*, 318 U. S. 236; *Burroughs and Cannon* v. *United States*, 290 U. S. 534, 545; *Bryant* v. *Zimmerman*, 278 U. S. 63, 72–73; *Lewis Publishing Co.* v. *Morgan*, 229 U. S. 288, 313–316. In the light of the legislative findings set forth in Section 2, the Act's disclosure requirements are clearly reasonable. The so-called "sanctions" (see pp. 18–19, *supra*) imposed by the Act on organizations subject to its terms (see Op. 35–36, 38, R. 2117–2118, 2120) and on members of such organizations (see Op. 33–35, 36–37, R. 2115–2117, 2118–2119) are, as the court below held, "reasonably related to the substantive evil at which Congress was aiming" (Op. 32, R. 2114). Moreover, as we have seen, these sanctions operate only *in futuro*, and only as to members having knowledge that the organization has registered or been finally ordered to register. Members, by *bona fide* resignation, can escape them. Cf. *American Communications Assn.* v. *Douds*, *supra*, 339 U. S. 382, 413–414.

Underlying the present contention of petitioner in all its facets is the charge that the Act unlawfully abridges "innocent and lawful advocacy and assembly" (Pet. 61) as well as "seditious advocacy" (Pet. 63). But apart from the labeling requirements of Section 10, the Act imposes no

restrictions on covered organizations' freedom to issue literature or to broadcast propaganda. And the labeling provisions are reasonable adjuncts to the basic disclosure requirements. As the court below remarked, "surely the people are entitled to know when an organization which falls within the definition of a Communist-action organization in this statute is addressing them over the air" (Op. 36, R. 2118). And the same is true with respect to the circularization of mail matter. Congress has the power to compel disclosure of facts which every citizen has the right to know. Petitioner's exhortations to the effect that such identification constitutes a prior restraint on its activities is simply an admission that it cannot secure adherents unless it can camouflage its activities. Certainly, the Communist Party cannot object to having its views labelled as those of "the Communist Party, a Communist organization." [14]

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[14] In its effort to depict the Act as violative of the First Amendment, petitioner has been compelled to distort it. For example:

(1) It says, "the Act and the order suppress all of petitioner's activities" (Pet. 60). This is patently not so, as we have shown.

(2) It refers to the Act as having accomplished "the proscription of peaceful advocacy and assembly by outlawing" covered organizations (Pet. 61). The Act does not proscribe peaceful advocacy and does not outlaw any organizations.

(3) It says that the Act "forecloses employment to a member" (Pet. 62). The Act forecloses *certain kinds* of em-

### B. The proceeding before the Board

Petitioner attacks the adequacy of the proceedings before the Board and in the court below in a number of respects, all of which are insubstantial and present no questions calling for review by this Court.

1. Petitioner contends (Pet. 66–68) that "[t]he action of the court below in sustaining the order of the Board after striking two of the key findings on which it was based violates the Act and is in conflict with applicable decisions of this Court" (Pet. 66). The case should have been remanded to the Board, it is argued, "for administrative redetermination in the light of the findings which survived" (Pet. 67). The conten-

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ployment (see Section 5) to members of covered organizations under certain conditions.

(4) It says that the Act punishes "'non-deviation' from Soviet views" (Pet. 65). The Act establishes "non-deviation" as *one* of eight listed (but not exclusive) guides to the consideration of evidence (Section 13 (e)) to be taken into consideration in determining whether an organization is a "Communist-action organization" as defined in Section 3 (3).

(5) It says, "The listing or self-listing of members of petitioner in compliance with a registration order has been made an impossible task by Section 5 of the Communist Control Act" (Pet. 7). We have previously shown how this charge is based on a distortion of the cited section (*supra*, pp. 22–23).

(6) It says that an organization which "has any dealings with" a Communist-action organization or members thereof "is itself in danger of being proscribed as a front or infiltrated organization" (Pet. 10). The sections of the Act cited in support of this sweeping charge—Sections 13 (f) and 13A (e)—manifestly fail to do so.

tion is clearly insubstantial, as will be evident from an appreciation of just what the Court of Appeals' "striking" of "two of the key findings" of the Board actually consisted of.

With respect to the Board's subsidiary finding that petitioner "reports to the Soviet Union and its representatives" (R. 98 [1982]; see Section 13 (e) (5) of the Act), the Court of Appeals said (Op. 72, R. 2154):

> * * * There is little doubt about these reports having been made when the Party was a member of the International * * *. There is *some* doubt that a preponderance of the evidence supports the *broad conclusion* that the Party "reports to the Soviet Union and its representatives." Such a conclusion *seems* to imply *constant, systematic reporting as of now.* The evidence indicates instances, as in the cases of Eisler and Peters. On this record we would strike this finding *as phrased. There is a preponderance of evidence, we think, to support a conclusion that upon occasion leaders of the Party report to representatives of the Soviet Union.* [Emphasis supplied.]

The other "key finding" of the Board which the court below "struck" was its subsidiary finding relating to "secret practices" of petitioner (see Section 13 (e) (7)). After reviewing the long history of such practices (R. 105-116 [1993-2012]) and after considering the evidence relat-

ing to their "purpose" (R. 116–117 [2012–2015]), the Board concluded that (R. 117 [2015]):

> * * * the secret practices undertaken by [petitioner] are for the purpose of concealing the true nature of the Party and promoting its objectives. We cannot accept [petitioner's] contention that its secret practices are *merely* devices utilized to protect the rights and liberties of its members. [Emphasis supplied.]

With respect to this finding the Court of Appeals said (Op. 73–74, R. 2155–2156):

> This question, whether the secret practices of the Party are for the purpose of protecting the liberties of the members or are for the purpose of promoting the objectives of the Party, is a nebulous one. *The two purposes may well overlap.* * * * [*B*]*oth purposes could exist together.* In a doubtful situation such as that on this point, we strike the finding *as to purpose.* At the same time we are of opinion that the Party's view of the limited purpose of secrecy is not shown by a preponderance of the evidence. On this point we conclude simply that a defined purpose is not proven. [Emphasis supplied.]

It is clear from the above that what the court below actually did was merely to *modify* two of the Board's eight *subsidiary* findings. The other six subsidiary findings were held to be fully supported by a preponderance of the evi-

dence. The court also found that the Board's ultimate finding of fact—that petitioner "is substantially directed, dominated, and controlled by the Soviet Union, which controls the world Communist movement * * *; and * * * operates primarily to advance the objectives of such world Communist movement" (R. 132 [2042])—was likewise fully supported by a preponderance of the evidence (Op. 75–76, R. 2157–2158). In these circumstances affirmance of the Board's order was plainly the correct action. Cf. *Universal Camera Co.* v. *N. L. R. B.*, 340 U. S. 474, 488; *N. L. R. B.* v. *Nevada Copper Corp.*, 316 U. S. 105; *Foreman & Clark, Inc.* v. *N. L. R. B.*, 215 F. 2d 396, 398 (C. A. 9), certiorari denied, 348 U. S. 887.[15]

2. Petitioner's contention that the Board placed too much reliance on pre-Act evidence in reaching its conclusion that petitioner is a Communist action organization within the Act's meaning

[15] The cases cited by petitioner (Pet. 67–68) are all clearly distinguishable. This is not a case in which it is unclear from the record on just what evidence the administrative findings are based (*N. L. R. B.* v. *Virginia Power Co.*, 314 U. S. 469, 479); nor one in which the administrative order would be sustainable if based on grounds which the record shows were not the actual grounds on which it was based (*S. E. C.* v. *Chenery Corp.*, 318 U. S. 80, 94–95); nor one in which the reviewing court modified an administrative *order* (*F. P. C.* v. *Idaho Power Co.*, 344 U. S. 17, 20–21); nor one in which the administrative findings are "so shrouded in doubt" that the basis of the agency's action is not determinable (*Colorado-Wyoming Gas Co.* v. *F. P. C.*, 324 U. S. 626, 634–635).

(Pet. 68–71) is also without merit. As the court below observed, "The past is clearly pertinent to the present nature of a person or an organization. Surely a person's education and experience are pertinent to his present nature. The same is true of an organization" (Op. 63, R. 2145). For this reason, contrary to petitioner's arguments (Pet. 68, 71), the Board was manifestly correct when it said (R. 130 [2038]):

> In reaching our conclusion herein we have considered and weighed commensurately * * * such pre-Act evidence as reasonably tends to establish or illuminate the present nature, activities, character, and status of [petitioner] in connection with the issues presented for decision. * * * We have been able to trace [petitioner's] operations over more than thirty years into the present and have found that at no time during this period has [petitioner] changed its fundamental objectives, or its nature and purpose. * * *
>
> It would have been unwarranted by law to compel [the Government] to restrict its proof to fragmentary evidence confined to a relatively minute portion of [petitioner's] existence, i. e., the two-month period between the passage of the Act and the filing of the [Government's] petition. * * *

See *Federal Trade Commission* v. *Cement Institute*, 333 U. S. 683, 703–706; *United States* v.

*Dennis*, 183 F. 2d 201, 231 (C. A. 2), affirmed, 341 U. S. 494.[16]

Petitioner's insistence that its formal disaffiliation with the Communist International in 1940 made that year some sort of cut-off date from an evidential standpoint (Pet. 69, 70) is unavailing. As the court below observed, "The disaffiliation was an organizational separation. The international organization itself was disbanded in 1943, but the world Communist movement did not then cease to exist" (Op. 64, R. 2146).[17]

3. Petitioner next contends (Pet. 71–75, 27–33) that the Board and the court below "erroneously construed and applied" (Pet. 71) four of the evidentiary criteria enumerated in Section 13 (e) of the Act, namely, the "directives and policies," "non-deviation," "discipline," and "allegiance" criteria (paragraphs (1), (2), (6), and (8), respectively, of Section 13 (e)). The contention is without merit.

a. *"Directives and policies"* (Pet. 72–73, 27–28). Section 13 (e) (1) provides that in deter-

[16] Petitioner's attempted distinction of the *Dennis* case (Pet. 71) is unavailing. In the present case as well as in *Dennis*, the acts performed prior to the critical period were treated as "*media concludendi*" as distinguished from "the *factum* itself." See, *e. g.*, the passage from the Board's Report quoted in the text, *supra*, p. 34.

[17] Petitioner admits that the only reason for its 1940 disaffiliation with the Communist International was "to avoid the registration requirements of the then newly enacted Voorhis Act" (Pet. 24–25).

mining whether an organization is a "Communist-action organization" the Board shall take into consideration "the extent to which its policies are formulated and carried out and its activities performed, *pursuant to directives or to effectuate the policies* of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2" (emphasis supplied). The Board devoted some seventy pages of its Report (R. 9–79 [1819–1948]) to a review and analysis of the evidence pertinent to this heading. Petitioner, ignoring the "policies" half of the criterion, cites two statements from this passage (Pet. 28) as establishing that the Board, erroneously and absurdly, adopted "[t]he thesis that a century-old, constantly evolving system of political thought, developed by thinkers of many nations and based on a comprehensive view of man and nature [Marxism-Leninism], constitutes a series of Soviet 'directives' [to petitioner]" (Pet. 72). Petitioner emphasizes the absurdity of the "thesis" which it thus attributes to the Board by pointing out that "much of the literature from which the Board draws this conclusion was written long before there was a Soviet Union" (Pet. 28, fn. 31). We submit that the

statements in question,[18] when read in their proper context, fail completely to support petitioner's extravagant contention. Their immediate context shows that it was "Marxism-Leninism, as understood, used and followed by [petitioner]" about which the Board was speaking. These concepts, which are carefully elaborated in the Board's Report, cogently support the Board's findings under this heading.

b. "*Non-deviation*" (Pet. 73–74, 28–31). The Board found that "the views and policies of [petitioner] throughout its history invariably coincide with the views and policies of the Soviet Union. Moreover, [petitioner] conforms immediately to each reversal in the Soviet Union's views and policies" (R. 86 [1959]), and concluded that "[petitioner's] views and policies do not deviate from those of the Soviet Union" (*ibid.*). The overwhelming evidence supporting this finding is summarized in the Board's Report at R. 79–86 [1948–1959] and is more briefly re-

[18] The statements relied on by petitioner (Pet. 28) are as follows: (1) "Consequently, we conclude that the [Marxist-Leninist] classics are one of the chief means by which the CPSU directs, dominates, and controls the CPUSA" (R. 43 [1881]); (2) "Marxism-Leninism, as understood, used, and followed by [petitioner], consists of a body of doctrine, policies, strategies, and tactics intended to bring about the end of capitalism and to substitute for it a dictatorship of the proletariat; it has been promulgated and issued by the Soviet Union as the overall philosophy, authoritative rules, directives, and instructions governing the world Communist movement" (R. 78 [1946]).

viewed in the opinion below at Op. 68–69, R. 2150–2151. Petitioner, however, urges that such evidence is insignificant and meaningless unless it appears that in each instance the view it shared with the Soviet Union (1) was adopted by it *after* its adoption by the Soviet Union, (2) did not emanate from a common philosophy, and (3) was not "legitimate," *i. e.*, "calculated to promote the peace and well-being of the United States" (Pet. 73–74, 29–30). Hence, it argues, the Board misconstrued Congress' meaning in establishing the "non-deviation" criterion of Section 13 (e) (2). We think it clear, however, that it is petitioner which has misconstrued the congressional meaning. We submit that the court below was correct in saying that "[t]he statutory phrase refers to identity or coincidence and not to chronological adoption" (Op. 69, R. 2151). It is true, as petitioner says (Pet. 73), that shared views in such fields as mathematics are without evidential significance with respect to questions of domination and control. But the fact that petitioner, in conformity with Soviet views, denounced Fascism in Nazi Germany as a peace menace until the Hitler-Stalin Pact of 1939, following which it about-faced and, with the Soviet Union, hailed the Pact as an outstanding contribution to world peace (see R. 82 [1953]; Op. 68, R. 2150), is evidence of a different character. The evidence in this case was of the latter,

not the former type. Petitioner here, as elsewhere in its petition (see *supra*, pp. 20–21, 22–23), reads one evidential criterion as though it were the ultimate criterion, whereas in fact it refers to but one of many types of evidence which the statute directs the Board to consider in reaching its final determination. For this reason petitioner's suggestion that so far as the non-deviation evidence is concerned it may be the Soviet Union which follows petitioner's views rather than *vice versa* (Pet. 73) cannot be taken seriously.[19]

c. *"Discipline"* and *"Allegiance"* (Pet. 74–75, 31–33). The evidence relevant to the "discipline" and "allegiance" criteria is summarized by the Board at R. 98–104 [1982–1993] and R. 118–128 [2016–2034], respectively, and is more briefly reviewed in the opinion below at Op. 72–73, R. 2154–2155, and Op. 74–75, R. 2156–2157, respectively. A cursory perusal of these passages will indicate, contrary to petitioner's contention, that neither the Board nor the Court of Appeals misconstrued or misapplied those criteria, as set forth in Section 13 (e) (6) and (8), respectively. The contention (Pet. 75) that the Board's finding on

[19] The suggestion also fails to take account of some of the non-deviation evidence itself, notably the evidence that petitioner's overnight change of view as to the justness of the war against Germany *followed* the German invasion of the Soviet Union in June 1941 (see R. 82–83 [1953]; Op. 68, R. 2150). *Cf.* its prompt change of view, referred to in the text, coinciding with the Hitler-Stalin pact.

"allegiance,"[20] as approved by the court below (Op. 75, R. 2157), conflicts with *Schneiderman* v. *United States*, 320 U. S. 118, is plainly without merit. That was a denaturalization case in which documents published after 1927, when Schneiderman was naturalized, were regarded by the Court as being entitled to "little weight" (320 U. S. at 147, 151–152). In the instant case, on the other hand, the Board had before it evidence as to petitioner's interpretation of Marxism-Leninism in the form of conduct and writings extending over a period of more than 30 years, and the testimony of witnesses who held high positions in petitioner for varying numbers of years. This proof established that the Marxist-Leninist classics are used to instill within members of petitioner a loyalty and devotion to the Soviet Union as the "fatherland" of the world-wide Communist revolution as well as to train them for their part in the overthrow of the "imperialist" Government of the United States. Cf. *Dennis* v. *United States*, 341 U. S. 494, 516–517.

4. Petitioner's contention (Pet. 75–76, 34–36) that the Board and the court below "erroneously construed and applied the Act's definition of the world Communist movement" (Pet. 75) is based, as petitioner admits (Pet. 76), on the assumption

[20] *I. e.*, that "[petitioner's] leaders and its members consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union" (R. 128 [2034]).

that the existence of a "world Communist movement" as found by Congress in Section 2 of the Act was subject to redetermination in the administrative proceeding before the Board. But this assumption is untenable, as the court below held (Op. 56, R. 2138; see pp. 13–16, *supra*). Consequently, it is unnecessary to deal with the present contention. The Board, it is true, deemed it desirable to make an independent finding on the matter based on the evidence before it (R. 4 [1809]). Accordingly it reviewed such evidence (R. 4–9 [1809–1818]) and found that "there exists a world Communist movement, substantially as described in Section 2 of the Act" (R. 9 [1818]). The Court of Appeals, following a review of a "few bits of" the pertinent evidence (Op. 56–61, R. 2138–2143), held that this finding was "supported by a clear preponderance of the evidence" (Op. 61, R. 2143). We submit that the Board's finding is clearly correct. The evidence established far more than "the presence in various countries of the world" of what petitioner describes as "Communist parties which adhere to a common ideology" (Pet. 75). It showed the existence of a world-wide *movement*, substantially as described in Section 2 of the Act (R. 4–9 [1809–1818]).

5. Finally, petitioner's overall challenge of the sufficiency of the evidence to support the Board's findings and order (Pet. 78–79, 22) is manifestly

without merit. The Board, following a thorough review and analysis of the evidence on both sides, found petitioner to be a Communist-action organization within the Act's definition "[u]pon the overwhelming weight of the evidence" (*supra*, pp. 5-6). Its report contains a very thorough summary of the evidence, logically arranged under appropriate headings and subheadings (R. 1–137; R. 1803–2051 (annotated report)). The Court of Appeals, in discharge of its statutory obligation to ascertain that the Board's findings were supported, not merely by substantial evidence, but by "the preponderance of the evidence" (Section 14 (a)), has likewise carefully reviewed the evidence (Op. 48–76, R. 2130–2158) and found that, with the exception of the two subsidiary findings which it modified in the respects already noted (*supra*, pp. 30–33), the Board's findings were clearly supported by the required quantum of evidence. In view of the substantial concurrence of the Court of Appeals in the Board's findings, there is no occasion for further review by this Court of the sufficiency of the evidence.[21]

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[21] Petitioner asserts that "[u]nimpeached documentary evidence established that many of [the Government's] witnesses perjured themselves in the proceeding before the Board" (Pet. 22). The record references cited in support of this sweeping charge, however (Pet. 22, fn. 21), fail to bear it out. At most they reveal the highly argumentative character of the assertion. Typical of the instances of alleged perjury to which petitioner alludes (see R. 1178–1180) is Budenz' testimony on direct examination that Eugene Den-

### C. The attack on the Board as biased

1. Petitioner attacks the validity of the proceeding before the Board on the ground that the Board was "necessarily biased" against it (Pet. 54–55, 18–20). "The Board is set up," runs the argument, "as a permanent agency, which originally had the sole function of identifying Communist-action organizations, their members, and Communist-front organizations. Since Communist-front organizations are by definition tools of a Communist-action organization, they can exist only if the Board finds that there is an action organization" (Pet. 19). And since the Act contemplates "the existence in the United States of only one Communist-action organization, the petitioner," the argument concludes, "[i]t is clear * * * that if the Board had decided that the petitioner was not a Communist-action organization, it would have rendered itself functus officio" (*ibid.*).

We submit that there is no need for this Court to enter this area of inference and conjecture. It

---

nis, at a certain meeting in the fall or winter of 1939–40, had said that the Communist Party should be prepared, in case the United States entered the war on Britain's side, to "turn the imperialist war into a civil war" (R. 1178). Petitioner's "proof" that this testimony was perjurious consists of Budenz' concession on cross-examination that in his book, *This is My Story*, he wrote that Dennis had said at the meeting in question that the Party should "turn the imperialist war into something else" (R. 1179–1180). Budenz explained, however, that Dennis made both statements at the meeting (R. 1178–1179).

has refused to impute on the theory of constructive bias a dishonest or interested point of view to government employee-jurors in cases to which the Government is a party, including criminal prosecutions of admitted Communists. *Dennis* v. *United States,* 339 U. S. 162; *Frazier* v. *United States,* 335 U. S. 497; *United States* v. *Wood,* 299 U. S. 123. There is no more reason to believe that Board members would violate their oaths of office in a proceeding of this type, which is essentially what according to petitioner's contention the Board members were bound to do. This Court has said, "We cannot agree that courts should assume in advance that an administrative hearing may not be fairly conducted." *Fahey* v. *Mallonee,* 332 U. S. 245, 256; see also *Federal Trade Commission* v. *Cement Institute,* 333 U. S. 683, 700–703; *N. L. R. B.* v. *Air Associates,* 121 F. 2d 586 (C. A. 2). This is especially true where full opportunity for judicial review is afforded by the Act. See *Fahey* v. *Mallonee, supra,* 332 U. S. at 256; *Marquette Cement Mfg. Co.* v. *Federal Trade Commission,* 147 F. 2d 589, 594 (C. A. 7). Moreover, a full and fair hearing was afforded in this case.[22]

2. Equally without merit is petitioner's contention (Pet. 55, 38–40) that it was in fact denied a fair hearing by virtue of the refusal of Board

[22] The remaining aspects of this contention—that the members of the Board "had to rule against petitioner" for financial and patronage reasons (Pet. 20, 54)—involve presumptions which the courts have refused to indulge.

members McHale and Brown to disqualify themselves for alleged bias. The short speech of Dr. McHale which she made during the course of the hearings and which allegedly manifested her bias against petitioner and prejudgment of the issues appears at R. 193–196. We submit that the remarks of Dr. McHale of which petitioner complains (Pet. 39), when read in context, fail to support the contention that she had prejudged the case. The reference to the Hitler-Stalin Pact, which petitioner claims was a prejudgment on the issue of "non-deviation" (Pet. 39), was merely an explanation of what had moved Congress to act, not an explanation of her own belief in the matter (see R. 193–194). Her reference to the congressional finding of the existence of a world Communist movement (R. 194) was nothing more than a statement of publicly known facts and does not indicate any bias on her part.

The appearance of Board Chairman Brown on a television program in which he discussed the case, and which petitioner claims showed his bias against it (Pet. 39), occurred *after* he and Dr. McHale, constituting the hearing panel, had handed down their recommended decision in the case (see his affidavit, R. 206–208, and the Board's memorandum opinion, R. 209–211). It scarcely amounts to bias and prejudice for the Board member to have repeated publicly what he had already made a matter of record—that on the

evidence he had heard he believed petitioner to be a Communist-action organization within the meaning of the Act. He simply repeated the substance of the panel's findings already made and published.[23]

**D. Petitioner's motion for leave to adduce additional evidence**

Petitioner contends (Pet. 76–78, 40–41) that the Court of Appeals "violated section 14 of the Act by denying petitioner's motion for leave to adduce additional evidence" before the Board (Pet. 76). The contention is without merit.

Section 14 (a) provides that "[i]f either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board * * *." Such applications are addressed to the sound judical discretion of the court. See *N. L. R. B.* v. *I. & M. Electric Co.*, 318 U. S. 9, 16, and *Southport Petroleum Co.* v. *N. L. R. B.*, 315 U. S. 100, 104, so holding with respect to the like provision of the National Labor Relations Act. Petitioner fails to show that the Court of Appeals abused its discretion in denying petitioner's

[23] Since Mr. LaFollette took no part either in the decision or recommended decision (see *supra*, p. 5), it is unnecessary to consider his alleged intimidation by the McCarran committee (see Pet. 38–39, 54–55).

motion in this case. The motion, which in substance alleged that three of the Government's twenty-two witnesses gave false testimony before the Board, appears in the record at R. 2053–2068. The Board's memorandum in opposition appears at R. 2069–2079. The Board's memorandum pointed out, *inter alia*, on the basis of the record of the proceedings before the Board, that the testimony of the three witnesses in question could "be ignored in toto and the ultimate determination of the Board will remain amply supported by evidence both testimonial and documentary in character" (R. 2073). It concluded as follows (R. 2078–2079):

> It should be borne in mind that the conclusion of the Board that the petitioner is a Communist-action organization * * * is arrived at on the basis of a number of subsidiary findings which comport with the criteria set forth in section 13 (e) of the Act. These subsidiary findings in turn depend upon a vast number of individual findings of fact. Were the testimony of [the three witnesses in question] entirely absent from the record, a relatively few of the myriad individual findings might be disturbed. The effect could be no greater. It is nonsense to maintain that the result would be in any way changed. The petitioner would still be found a Communist-action organization by overwhelming evidence. A hearing should not be reopened

> for the reception of evidence which could not change the result. * * *

It is evident, we submit, that in the light of these considerations, which were fully supported by references to the record, the Court of Appeals properly exercised its discretion in declining to reopen and remand the case. See *United States* v. *Elizabeth Gurley Flynn* (S. D. N. Y., motion to set aside the verdict and for a new trial, decided April 22, 1955), in which District Judge Dimock denied a new trial as to eleven of thirteen defendants convicted under the Smith Act, on the ground that, disregarding entirely the testimony of Harvey Matusow, subsequently claimed by Matusow to have been perjured, there was no reasonable possibility that the jury's verdict would have been different. Cf. *N. L. R. B.* v. *J. S. Popper, Inc.*, 113 F. 2d 602, 604 (C. A. 3).

**E. The validity of the appointments of members of the Board**

Petitioner challenges the legality of the appointment of three of the Board members—Brown, McHale, and Coddaire—for the period between their original recess appointment by the President on October 23, 1950, and their confirmation by the Senate on August 9, 1951 (which petitioner concedes was legal) (Pet. 80–83). We submit that the challenge is without substance and, further, that even if technically worthy of consideration, it would be irrelevant in the cir-

cumstances of this case. The relevant facts are as follows:

On September 23, 1950, the Second Session of the 81st Congress enacted the Subversive Activities Control Act by passing it over a Presidential veto (see 64 Stat. 1031) and adjourned on the same day pursuant to a concurrent resolution of both Houses to a day certain, namely, November 27, 1950 (96 Cong. Rec. 15726). On October 23, 1950, the President, by recess appointments, appointed five members to the Board, including Brown, McHale, and Coddaire. On November 27, 1950, the Second Session of the 81st Congress reconvened pursuant to the resolution of adjournment, and the President transmitted to the Senate his nominations of the Board members (96 Cong. Rec. 15785). On January 2, 1951, the Second Session of the 81st Congress adjourned *sine die* (96 Cong. Rec. 17121, 17138) without the Senate having acted on the nominations. On the following day, January 3, 1951, the First Session of the 82d Congress convened, and on February 12, 1951, the President resubmitted the nominations to the Senate for confirmation (97 Cong. Rec. 1228). On April 23, 1951, hearings for the purpose of taking evidence in this proceeding commenced before a hearing panel of three Board members, including Brown and McHale (R. 1). On August 9, 1951, the nominations of Brown, McHale, and Coddaire were confirmed by the Senate (97 Cong. Rec. 9702).

Petitioner contends first that the recess appointments of October 23, 1950, were invalid *ab initio,* with the consequence that, allegedly, the members in question did not validly became members of the Board until their confirmation by the Senate on August 9, 1951, following the resubmission of their nominations on February 12, 1951, during the First Session of the 82d Congress (Pet. 81). Alternatively it argues that even assuming the recess appointments were valid originally they expired with the expiration of the Second Session of the 81st Congress on January 2, 1951, without the Senate having acted on them (*ibid.*); under this view there was a hiatus in the challenged members' membership from the latter date until August 9, 1951, when they were finally confirmed. Under either view, it is argued, they were "usurpers" (Pet. 82) at least from January 2, 1951, to August 9, 1951, during which period proceedings were conducted by the Board, including the beginning of the taking of testimony before a panel which included two of the members in question. We submit that neither branch of this contention has merit; that the recess appointments were valid when made and remained valid at all times thereafter until final Senate confirmation.

The contention that the recess appointments were invalid *ab initio* is based on three alternative arguments.

First, it is contended, no "vacancies" had "happened" within the meaning of the constitutional provision conferring power on the President to "fill up" such vacancies "during the Recess of the Senate" (Art. II, sec. 2, cl. 3).[24] According to the argument, "[t]he term 'vacancies' as used in this clause refers to those occurring by reason of death, resignation, promotion or removal. No vacancy 'happens' in the constitutional sense when an office is newly created by law" (Pet. 81). It is obvious, however, that this construction would frustrate to an important degree the purpose of the constitutional provision, which is to enable the business of government to be carried on through temporary appointments during periods when the Senate is not available to act on nominations to office. Hence this aspect of petitioner's contention is clearly without merit. 12 Op. Atty. Gen. 455; 18 Op. Atty. Gen. 28; 19 Op. Atty. Gen. 261.

Secondly, it is argued, "even if the vacancies on the Board 'happened,' they arose simultaneously with the passage of the Act while the Senate was in session and therefore did not happen 'during the Recess'" (Pet. 81). This prong of the argument is equally invalid. "The constitution does not look to the moment of the

[24] The clause reads: "The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session."

origin of the vacancy, but to the state of things at the point of time at which the President is called on to act. Is the Senate in session? Then he must make a nomination to that body. Is it in recess? Then the President must fill the vacancy by a temporary commission." 1 Op. Atty. Gen. 631, 633.[25]

Thirdly, it is argued, "the Recess" contemplated by the constitutional clause "means the recess *sine die* following an annual or extraordinary session of Congress. It does not include the period following an adjournment to a day certain such as the period of the adjournment of the 81st Congress from September 23 to November 27, 1950" (Pet. 81). Hence, according to the argument, the appointments of October 23, 1950, were invalid as "recess appointments" because not made during a "Recess of the Senate." This contention is also without merit. Intrasessional adjournments to a day certain as well as *sine die* adjournments between sessions are recesses within the meaning of the clause. *Gould* v. *United States,* 19 Ct. Cl. 593, 595–596; 33 Op. Atty. Gen. 20; 5 Hind's *Precedents of the House of Representatives,* § 6687; cf. *The Pocket Veto Case,* 279

[25] Followed in *In re Farrow,* 3 Fed. 112 (C. C., N. D. Ga.); 2 Op. Atty. Gen. 525; 3 Op. Atty. Gen. 673; 10 Op. Atty. Gen. 356; 12 Op. Atty. Gen. 32; 12 Op. Atty. Gen. 455; 14 Op. Atty. Gen. 562; 15 Op. Atty. Gen. 207; 16 Op. Atty. Gen. 538; 18 Op. Atty. Gen. 28, 29; 19 Op. Atty. Gen. 261; 30 Op. Atty. Gen. 314; 33 Op. Atty. Gen. 20.

U. S. 655, 686; *Wright* v. *United States*, 302 U. S. 583.[26]

Equally without merit is petitioner's alternative argument that "if the adjournment of Congress from September 23 to November 27, 1950 was in fact 'the Recess,' then the sitting of the Senate that commenced on the latter date must have been its 'next Session,'" with the consequence, it is argued, that "the appointments expired on January 2, 1951 when the 'next session' ended upon the *sine die* adjournment of the 81st Congress" (Pet. 81). The sitting from November 27, 1950, to January 2, 1951, was merely a continuation of the same session (Second Session of the 81st Congress) following an *ad interim* adjournment to a day certain. The "next Session" was the First Session of the 82d Congress, which did not begin until January 3, 1951. Since according to the terms of the constitutional clause recess appointments do not expire until "the End" of the "next Session," the recess appointments here in issue remained valid at all times up to final Senate confirmation during this "next Session." *Gould* v. *United States, supra*, 19 Ct. Cl. 593, 595–596; see Gilfry, *Senate Precedents*, 1789–1913, p. 30; 5 Hind's *Precedents of the*

[26] See also the Report of the Senate Judiciary Committee presented March 2, 1905, in response to a Senate Resolution calling upon it to construe the clause in question (Sen. Rep. No. 4389, 58th Cong., 3d sess., reproduced at 39 Cong. Rec. 3823–3824).

*House of Representatives*, §§ 6676–6687; 20 Op. Atty. Gen. 503.

In any event, even if there were technical merit in any of petitioner's contentions, the validity of the Board's final order would not be affected. As the court below observed (Op. 48, R. 2130):

> The appointments were indubitably valid from August 9, 1951. The taking of evidence, which began April 23, 1951, did not conclude until July 1, 1952. The evidence was taken by a panel of members, but it could have been taken by a hearing examiner (Section 13 (c) of the Act) and not by a member at all. * * * All findings and conclusions were adopted by a properly confirmed Board after hearing before that Board. The order therefore would be valid regardless of the technical legal status of the members as members prior to formal Senate confirmation.

## CONCLUSION

While the case is of course one of importance, it was decided correctly below and there is no conflict of decisions involved. The petition for a writ of certiorari should therefore be denied. If, however, because of the importance of the interests involved, the Court determines to issue the writ, we urge that it be limited to those questions involving the constitutionality of the

Act which are adequately presented on this record and of sufficient merit to call for consideration by this Court at this time.

Respectfully submitted,

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MAY 1955.

U. S. GOVERNMENT PRINTING OFFICE: 1955

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FILED
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HAROLD B. WILLEY, Clerk

No. 48

# In the Supreme Court of the United States

OCTOBER TERM, 1955

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER

*v.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

*ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

## BRIEF FOR RESPONDENT

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# In the Supreme Court of the United States

OCTOBER TERM, 1955

No. 48

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA, PETITIONER

*v.*

SUBVERSIVE ACTIVITIES CONTROL BOARD

*ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

## BRIEF FOR RESPONDENT

### OPINIONS BELOW

The majority (Op. 1–76, R. 2078–2153)[1] and dissenting (Op. 76–89, R. 2153–2166) opinions in the Court of Appeals are reported at 223 F. 2d

[1] "R." will be used to refer to the printed record, which consists of the Joint Appendix to the parties' briefs in the Court of Appeals and the proceedings in that court. "Tr." will be used, where necessary, to refer to the original typewritten transcript of the proceedings and evidence before the Subversive Activities Control Board. For the Court's convenience, references to the opinions in the Court of Appeals will include both the "R." reference and the page number or numbers of the pamphlet copy (which we shall indicate by "Op.").

531. The Report of the Subversive Activities Control Board appears at R. 1–137 [1803–2051].[2]

JURISDICTION

The judgment of the Court of Appeals was entered on December 23, 1954 (R. 2167), and a petition for rehearing was denied on January 14, 1955 (*ibid.*). The petition for a writ of certiorari was filed on April 13, 1955, and was granted on May 31, 1955 (R. 2169). The jurisdiction of this Court rests on 28 U. S. C. § 1254 and § 14 (a) of the Subversive Activities Control Act (see Pet. Br. 260–261).

QUESTIONS PRESENTED

The questions urged, some of which, however, as we suggest in this brief, may be premature at this time, are:

1. Whether the hearing and registration provisions of the Subversive Activities Control Act,

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[2] The Report as it appears at R. 1–137 is the unannotated version, published as Sen. Doc. No. 41, 83d Cong., 1st sess. At R. 1803–2051 it appears in annotated form, *i. e.*, with record references keyed to the Joint Appendix below (which Joint Appendix, together with the proceedings in the court below, see fn. 1, *supra*, comprise the printed record referred to as "R."). The annotated version was filed in the court below as a special appendix to respondent's brief. Whenever we have occasion to refer to the Board's Report, we shall refer to both versions in the manner indicated in the text, *i. e.*, with the reference to the annotated version appearing in brackets immediately following the reference to the unannotated version.

as applied to petitioner, violate the First Amendment.

2. Whether the registration provisions of the Act and the Board's order directing petitioner to register as a Communist-action organization are invalid as violative of the Fifth Amendment's prohibition against compulsory self-incrimination.

3. Whether the registration provisions violate due process on the ground that, allegedly,—

(a) the Act predetermines by legislative fiat petitioner's liability to registration so as to render the proceedings before the Board a mere formality;

(b) the Act establishes a Board which is necessarily biased against petitioner;

(c) the Act authorizes a determination that an organization is a Communist-action organization on the basis of irrational or vague criteria or presumptions;

(d) under § 5 of the Communist Control Act of 1954 it is impossible for petitioner to know whom to register as members; and

(e) the Act makes possible an "astronomical accumulation" of penalties by making each day of failure to register a separate offense.

4. Whether the sanction provisions of the Act, individually or collectively, together with the registration provisions, violate the First Amendment by in effect "outlawing" petitioner and thus sup-

pressing and restricting its freedom of "peaceful," "non-seditious" political advocacy.

5. Whether the member-sanction provisions of the Act deprive petitioner's members of due process by penalizing innocent and unknowing memberships and associations.

6. Whether the sanction provisions make of the Act a bill of attainder.

7. Whether the Board and the court below correctly construed and applied the evidentiary considerations enumerated in § 13 (e) of the Act, which the Board is directed to take into consideration in determining whether an organization is a Communist-action organization.

8. Whether the Board's finding that petitioner is a Communist-action organization is based upon past conduct of petitioner which was discontinued prior to the date of the Act, or whether it is based upon proof as to its current practices and activities as illuminated by its past history.

9. Whether the Board's conclusion that there exists a world Communist movement, having the characteristics described in § 2 of the Act, is, as held by the Court of Appeals, supported by the preponderance of the evidence.

10. Whether the Board's findings are supported by relevant, competent evidence, and whether the Court of Appeals correctly affirmed the Board's order, notwithstanding the fact that it modified two of the subsidiary findings of the Board.

11. Whether petitioner was accorded a fair hearing before the Board.

12. Whether the Court of Appeals properly exercised its discretion in denying petitioner's motion for leave to adduce additional evidence before the Board.

13. Whether the recess appointments of three of the members of the Board were valid originally and continued to be valid until Senate confirmation of their nominations during the next session of Congress, and whether in any event the order under review is valid, it being undisputed that the Board was properly constituted at the time of the order and from a date early in the course of the hearings herein.

## STATUTES INVOLVED

The pertinent provisions of the Subversive Activities Control Act of 1950 (Title I of the Internal Security Act of [September 23,] 1950, c. 1024, 64 Stat. 987, 50 U. S. C. §§ 781 *ff.*), as amended, the Immigration and Nationality Act of June 27, 1952, c. 477, 66 Stat. 163, and the Communist Control Act of [August 24,] 1954, c. 886, 68 Stat. 775, are set forth in the Appendix to petitioner's brief (Br. 225–270).

## STATEMENT

*A. The proceedings before the Board.*—On November 22, 1950, the Attorney General, pursuant to § 13 (a) of the Subversive Activities Control Act of 1950, filed with the respondent Subversive Activities Control Board a petition (R. 143–159)

for an order requiring the present petitioner, the Communist Party of the United States, to register with him as a Communist-action organization in the manner required by § 7 (a), (c), and (d) of the Act. The petition alleged that the Party was a Communist-action organization as defined in the Act (§ 3 (3)), and set forth numerous allegations of fact in support of the contention.

On February 14, 1951, petitioner filed "under protest" an answer denying generally that it was a Communist-action organization as defined in the Act (R. 160–161). The answer cited the fact that there was then pending in the United States District Court for the District of Columbia a suit to enjoin further proceedings before the Board (*ibid.*). Petitioner reserved the right to amend its answer in the event of an adjudication in the pending court proceeding that an answer was required (*ibid.*). On February 28, 1951, a statutory three-judge court, in the proceeding referred to, denied the injunctive relief prayed for. *Communist Party of the United States* v. *McGrath*, 96 F. Supp. 47.[3] On March 13, 1951, the

[3] The court (Letts and Pine, D. JJ.) based its decision on the grounds that petitioner had not exhausted its administrative remedies and that "the public interest is paramount to any threatened loss or damage" to petitioner "pending final determination of the case" (96 F. Supp. at 47). Circuit Judge Bazelon, concurring in the result, based his position on his determination that the Act was not unconstitutional on its face and that no circumstances appeared to warrant the intervention of a court of equity at that stage (*id.* at 47–53).

District Court issued an order staying answer and hearings before the Board to and including March 27, 1951, pending appeal (R. 1 [1804–1805], fn. 1). On March 26, 1951, this Court denied a petition for an extension of this stay (*ibid.*; see 340 U. S. 950). The suit was thereafter abandoned by petitioner (*ibid.*).

On April 3, 1951, petitioner filed an amended answer to the Attorney General's petition (R. 161–187), in which, *inter alia*, it admitted that it was organized in 1919 and had been in existence continuously since that date (R. 162), but again denied being a Communist-action organization as alleged in the Attorney General's petition (*ibid.*).

On April 23, 1951, hearings for the purpose of taking evidence commenced before three members of the Board sitting as a hearing panel (R. 1[1805]). On October 20, 1951, one member of the panel, Charles M. LaFollette, became unavailable to the Board by virtue of the adjournment of Congress without taking action on his nomination (*ibid.*). The hearing proceeded before the remaining two members of the panel, Peter Campbell Brown and Dr. Kathryn McHale, who were present at and participated in the entire hearing (*ibid.*). On October 23, 1951, petitioner moved the Board for an order striking all evidence theretofore received and all proceedings theretofore held because of the failure of the Senate to confirm panel member LaFollette and be-

cause of alleged bias and prejudice of the panel against petitioner (R. 1–2[1805]). The motion was denied following oral argument (R. 2[1805]). Petitioner thereupon instituted proceedings in the United States District Court for the District of Columbia to enjoin continuation of the hearings (*ibid.*; *Communist Party of the United States* v. *Peter Campbell Brown, et al.*, unreported, Civil No. 4648–51). That court, on February 15, 1952, granted the Board's motion to dismiss this suit (R. 2, fn. 2 [1805]).

The hearings ended on July 1, 1952. Briefs and proposed findings of fact were filed by each party on July 28, 1952, reply briefs were filed on August 6, 1952, and oral argument was held before the hearing panel on August 14, 1952. On October 20, 1952, the panel issued its recommended decision finding petitioner to be a Communist-action organization and recommending that the Board order it to register as such. On November 21, 1952, the Attorney General filed certain exceptions to the recommended decision, requesting that the Board adopt the panel's findings with some minor changes of text. On November 24, 1952, petitioner filed its exceptions to the recommended decision. Oral argument on the exceptions was held on January 7, 1953. (R. 2[1805–1806].)

On April 20, 1953, the Board issued its Report (R. 1–137 [1804–2051]) and order (R. 138[2052])

directing petitioner to register in accordance with the finding that it was a Communist-action organization. The Report was unanimous. It was signed by three members of the Board (R. 132 [2042]). The fourth and only other then member of the Board[4] filed a short concurring opinion in which he stated that he was "fully in accord with and concur[red] in the findings and in the determination that [petitioner] is a Communist-action organization under subsection (3) of Section 3 of the Act and required to register as such under Section 7" (R. 133[2042–2043]).

"Upon the overwhelming weight of the evidence in this proceeding," the Report concluded, "we find that [petitioner] is substantially directed, dominated, and controlled by the Soviet Union, which controls the world Communist movement referred to in § 2 of the Act; and that [petitioner] operates primarily to advance the objectives of such world Communist movement" (R. 132[2042]). Under § 3 (3) of the Act, this finding brought petitioner within the definition of a "Communist-action organization." The evidence on which the Board's finding was based is set forth in detail in the Report at R. 4–128 [1810–2034], the bracketed reference containing the Board's annotations, *i. e.*, supporting references to the testimony and exhibits. See fn. 2,

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[4] While the Board is normally composed of five members, there was then a vacancy.

*supra*, p. 2. The Board's Report summarizes the evidence on both sides. Where issues of credibility are met on important points, the Board has recorded its position. Similarly, where there are conflicts in testimony on particular issues, the Board has resolved them. In addition, the opinion of the Court of Appeals contains a briefer but still comprehensive summary of the evidence (Op. 48–75, R. 2125–2152). There is therefore, we believe, no need to attempt to summarize in this brief the voluminous evidence supporting the Board's particular findings and ultimate finding. Reference to the findings of fact in the annotated Report (R. 1810–2034) will enable this Court, to the extent it feels it necessary to do so, to correlate the comprehensive factual data set forth therein with the record testimony and exhibits, without the necessity of reading an additional statement of the evidence. See also *infra*, pp. 209–261.

*B. Proceedings before the court below.*—On June 17, 1953, petitioner, pursuant to § 14 (a) of the Act, filed in the United States Court of Appeals for the District of Columbia Circuit a petition for review (R. 139–142) of the Board's order.

Following submission of the case on briefs and oral argument, petitioner, on August 11, 1954, filed in the Court of Appeals a motion for leave to adduce additional evidence before the Board (R. 2053–2066; see *infra* pp. 277–279),

and on August 20, 1954, a memorandum in opposition to this motion was filed (R. 2067–2076; see *infra*, pp. 279–282). The motion was denied without opinion in an order entered December 23, 1954 (R. 2077). See *infra*, pp. 277–285.

On September 13, 1954, the Court of Appeals set the case for re-argument, the order directing counsel to "address themselves primarily to (1) the validity of the Internal Security Act of 1950 if it be deemed to be not merely a registration statute, that is if it be considered an integrated whole, including the so-called sanction provisions and (2) the effect, if any, of the Communist Control Act of 1954 [which had been enacted on August 24, 1954, after the original submission of the case], upon the order here under review" (R. 2076–2077).

On December 23, 1954, following the submission of further briefs and oral argument, the order of the Board was affirmed, Judge Bazelon dissenting (R. 2167). The court, while modifying two of the Board's subsidiary findings of fact (Op. 72, 73–74, R. 2149, 2150–2151; see *infra*, pp. 257–261), held, after a painstaking review of the evidence (Op. 48–75, R. 2125–2152), that the "ultimate finding of the Board"—*i. e.*, that petitioner "is substantially directed, dominated and controlled by the Soviet Union, which controls the world Communist movement referred to in Section 2 of the Act" and "operates primarily to advance

the objectives of such world Communist movement"—"is supported by the basic findings which in our opinion supported by a preponderance of the evidence, and that the ultimate finding is itself supported by a preponderance of the evidence" (Op. 75–76, R. 2152–2153). The court also held that the Communist Control Act of 1954, except insofar as it amended the Subversive Activities Control Act,[48] had no application to this proceeding (Op. 48, R. 2125). The dissenting judge, being of the view that the registration provisions of the Act were unconstitutional as violative of the Fifth Amendment's prohibition against compulsory self-incrimination (Op. 76–89, R. 2153–2166), did not consider any of petitioner's other contentions (Op. 89, R. 2166).

## SUMMARY OF ARGUMENT

### I

Consideration of the problems which led to the enactment of the Subversive Activities Control Act will tend to show the reasonableness of the Act, particularly as applied to petitioner, and thus to refute the contention that it arbitrarily invades basic constitutional liberties.

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[48] The court's qualifying phrase—"[i]n respects other than those already discussed" (Op. 48, R. 2125)—refers to its footnote 48 at Op. 30, R. 2107, where it discusses the repeal of §§ 5 (c) and 6 (c) of the Subversive Activities Control Act by § 7 (c) of the Communist Control Act.

By 1939, Congress had before it a mass of evidence, collected over the previous nine years, pointing to the conclusion that the Communist International and the Communist Party of the United States were dedicated to the establishment of a proletarian dictatorship by force and violence in this country and throughout the world, and that the American Communist Party was completely controlled both as to policy and leadership by the Soviet Union through the Communist International. The weapons adopted by Congress to combat this evil included the Smith Act of 1940, punishing advocacy of or conspiracy to advocate the overthrow of this Government by force and violence (sustained as against eleven leaders of petitioner in *Dennis* v. *United States,* 341 U. S. 494), the Foreign Agents Registration Act of 1938 (considered in *Viereck* v. *United States,* 318 U. S. 236), and the 1940 Voorhis Act. The two latter Acts were aimed at the dissemination in this country of unidentified foreign propaganda, the remedy adopted being compulsory identification and disclosure.

For various reasons these Acts could not be effectively enforced against organizations, such as petitioner, which threw a "smoke screen" around their operations and obscured the sources and nature of their foreign control. For example, petitioner, at its 1940 national convention, adopted a resolution "dissolving" its affiliation with the Communist International "for the

specific purpose of removing itself from the terms of the so-called Voorhis Act." In addition, the Voorhis Act provided no adequate administrative machinery to search out the true facts regarding control by foreign dictatorships and the real objectives of domestic organizations which were believed (with reason) to be subversive but which veiled their true ends behind a facade of respectability. The Act was addressed only to the formal, overt aspects of a particular group, and failed to reach the true but secret purposes which lay beneath the surface and which constituted a real threat to the security of the United States.

The post-World War II revelations of widespread espionage and infiltration of sensitive government agencies in Canada, England, and the United States by Soviet agents, recruited from the membership of the domestic Communist parties in those countries, showed more clearly the nature and dimensions of the danger. In addition, the evidence adduced at the trial and conviction in 1949 of the eleven leaders of the American Communist Party under the Smith Act, and the commencement of hostilities in Korea in June 1950, furnished Congress with further reason to believe, in September 1950, when the Act in issue was passed, that the dissolution of the Communist International in 1943 had been merely a subterfuge and that there remained in existence a world Communist movement which endangered the security of the United States.

## II

The Subversive Activities Control Act is constitutional as applied to petitioner.

A. *The hearing and registration provisions.*—1. The First Amendment does not prohibit Congress from requiring registration of, and disclosure of information by, domestic organizations dominated by foreign agencies whose purpose it is to establish a Communist dictatorship in this country. The freedoms guaranteed by the First Amendment are not absolute. Even direct limitations on those freedoms are permissible where clearly necessary to the effectuation by Congress of an end within its power to bring about. *A fortiori,* those freedoms may be indirectly restrained in proper circumstances.

This Court has many times sustained statutes which placed indirect restraints on freedom of speech or of the press, where the statute's objective lay within the power of Congress or a state to bring about, and the restraint was a necessary and appropriate concomitant of the exercise of the power. Examples are the Hatch Act (*United Public Workers* v. *Mitchell,* 330 U. S. 75), the Federal Regulation of Lobbying Act (*United States* v. *Harriss,* 347 U. S. 612), the Federal Corrupt Practices Act (*Burroughs and Cannon* v. *United States,* 290 U. S. 534), the non-

Communist affidavit clause of the amended National Labor Relations Act (*American Communications Assn.* v. *Douds,* 339 U. S. 382), the ownership-disclosure requirements of the postal laws (*Lewis Publishing Co.* v. *Morgan,* 229 U. S. 288), and a state statute regulating associations having oath-bound memberships (*Bryant* v. *Zimmerman,* 278 U. S. 63). The Foreign Agents Registration Act (see *Viereck* v. *United States,* 318 U. S. 236, particularly the dissenting opinion of Mr. Justice Black, with whom Mr. Justice Douglas concurred, 318 U. S. at 251) is another illustration of a statute of this type. It is settled, too, that newspaper companies and radio broadcasting stations are subject to regulation in the public interest, notwithstanding the indirect restraints on freedom of speech and of the press which flow from such regulation.

The various evils at which the statutes thus sustained were aimed, grave as they were, are dwarfed in comparison to the evil at which the Act at bar strikes—the threatened destruction, through force, violence, and deceit, of our constitutional form of government and the subjection of the nation to the domination and control of a foreign dictatorship. In the light of that evil, the registration requirements do not invalidly restrict free speech, press, or association. The rationale underlying this Court's decisions sustaining "disclosure" statutes is that it is in the

interest of both free speech and free association that Congress and the public be adequately and correctly informed, at least where the dangers stemming from non-disclosure are serious. In the light of our knowledge of the world Communist movement and of the danger it presents to the nation, the device of registration and disclosure can properly be applied to the Communist Party, now that it has been found, after full hearing, to be directed and controlled by the Soviet Union and to be operating primarily to advance the objectives of the world Communist movement.

2. Neither the registration provisions of the Act nor the Board's order violates the Fifth Amendment's prohibition against compulsory self-incrimination.

(a) The privilege applies only to natural individuals, of whom there is none before the Court at this time. The present case is therefore not a proper vehicle for the litigation of self-incrimination issues.

(i) The privilege must be personally and explicitly claimed. There has been no claim of privilege thus far, and there may never be one. Since this Court does not anticipate constitutional issues, petitioner's attempt to litigate the self-incrimination issue in this case, before it is raised, is premature. The officers of petitioner who will have the duty to effect its registration

when the registration order becomes final will be able to claim their privilege on the registration form required to be filed with the Attorney General. The question of the validity of the claim, if its validity is disputed, can then be litigated.

There are several reasons, moreover, why it cannot justifiably be assumed at this time that a substantial claim of privilege will inevitably be made and be required to be honored when petitioner is confronted by the statutory requirement that it register, after the order becomes final.

The top officials of petitioner, who are the ones who will have the duty of filing the registration statement, have never attempted to conceal their membership and places of leadership in petitioner. A claim of privilege on their part would be on a different footing from a similar claim by a person not publicly and indisputably known as a Communist Party member. The privilege presupposes a real danger of legal detriment arising from disclosure. *Rogers* v. *United States*, 340 U. S. 367. Relevant to the issue of the *bona fides* of a claim of privilege against *self*-incrimination would be the fact that under the Act neither the holding of office nor membership in a Communist organization shall constitute *per se* a violation of any criminal statute, and

the further fact that the registration of any person under the Act as an officer or member may not be received in evidence against him in any prosecution for any alleged violation of any criminal statute. Moreover, two of the members of petitioner's National Committee voluntarily testified in this very case and admitted their high official positions; they may thereby have waived any privilege. Whatever the merits of these hypothetical questions, their determination should await their being maturely raised.

(ii) Even assuming, moreover, that a claim of privilege will be made and that when made it will be required to be honored, this would make the order to register at most unenforceable, not void. This non-enforceability would not affect the "sanctions" which come into effect when an order to register becomes final; and Congress could certainly remove the barrier to non-enforceability by a grant of immunity. Furthermore, an important public function is served by the Board's finding that petitioner is a Communist-action organization and should register, regardless of whether the registration can actually be effected.

(b) If the Court should reject our argument that it need not and should not now pass upon the issue of whether an officer of petitioner can validly claim the privilege as a ground for not

registering petitioner, and should desire to determine that issue in this proceeding, our position would be that the privilege is not available to such officers, under the rationale of *United States* v. *White,* 322 U. S. 694—that an officer of an organization who has custody of its records, if called upon to produce them pursuant to a subpoena, may not lawfully refuse even if they would tend to incriminate him personally. The rationale of this decision is not inapplicable on the ground that in that case physical records were in question, while the issue here is the compulsory submission of a registration statement containing the names and addresses of officers and members of petitioner and an accounting of moneys received and expended. The data required to be contained in the registration statement are reproductions of or extracts from organization records. If the officer can be compelled to produce the physical records, he can be compelled to transpose their pertinent data to a registration form. Any valid privilege as to personal information can be claimed on the registration form. Cf. *United States* v. *Sullivan,* 274 U. S. 259.

(c) The validity of the personal registration requirements of § 8 is not in issue since no individual member of petitioner has been required to register and none is before the Court.

3. The registration provisions are in accord with due process.

(a) The Act does not predetermine petitioner's liability to registration so as to render the proceedings before the Board a formality; nor does it contain any "built-in" finding against petitioner. Petitioner's contrary argument ignores the crucial language in the § 3 (3) definition of a "Communist-action" organization. Under that definition, a domestic organization which is not substantially controlled by the foreign government or group controlling the world Communist movement, *or* which does not operate primarily to advance the objectives of that movement, is not a Communist-action organization and is not subject to the registration and other provisions of the Act, regardless of how "communistic" its philosophy might be, or how deep might be its bonds of sympathy and kinship with the foreign government or organization. The important point is that Congress required proof, which it made subject to judicial review, of the two fundamental operative facts (referred to above) by a preponderance of the evidence in proceedings before the Board, before the obligation to register or any other requirement of the Act could become effective.

Due process does not require that the congressional findings in § 2 as to the existence of a world or an American Communist movement be the subject of redetermination before the Board. These are general *legislative* findings supporting

the Act as a whole and not *adjudicative* facts forming the basis for an order against an individual organization. This Court has specifically recognized the general adequacy of these legislative findings. *Galvan* v. *Press*, 347 U. S. 522; *Carlson* v. *Landon*, 342 U. S. 524.

(b) The Act does not establish a Board which is "necessarily biased" against petitioner. Petitioner's contention to the contrary in effect charges that the structure and scheme of the Act are such that it would be impossible to staff the Board with members who would not enter upon their duties with the intention of violating their oaths of office. But courts should not assume in advance that an administrative hearing may not be fairly conducted, particularly where, as here, full opportunity for judicial review is afforded by the Act. *Fahey* v. *Mallonee*, 332 U. S. 245.

(c) The Act does not authorize a determination that an organization is a Communist-action organization on the basis of irrational or vague criteria or presumptions. The Act establishes no tests or criteria of whether an organization is a Communist-action group other than the test established by the definition of such an organization in § 3 (3) (see *supra*, p. 21; *infra*, p. 69), which petitioner concedes to be "definite and meaningful." The eight factors itemized in § 13 (e) are merely evidentiary considerations which the Act directs the Board to take into account in determining whether an organization meets the § 3 (3)

definition. When these factors are thus correctly understood they are all rational and probative with respect to the decisive issue presented by the definition. And the fact that Congress directed the Board to "take into consideration" "the extent to which" the § 13 (c) factors are true or applicable with respect to a given organization does not render vague the ultimate standard of § 3 (3). Cf. *Opp Cotton Mills* v. *Administrator*, 312 U. S. 126; *Bowles* v. *Willingham*, 321 U. S. 503.

(d) The Communist Control Act of 1954 does not make it impossible for petitioner to know who its members are. Section 5 of that Act does not establish "criteria" for determining membership in petitioner any more than § 13 (e) of the Act at bar establishes "criteria" for determining whether an organization is a Communist-action group. The purpose of § 5 is merely to list items of evidence to be considered in reaching the ultimate factual conclusion of knowing membership. Petitioner's attempt to depict § 5 as a trap for the unwary disregards the nature of the listed items as nonexclusive evidentiary factors and ignores the further provision of § 5 that the determination by "the jury" of the issue of knowing membership shall be "under instructions from the court". Moreover, the language of § 5 shows that it has no application to or connection with petitioner's duty under this Act to file a registration

statement listing its members, or to possible criminal proceedings against it or its officers for wilfully omitting the names of any members in such a statement.

(e) The validity of the provision making each day of failure to register a separate offense is not presented in this proceeding, since the penalty may never be applied to petitioner. In any event, the provision is valid. There can be no "astronomical accumulation" of penalties unless an organization which has been finally ordered to register chooses to incur them by continued deliberate noncompliance with a Board order which has been judicially sustained. It is settled that the extent of the permissible punishment imposable under an otherwise valid statute is a matter of exclusive legislative discretion.

B. *The sanction provisions.*—Immediately upon the registration of an organization under the Act, or when an order of the Board requiring an organization to register becomes final (after judicial review), certain "sanctions", or legal disabilities, automatically occur.

1. Petitioner contends that the sanctions, considered individually and collectively together with the "public opprobrium" which results from a registration order, make the Act one of "outlawry" and, as such, restrict and suppress its freedom of peaceful political advocacy, in violation of the First Amendment. If the validity of

these sanctions is now properly before the Court, our position is that they are reasonable and valid, considered in the light of the evil at which the Act strikes.

(a) *Sanctions applicable to organizations as such.*—(i) When an organization is registered or has been finally ordered to register, it must label its mailed literature and identify its broadcasts as emanating from a "Communist organization". Such labeling imposes no censorship on any mailed matter or broadcast material; the content of either is immaterial. What the provisions do is not to censor the "speech", but to identify the "speaker". If such revelation interferes with the purposes of an organization by destroying its anonymity and disclosing its true nature, it is because of the unpopularity of the organization in the free market of ideas.

The decisions of this Court teach that such disclosure and labeling requirements may be validly imposed in order to serve a proper purpose. (See *supra*, pp. 15–16). And what we have in this case is the Communist Party, foreign-controlled and engaged, among its other activities, in widespread propaganda on behalf of its ultimate objective of domination by the world Communist movement and the Soviet Union. Much of its propaganda is covert, and all of it attempts to sell itself to the public as peaceful and lawfully inspired. Theoretically, if everyone had the

time and talent to be able to make an independent evaluation of the truth or soundness of each political utterance with which he is propagandized, he would have no need to know from what source the propaganda came. But as a practical matter this independent determination is in most cases impossible, and in making judgments we are continually influenced by the source from which statements emanate. And nowhere is the need for disclosure of the true source of propaganda more pressing than in the case of a Communist-action organization. In the light of the allegiance of American Communists to a foreign power and their ultimate goal, the extensive degree to which they use the technique of concealment, and the success that they have had in influencing public opinion by this technique, the requirement that the Communist Party identify its propaganda as emanating from a "Communist organization" is justified. Such identification does not limit freedom of expression, but adds to the relevant facts in the market-place of competing ideas.

Petitioner can have no valid objection to being required to identify itself as "The Communist Party, a Communist organization". An organization subject to the labeling requirements of this Act is one that has been found, after a full hearing (including judicial review), to be the puppet of a foreign power, working to achieve

the ends of that power. It is not "just another political party". When an agency of the world Communist movement poses tactically as a benign domestic organization and champion of constitutional liberties, while concealing its ultimate strategy of foisting a communistic dictatorship on the nation in a Czechoslovakia-type coup—as soon as its leaders are in positions of sufficient power and the ranks of its lesser members have been sufficiently strengthened by the duped victims of its propaganda—Congress can act to defeat the strategy by compelling the truthful identification of the source of the propaganda.

(ii) The Act's disallowance of deductions for tax purposes of contributions to any organization which has been finally ordered to register as a Communist organization and its denial to such an organization of tax-exemption under the Internal Revenue Code are reasonable and valid withdrawals by Congress of its legislative grace for proper reasons of policy.

(iii) The Act makes it unlawful for officers and employees of the United States and of defense facilities to contribute funds or services to organizations which have been finally ordered to register. Assuming that the effect of this prohibition on petitioner is not so remote, despite the indirectness of its impact, as to deprive it of standing to challenge it, it is a reasonable

and valid measure in relation to the evil at which the Act is aimed. If Congress can validly forbid employees of the United States to engage in partisan politics (*United Public Workers* v. *Mitchell*, 330 U. S. 75), and if the Government has the power to safeguard itself by appropriate security and loyalty investigations of its employees, Congress can validly forbid them to contribute to the welfare of an organization having as a primary objective the destruction of their employer at the earliest feasible opportunity and "by any available means, including force if necessary" (§ 2 (6)).

Similarly, if Congress can validly provide that members of a Communist-action organization shall be ineligible for defense-facility employment (see *infra*, p. 29), it can also forbid the employees of such facilities to support such an organization with money contributions.

(b) *Sanctions applicable to individual members of organizations ordered to register.*—(i) The members of an organization finally ordered to register are barred from government and defense-facility employment, and from holding office in or employment with any labor organization or as employer-representatives in proceedings under the National Labor Relations Act.

The reasonableness and validity of the prohibition against government employment is clear.

The prohibition applies only to those members who continue to remain such with knowledge or notice that the organization to which they belong either has voluntarily registered under the Act or has been finally ordered to do so. The prohibition against defense-facility employment is on a par with that relating to government employment. The manifest purpose of the prohibition is to guard against sabotage and espionage in establishments vital to the national defense. Congress is not limited, in guarding the nation against these dangers, to exacting criminal penalties after they occur. It can adopt reasonable measures to prevent their occurring. We must assume that the Secretary of Defense, under the power granted him by § 5 (b), will designate as "defense facilities" establishments that are vital to the national security. The Secretary's discretion is not "unfettered"; the rule of reason would apply here as elsewhere to supply a remedy if the authority were abused.

The prohibition against holding office in or employment by labor organizations is a logical corollary of *American Communications Assn.* v. *Douds*, 339 U. S. 382, where the Court sustained the validity of the non-Communist affidavit provision of the amended National Labor Relations Act. If a union officer who cannot subscribe to a non-Communist affidavit can be forced out of his position of leadership in the union by the indirect

method of depriving his union of rights it would otherwise enjoy before the Labor Board, there can be no infirmity in directly prohibiting him from being on a labor union staff as an officer or employee, so long as he retains his Communist ties. The prohibition against employer-representation is on the same footing, for management representatives, from their places on the other side of the bargaining table, can use their positions for political ends to the same (if not to a greater) extent than union officials.

(ii) Equally valid is the prohibition against the use of passports by members of organizations which have been finally ordered to register. The Government may decline to confer its diplomatic protection upon members of an organization found to be dedicated to its overthrow by force. The passport sanction is also valid insofar as it prevents travel abroad by members of such an organization. The unity and cohesive force of the world Communist movement are promoted through personal contacts of its members both here and abroad. Congress has the power to seek to prevent such contacts in the manner encompassed by this provision.

(iii) Alien members of Communist-action organizations which by a final order have been directed to register are excludable and deportable from the United States, and are ineligible for naturalized citizenship. Petitioner expressly con-

cedes the validity of the exclusion and deportation sanctions. And there can be no doubt of the constitutionality of the naturalization sanction in view of the plenary power of Congress to impose conditions upon the conferring of citizenship by naturalization. The Act also provides that membership (within five years after naturalization) in a Communist-action organization shall, with respect to persons who obtain naturalization in the future, constitute a rebuttable presumption in denaturalization proceedings of lack of attachment to the principles of the Constitution at the time of naturalization. Since there is no question of retroactivity, or of the Government's revoking a grant of citizenship on grounds which the naturalized person could have had no reason to anticipate when he received it, this provision is likewise valid.

2. The member-sanctions do not deprive petitioner's members of due process, in that they do not rest on innocent and unknowing memberships and associations of the past. They apply only to members who continue their membership after an organization registers or is finally ordered to register. *Wieman* v. *Updegraff*, 344 U. S. 183, is therefore inapplicable. Nor is there merit in petitioner's contention that, after an organization has registered as a Communist-action group, thereby admitting its character as defined in § 3 (3), or after it has been formally found to be such

an organization by a Board finding which has been judicially reviewed and sustained, each member must be afforded an opportunity personally to rebut the characterization, before any member-sanction can apply to him on account of his continued membership.

3. The sanction provisions do not make of the Act a bill of attainder. For a legislative act to constitute a bill of attainder, it is necessary that there be *punishment* and that the conduct punished be *past* conduct. *American Communications Assn.* v. *Douds,* 339 U. S. 382. The latter characteristic, regardless of whether the sanctions be deemed of a penal nature or not, is not present in the Act at bar. The "members" on whom the sanctions are imposed are not past or former members of the organization, but *current* members. *Bona fide* termination of membership by any person who is a member up to the time of registration or the time when an order to register becomes final precludes the sanctions' taking effect as to him.

## III

The court below correctly sustained the Board's factual findings that petitioner is a Communist-action organization as defined in the Act.

A. There is no occasion for a second judicial review of the Board's factual finding that petitioner is a Communist-action organization. A unanimous Board found, on the basis of the

"overwhelming weight of the evidence", that petitioner is a Communist-action organization. It presented the grounds of this finding, and the subsidiary findings on which it rests, in an exhaustive report covering 133 printed pages. The court below, in discharge of its statutory obligation, after a painstaking review of the entire record, determined that the Board's finding was "supported by the preponderance of the evidence", and devoted more than a third of its 76-page opinion to a discussion and analysis of the evidence on both sides. In these circumstances, there is no occasion for this Court to subject the lengthy transcript to a second judicial review for the purpose of reappraising and re-evaluating the evidence. It need do no more than satisfy itself that the court below made a fair assessment of the record on the issue of sufficiency of the evidence. *National Labor Relations Board* v. *Pittsburgh Steamship Co.*, 340 U. S. 498; *National Labor Relations Board* v. *American Insurance Co.*, 343 U. S. 395. That the court below did so is evident from its opinion.

B. Petitioner makes no attempt to assay the significance of any of the proof it attacks from the standpoint of the sufficiency of the evidence as a whole. Its attack is concentrated on minutiae of the evidence, frequently lifted out of context. This fragmentary approach overlooks the fact that all relevant facts are cumulative

in delineating a completed whole, and that an unmistakable picture can emerge from numerous fragments having little individual significance. Viewed from the standpoint of the record as a whole, petitioner's criticisms are but pin pricks at the evidence, often relating to matters having obviously minor bearing on the ultimate issue.

1. The Board and the court below correctly construed and applied the evidentiary considerations enumerated in § 13 (e) of the Act. The Board's finding, *inter alia*, that Marxism-Leninism, as understood, used, and followed by petitioner, consists of a body of doctrine, policies, strategies, and tactics intended to bring about the end of capitalism and to substitute for it a dictatorship of the proletariat, and that it has been promulgated and issued by the Soviet Union as "the overall philosophy, authoritative rules, directives and instructions governing the world Communist movement", fully met the requirements of the "directives and policies" factor.

As for the "non-deviation" factor, the point is not that petitioner's views on every issue were hostile to the interests of the United States. The point is rather that the fact that a domestic organization, throughout its 30 years' history, has faithfully and without deviation mirrored the views of a foreign power on every significant aspect of world politics is surely evidence, to be weighed in the balance with all the other evi-

dence, that the foreign power controls the domestic organization and dictates its policies.

The contention that the Board and the court below misconstrued and misapplied the "discipline" factor of § 13 (e) (6) is in reality nothing more than an attack on the sufficiency of the evidence supporting the Board's finding on this point. It illustrates petitioner's mistaken insistence, met with throughout its discussion of the evidence, that the evidence under each of the § 13 (e) categories be considered *in vacuo*, unconnected with and unilluminated by any of the other evidence of record.

The argument that the Board misapplied the "allegiance" factor of § 13 (e) (8) is based on petitioner's mistaken assumption that the Board's finding that petitioner advocates the violent overthrow of the United States Government was based primarily on the Marxist-Leninist writings considered by this Court in *Schneiderman* v. *United States*, 320 U. S. 118. The Board's force-and-violence finding was based upon the testimony of former members of petitioner, as well as upon authoritative writings not in evidence in the *Schneiderman* case.

2. The Board's finding that petitioner is a Communist-action organization is based upon proof as to its current practices and activities as illuminated by its past history. The Board did not, as petitioner contends, rest its decision upon any "vague presumption of continuance". Peti-

tioner's own witnesses testified that petitioner was the same sort of organization at the time of their testifying as it had always been. Petitioner's whole position in this case has been that it has never been—or at least that it has not been since 1940—an organization of the type the Act defines. The Government's evidence overwhelmingly established the contrary—that petitioner was and is such an organization.

3. The Board's conclusion that there exists a world Communist movement having the characteristics described in § 2 of the Act, while not essential to the validity of its order, was in any event supported by the preponderance of the evidence, as the court below found.

C. Petitioner's intemperate attack on the Attorney General's witnesses as "discredited" and its charge that the Board's findings are based on "misrepresentation of the evidence" are insubstantial and are based in many instances on distortions of the record. The use of informers as witnesses involves issues, not of law, but of credibility, the resolution of which is for the triers of the facts. The record shows that all of the Attorney General's witnesses were subjected to extensive cross-examination on matters going both to the substance of their testimony and to issues of credibility, and the Report of the Board makes it clear that it carefully weighed

petitioner's attacks on the character of certain of the witnesses.

D. The action of the court below in modifying two of the subsidiary findings of the Board did not require that it remand the case to the Board for redetermination. The court found that the Board's ultimate and decisive finding—that petitioner is a Communist-action organization as defined in the Act—was supported by the preponderance of the evidence. Under the circumstances, remand would have served no useful purpose. It therefore correctly affirmed the Board's order. *National Labor Relations Board* v. *Newport News Co.*, 308 U. S. 241.

## IV

Petitioner was not denied a fair hearing before the Board.

A. There is no evidence that the Board, whose members served originally under recess appointments, was subjected to "extra-legal pressures" on the part of the Senate Judiciary Committee or its chairman. Petitioner's argument that "for many months during the pendency of the administrative proceeding, the tenure of the Board members was subject to the pleasure of the Senate Judiciary Committee" is in essence an indictment of all recess appointments as such. Petitioner's buttressing argument, that influence was in fact exerted on the Board members, finds no support in the record, but rests on pure specu-

lation stemming from the fact that certain of the Attorney General's witnesses discussed the conduct of Board members in conversations with an old friend of theirs, a former member of the Communist Party, who was an employee of a subcommittee of the Senate Judiciary Committee.

B. Petitioner's motions to disqualify panel members McHale and Brown for alleged personal bias and prejudice were properly denied.

1. The comments of panel member McHale in the speech which she made during the progress of the hearings, viewed in their context, did not indicate a belief on her part, as petitioner contends, that the hearings were a mere formality.

2. The remarks of panel member Brown which petitioner claims showed bias on his part were made *after* he and Dr. McHale had made their findings and recommendations in the case. Mr. Brown's public repetition of what he had already made a matter of record—that on the evidence he had heard he believed petitioner to be a Communist-action organization as defined in the Act—showed no bias on his part.

## V

A motion to the Court of Appeals under § 14 (a) for leave to adduce additional evidence before the Board is addressed to the sound judicial discretion of the court. Cf. *National Labor Relations Board* v. *Indiana & Michigan Electric Co.*, 318 U. S. 9. In this case an analysis of the

evidence, particularly as shown in the Board's memorandum in opposition to petitioner's motion, indicates that, even if the testimony of the three government witnesses in question were completely ignored, there would have been no reasonable possibility that the Board's ultimate and decisive finding—that petitioner is a Communist-action organization as defined in the Act—would have been different.

## VI

A. The recess appointments of Board members Brown, McHale, and Coddaire during the adjournment of the Second Session of the 81st Congress from September 23 to November 27, 1950, were valid.

1. The appointments filled "vacancies" on the Board even though the offices filled were newly-created positions which had had no prior occupants. The argument that the only vacancies which may be filled by recess appointments are vacancies arising from the death, resignation, or removal of prior occupants would frustrate to an important degree the very purpose of the recess appointment clause, which is to enable the business of government to be carried on through temporary appointments during periods when the Senate is not available to act on nominations to office. This has been the prevailing understanding.

2. The fact that the vacancies arose simultaneously with the passage of the Act on September 23, 1950, while the Senate was still in session, did not preclude their being filled by recess appointments during the recess, or period of adjournment, which commenced later on that same day. The true meaning of the recess appointment clause—the one which alone comports with its evident sense and spirit, and which has the support of executive interpretations commencing at an early date in the nation's history, in addition to sound judicial support—is that the President may make recess appointments to fill vacancies which *happen to exist* during a Senatorial recess even though they may have come into existence while the Senate was in session.

3. The appointments were made during "the recess" of the Senate. Intrasessional adjournments to a day certain, if of substantial duration, as well as *sine die* adjournments between sessions, are recesses within the meaning of the constitutional clause. The decisive consideration is whether the Senate in a practical sense is unavailable to receive nominations to office, so as to necessitate the granting of temporary commissions to fill vacancies in order that the business of government may be carried on. The Senate was absent and unavailable in this practical sense during the period of adjournment from September 23 to November 27, 1950.

B. The recess appointments did not expire on January 2, 1951, with the expiration of the Second Session of the 81st Congress, thereby leaving a seven-month hiatus in the tenure of the Board members, *i. e.*, between that date and August 9, 1951, when the members' regularly submitted nominations were duly confirmed. Under the terms of the recess appointment clause, recess appointments expire at "the end" of the "next session" of the Senate following "the recess" in which they were made. In this case, the "next session" was the First Session of the 82d Congress, which began on January 3, 1951, and did not end until October 20, 1951. Senate confirmation of the members' nominations on August 9, 1951, thus occurred during that session, while the recess appointments were still in effect. There was consequently no gap in the members' tenure. Petitioner's contention that the recess appointments expired on January 2, 1951, with the close of the Second Session of the 81st Congress, involves the untenable assumption that the adjournment of Congress from September 23 to November 27, 1950, split that "Session" into two "sessions." That such adjournments to a day certain do not have this effect is clear from Article I, § 5, clause 4 of the Constitution, which provides that "Neither House, *during the Session of Congress,* shall, without the Consent of the other, adjourn for more than three days * * *" [emphasis added].

## ARGUMENT

Petitioner and the *amici curiae* level a broad-scale attack against almost every provision and facet of the Subversive Activities Control Act, as if the Court were called upon in this one ruling to pass upon the whole Act and its entire application. But the truth is, of course, that the Act is multi-faceted and only some of its aspects are now ripe for adjudication. Three types of organizations —"Communist-action", "Communist-front", and "Communist-infiltrated"—are dealt with in the Act. As to these organizations, there are three general classes of provisions—hearing and registration requirements, non-criminal sanctions, and criminal penalties; there are also comparable classes of provisions as to certain categories of individuals. In this case at this time, we have only one organization and only one of the three types—the Communist Party of the United States, found to be a Communist-action organization; no other class of organization and no individuals at all are before the Court. Moreover, we are dealing with the Communist Party only at the stage when it is availing itself of its statutory right to contest in the courts the Board's finding that it is a Communist-action organization and the Board's order that it register as such.

These facts mold the frame in which the Court will view the case and in which we must present

it. But before focussing directly on the various levels of controversy, we think that it will be helpful to sketch the historical background of the Act, and also to give a somewhat detailed analysis of the Act's provisions (although only part of these provisions are directly pertinent to this case).

## I

### INTRODUCTION: THE BACKGROUND AND PROVISIONS OF THE SUBVERSIVE ACTIVITIES CONTROL ACT

#### A. THE HISTORICAL BACKGROUND OF THE ACT

We give a brief review of the Act's historical setting in the hope that it will assist the Court in its task of weighing the merits of petitioner's arguments. Just as an examination of the problem or evil which evoked the passage of legislation is a sound guide to its purpose and meaning (*Holy Trinity Church* v. *United States*, 143 U. S. 457, 463; *Apex Hosiery Co.* v. *Leader*, 310 U. S. 469, 489–493), so too a fair appreciation of the nature of the problem which led to the enactment of a statute is indispensable to proper evaluation of the soundness of challenges to its constitutionality. Cf. *American Communications Assn.* v. *Douds*, 339 U. S. 382, 388–389; *Dennis* v. *United States*, 341 U. S. 494, 562–566 (Mr. Justice Jackson, concurring). Consideration of the problems which called the legislation here involved into being will tend to show, we believe, the reasonableness of the basic scheme of the Act, par-

ticularly as applied to the petitioner, and thus to refute the contention that it arbitrarily invades basic constitutional liberties. Rarely has there been a more intense study of methods of dealing with a particular evil than that which preceded and produced the Subversive Activities Control Act of 1950.[5]

Following World War I, there developed the powerful totalitarian political movements of Communism, National Socialism, and Fascism in Russia, Germany, and Italy. The success of the so-called Fifth-Column groups in Europe during the 1930's indicated the vulnerablity of republican forms of government to conspiracies guided from outside the country involved, ready to seize total power by illegal means as soon as the time became propitious. See Loewenstein, *Legislative Control of Political Extremism in European Democracies* (1938), 38 Col. L. Rev. 591–622, 725–774. By 1940 it was clear that these highly organized and disciplined totalitarian movements, financed and directed from abroad and promoted domestically by secret dedicated action-groups, involved much greater danger to the democracies than had earlier individual exponents of political violence. The danger became one, not of ideas and philoso-

[5] There is a more detailed discussion of much of this material in the Government's brief in this Court, pp. 174 *et seq.*, in *Dennis* v. *United States*, Oct. Term 1950, No. 336.

phies, but of external aggression aided by local Trojan-Horse groups serving the aggressive aims of their foreign principals.

As early as 1930, investigations were conducted by Congressional committees into Communist propaganda and activities in the United States and considerable testimony directed to this issue was adduced in various cities of the United States. See *Internal Security Manual*, Sen. Doc. No. 47, 83d Cong., 1st sess. (1953), pp. 216–217. In 1934, the investigation was extended to Nazi propaganda activities. *Id.*, pp. 217–218. During the years 1930–1940, it was shown that the alien political philosophies of the right and left had created divided loyalties in this country. For example, William Z. Foster, the leader of the Communist Party of the United States, testified in 1931 that the "more advanced workers" in this country "look upon the Soviet Union as their country" (Hearings before a Special Committee to Investigate Communist Activities in the United States, H. R., 71st Cong., 2d sess., Part I, vol. 4, p. 384).

Also significant were the 1939 hearings before the House Committee on Un-American Activities, in which the testimony of such witnesses as Benjamin Gitlow and Earl Browder, as well as a mass of documentary evidence, tended to show the subservience of the American Communist Party to the Soviet Union (Hearings before a

Special Committee on Un-American Activities, H. R., 76th Cong., 1st sess., vol. 7, *passim*). Congress had before it the *Theses, Statutes, and Conditions of Admission to the Third (Communist) International*, adopted at the Second World Congress of the Communist International, in 1920 (*id.*, vol. 7, pp. 4668–4671).[6] Among the "conditions" which a party aspiring to join the International was required to accept were: Willingness to combine illegal with legal work to advance the objective of a world proletarian dictatorship (condition 3); willingness to infiltrate and carry on propaganda and agitation in military organizations (condition 4); renunciation of "social patriotism," and systematic demonstration to the working class of the necessity of a "revolutionary overthrow of capitalism" (condition 6); recognition of the necessity of "complete and absolute rupture with reformism and the policy of the 'centrists'" (condition 7); willingness to carry on "systematic and persistent Communist work in the labor unions" and to form "Communist nuclei" within unions to the end that they should be "'[won] over * * * to Communism'" (condition 9); willingness to "re-

[6] These *Theses, Statutes, and Conditions of Admission* were in evidence in the present proceeding (A. G. Ex. No. 8, R. 1318–1332). They are also set forth in *Blueprint for World Conquest as Outlined by the Communist International* (Human Events, 1946), pp. 33–72.

move all unreliable elements" from "the personnel of their parliamentary factions" and to ensure the subjection of such personnel to the "Central Committee of the party" (condition 11); the maintenance of "iron discipline" on the basis of the "principle of democratic centralization" to the end that the "party centre" may enjoy "the confidence of the party membership" and be "endowed with complete power" over it (condition 12); willingness to "render every possible assistance to the Soviet Republics in their struggle against all counter-revolutionary forces" and to carry on "propaganda to induce the workers to refuse to transport any kind of military equipment intended for fighting against the Soviet Republics" (condition 14); recognition of the "binding" force of all resolutions of congresses of the Communist International and of its Executive Committee on "all parties joining the Communist International" (condition 16); and exclusion from the party of all members who "reject in principle the conditions and theses" (condition 21).[7]

Congress was informed that these "conditions" governed the relationship between the American Communist Party and the International (Hearings, etc., *supra*, vol. 7, pp. 4308–4311, 4667–4668).

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[7] *Blueprint for World Conquest as Outlined by the Communist International* (Human Events, 1946), pp. 66–72; Hearings, etc., *supra*, vol. 7, pp. 4669–4671.

For example, in 1929, the Executive Committee of the International, under the personal leadership of Stalin and Molotov, decided upon and enforced the replacement of the Lovestone-Gitlow leadership of the American Party with that of Foster and Browder. When Lovestone and Gitlow defied the Executive Committee, Stalin made a speech reminding them of the fate of Trotsky and Zinoviev (*id.*, p. 4432),[8] and the Party's organ, the *Daily Worker*, stated editorially on June 1, 1929, that (*id.*, p. 4671)—

> * * * Comrades Lovestone and Gitlow in their declaration of May 14 refused to accept the address or to carry it out, and even went to the length of stating that they would actively oppose it. They are thus entering upon a course leading toward an attempt to split the party, *a course in violation of the 21 conditions and the statutes of the Comintern.* * * * [Emphasis added.]

Thus, by 1939, there was a mass of oral and documentary evidence collected by the House Committee on Un-American Activities over the previous nine years (see *Internal Security Manual*, Sen. Doc. No. 47, 83d Cong., 1st sess., pp. 216–219), from which it could be concluded that both the Communist International and the Com-

[8] The full text of this speech is set forth in the Appendix to the Hearings, Part I, pp. 876–882.

munist Party of the United States were devoted to the establishment of a proletarian dictatorship by force and violence, and that the American Communist Party was completely controlled both as to policy and leadership by the Soviet Union through the Communist International. See also H. Rep. No. 153, 74th Cong., 1st sess. (1935), p. 21.

Congress first endeavored to deal with this problem in several ways. In the portion of the Alien Registration Act of 1940, c. 439, 54 Stat. 670, known as the Smith Act—*i. e.*, §§ 2, 3, and 5 (now consolidated in 18 U. S. C. § 2385)—it was made a criminal offense to advocate the overthrow of the Government by force and violence or to conspire so to advocate.[8a] The problem of the dissemination of foreign propaganda was approached by the method of disclosure. In 1938, Congress enacted the Foreign Agents Regis-

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[8a] The constitutionality of this provision, as applied to a conspiracy charge against eleven national officers of petitioner for the period from April 1, 1945, to July 20, 1948, was upheld in *Dennis* v. *United States*, 341 U. S. 494. See also *Frankfeld* v. *United States*, 198 F. 2d 679 (C. A. 4), certiorari denied, 344 U. S. 922 (sustaining the conviction of other functionaries of the Party); *United States* v. *Flynn*, 216 F. 2d 354 (C. A. 2), certiorari denied, 348 U. S. 909 (thirteen Party leaders); *Yates* v. *United States*, —— F. 2d —— (C. A. 9), decided March 17, 1955, pending on writs of certiorari, Nos. 308–310, this Term (fourteen Party leaders); *United States* v. *Mesarosh*, 223 F. 2d 449 (C. A. 3), pending on petition for certiorari, No. 295 Misc., this Term (five Party leaders).

tration Act, c. 327, 52 Stat. 631, 22 U. S. C. §§ 611–621, requiring the registration of any individual or organization acting as the domestic agent of a foreign principal and requiring information as to the identity of the principal and the terms of the contract. The committee reports on the bill which became that Act both stated as follows (H. Rep. No. 1381, 75th Cong., 1st sess., pp. 1–2; S. Rep. No. 1783, 75th Cong., 3d sess., pp. 1–2):

> Incontrovertible evidence has been submitted to prove that there are many persons in the United States representing foreign governments or foreign political groups, who are supplied by such foreign agencies with funds and other materials to foster un-American activities, and to influence the external and internal policies of this country, thereby violating both the letter and the spirit of international law, as well as the democratic basis of our own American institutions of government.
>
> * * * * *
>
> This required registration will publicize the nature of subversive or other similar activities of such foreign propagandists, so that the American people may know those who are engaged in this country by foreign agencies to spread doctrines alien to our democratic form of government, or propaganda for the purpose of influencing

American public opinion on a political question.

* * * * *

We believe that the spotlight of pitiless publicity will serve as a deterrent to the spread of pernicious propaganda. We feel that our people are entitled to know the sources of any such efforts, and the person or persons or agencies carrying on such work in the United States.

Various difficulties in the enforcement of the Foreign Agents Registration Act (see Report of the Institute of Living Law, 87 Cong. Rec., Appendix, pp. A4417–4419 (1941); Institute of Living Law, *Combating Totalitarian Propaganda: The Method of Exposure* (1943), 10 Univ. of Chi. L. Rev. 107) resulted in its amendment by the Act of April 29, 1942, c. 263, 56 Stat. 258, which strengthened the provisions and transferred the administration of the Act to the Attorney General. The Reports of the Attorney General to Congress on the Administration of the Foreign Agents Registration Act detail the operation of that statute.

The purpose of Congress to expose the foreign origin of various propaganda activities was, however, not fully achieved, partly because of an increased tendency to bring information services under the aegis of diplomatic immunity (see Report of the Attorney General on the Admin-

istration of the Foreign Agents Registration Act, 1945–1949, p. 8; 1950 Report, pp. 5–6; 1951 Report, pp. 6–7), and partly because of controversy as to the scope of the "agency" required under the statute. See *Viereck* v. *United States,* 318 U. S. 236, 242; *United States* v. *German American Vocational League,* 153 F. 2d 860, 864 (C. A. 3), certiorari denied, 328 U. S. 833; *United States* v. *Peace Information Center,* 97 F. Supp. 255, 258–259 (D. D. C.). The necessity of proving the fact of agency within the context of a criminal trial made difficult the enforcement of the Act against organizations which threw a "smoke screen" around their operations and obscured the sources and nature of their foreign control.

On October 17, 1940, Congress passed the so-called Voorhis Act, c. 897, 54 Stat. 1201 (now 18 U. S. C. § 2386), requiring the registration, *inter alia,* of any organization "subject to foreign control which engages in political activity." The phrase "subject to foreign control" was defined in § 1 of the Act as follows:

> (e) An organization shall be deemed "subject to foreign control" if (1) it solicits or accepts financial contributions, loans, or support of any kind, directly or indirectly, from, or is affiliated directly or indirectly with, a foreign government or a political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or political subdivision thereof, or a political

party in a foreign country, or an international political organization, or (2) its policies, or any of them, are determined by or at the suggestion of, or in collaboration with, a foreign government or political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or a political subdivision thereof, or a political party in a foreign country, or an international political organization.

The House Committee on the Judiciary, in its report on the bill which became the Voorhis Act, said with respect to the purposes of the bill (H. Rep. No. 2582, 76th Cong., 3d sess., p. 1):

> Freedom of political expression is a fundamental principle of democracy. A serious problem arises, however, where political organizations exist in a democracy which are substantially controlled or directed by a foreign power and seek to pursue a policy in a democracy like the United States for the benefit of that foreign power.
>
> * * * * *
>
> The principle upon which this bill is based is that there is no place in a democracy for undercover political organizations. Without in any way interfering with freedom of political activity, the passage of this legislation would mean that it would be unlawful for any political activities, inimical to the constitutional government, to be carried on, unless the full facts concerning such activities are made known.

It soon became apparent that there were also difficulties in the enforcement of the Voorhis Act. See Institute of Living Law, *Combating Totalitarian Propaganda: The Method of Exposure* (1943), 10 Univ. of Chi. L. Rev. 107, 122–133. Since religious, charitable, scientific, literary, and educational organizations were excluded from the Act's coverage, propaganda organizations could seek to avoid registration by styling themselves under one of the excluded categories. There was no express provision making the officers guilty if a corporation or association failed to register. In the case of a corporation or unincorporated association without funds for the payment of fines, there were no appropriate sanctions to enforce compliance. While it was originally anticipated that both the Communist Party and the German-American Bund would have to register under the Act (H. Rep. No. 2582, 76th Cong., 3d sess., p. 2), the restricted meanings given to the terms "subject to foreign control" and "political activity" by the Act itself made avoidance of registration possible through the device of a claimed divorcement. For example, the Communist Party, at its 1940 convention, adopted a resolution which provided, *inter alia* (C. P. Ex. 13, p. 15):

> That the Communist Party of the U. S. A., in Convention assembled, does hereby cancel and dissolve its organiza-

> tional affiliation to the Communist International, as well as any and all other bodies of any kind outside the boundaries of the United States of America, for the specific purpose of removing itself from the terms of the so-called Voorhis Act, which originated in the House of Representatives as H. R. 10094, which has been enacted and goes into effect in January 1941, which law would otherwise tend to destroy, and would destroy, the position of the Communist Party as a legal and open political party of the American working class * * *.

This disaffiliation and its stated purpose are not disputed by petitioner (Br. 202). Its spurious character was demonstrated by the testimony in this case. See Report of the Board at R. 14 [1828–1829].

In addition, the Voorhis Act provided no adequate administrative machinery to search out the true facts regarding control by foreign dictatorships and the real objectives of domestic organizations believed (with reason) to be subversive but which veiled their true ends behind a facade of respectability. That Act was addressed only to the formal, overt aspects of a particular group, and failed to reach the true but secret purposes which lay beneath the surface and which constituted a real threat to the security of the United States. See Institute of Living Law, *Combating*

*Totalitarian Propaganda: The Method of Suppression* (1942), 37 Ill. [Northwestern Univ.] L. Rev. 193, 204–205; Cohen and Fuchs, *Communism's Challenge and the Constitution* (1948), 34 Corn. L. Q. 182, 201; Moore, *The Communist Party of the USA: An Analysis of a Social Movement* (1945), 39 Am. Pol. Sci. Rev. 31, 36–37.

After the cessation of hostilities in World War II, events occurred and facts were uncovered which tended to show more clearly the nature and dimensions of the danger. Communist regimes were established in several countries other than the Soviet Union, and elsewhere communist parties attained considerable strength. The methods by which these regimes seized power—for example, in Czechoslovakia—were not unknown or unnoted in this country.[9] Moreover, there came to light direct evidence of espionage. The revelations of Igor Gouzenko, a clerk on the staff of Colonel Zabotin, Soviet Military Attaché in Canada, led to the establishment of a Royal Commission in Canada to investigate espionage activities being conducted through that office. After hearing the testimony of many witnesses and considering a mass of documentary materials, the Com-

[9] Some details of this history are set forth in the Government's brief, at pp. 199–203, in *Dennis* v. *United States*, No. 336, Oct. Term, 1950.

mission concluded in a thorough report that the Soviet Union, acting through Canadian Communists, was attempting to infiltrate every sensitive agency of the Canadian government and its defense establishments and had to a great extent succeeded. *Report of the Royal Commission to Investigate the Facts Relating to and the Circumstances Surrounding the Communication by Public Officials and Other Persons in Positions of Trust of Secret and Confidential Information to Agents of a Foreign Power* (1946). The Report revealed that local agents, trained in Fifth-Column methods, passed information to Soviet officers within the Embassy, who were frequently members of the N. K. V. D. (Soviet secret police) in direct communication with Moscow (*id.*, pp. 11–13). It was found from documents emanating from the Soviet Embassy that the Communist International, or Comintern, the dissolution of which had been announced in Moscow in 1943, continued to exist and to be active in espionage work on this continent (*id.*, pp. 37–41). The Report quoted a statement by Gouzenko that (*id.*, p. 37)—

> The announcement of the dissolution of the Comintern was probably the greatest farce of the Communists in recent years. Only the name was liquidated, with the object of reassuring public opinion in the democratic countries. Actually the Comintern exists and continues its work * * *.

"The documents which Gouzenko brought with him," the Royal Commission commented, "corroborate this testimony" (*ibid.*).

The Commission found that the main recruiting ground for espionage agents was the illegally constituted Communist Party of Canada. The Communist cells, which posed as study groups, were the contact points for the agents (*id.*, pp. 44–48, 69–83). Often a particular Communist agent would be selected for Colonel Zabotin's group on orders directly from Moscow (*id.*, pp. 44–48). It was shown by documentary evidence that the national organizer for the Communist Party of Canada was instructed in 1945 to recruit espionage agents in the defense establishments of the Canadian government (*id.*, pp. 48–49, 97). Money to pay for espionage services was paid to some of the Canadian agents by the Soviet Embassy (*id.*, pp. 59–68).[10]

In England, the scientist Klaus Fuchs, a Communist, confessed to espionage of the gravest character against the United Kingdom and the

[10] Legal proceedings against some of the persons mentioned in the Report of the Royal Commission are reflected in *Rose* v. *The King*, 3 [1947] D. L. R. 618, 88 Can. Cr. Cas. 114; *Boyer* v. *The King*, 94 Can. Cr. Cas. 195 (1948); *Rex* v. *Mazerall*, 4 [1946] D. L. R. 791, [1946] Ont. Rep. 762; *Rex* v. *Lunan*, 3 [1947] D. L. R. 710, [1947] Ont. Rep. 201; *Rex* v. *Harris*, [1947] Ont. Rep. 461; *Rex* v. *Smith*, [1947] Ont. Rep. 378; *Rex* v. *Gerson*, [1947] Ont. Rep. 715.

United States. See the New York Times, February 11, 1950, p. 2.[11]

Investigations in the United States by Congressional agencies led to similar conclusions. See *The Shameful Years: Thirty Years of Soviet Espionage in the United States,* H. Rep. No. 1229, 82d Cong., 2d sess. It was found that the Soviet Union established organizations in the United States ostensibly for commercial purposes, but actually to act as a funnel for intelligence work (*id.,* pp. 5–7, 15). Testimony by former Communist agents showed that Communist espionage groups had successfully infiltrated certain strategic areas of the Government and maintained liaison with Soviet Embassy officials. See *Interlocking Subversion in Government Departments.* (Report of the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws to the Senate Committee on the Judiciary, 83d Cong., 1st sess., dated July 30, 1953); see also *United States* v. *Hiss,* 185 F. 2d 822, 829 (C. A. 2), certiorari denied, 340 U. S. 948. Espionage

[11] Since the passage of the Subversive Activities Control Act, in September 1950, the world has become acquainted through the defection of Petrov with Soviet espionage in Australia (see New York Times, September 15, 1955, pp. 1, 14, 15), as well as with the case of McLean and Burgess, the British diplomats, who have apparently fled to the Soviet Union.

agents were believed to have obtained highly confidential data regarding nuclear experiments in progress at the radiation laboratories of the University of California, and regarding atomic energy experiments in a laboratory at Columbia University at an early stage. *The Shameful Years,* etc. (*op. cit. supra*), pp. 31, 35. Later, after the passage of the Subversive Activities Control Act, atomic and radar information was proved to have been passed to the Soviet Union by an international group. See *United States* v. *Rosenberg,* 195 F. 2d 583, 589, 598–601 (C. A. 2), certiorari denied, 345 U. S. 965.

In 1949, after a protracted trial, Eugene Dennis and ten other leaders of the Communist Party were found guilty of violating the Smith Act, and the evidence produced at the trial furnished further proof of the attitudes and actions of the Party's top ranks, and their relationship to the Soviet Union. The convictions were affirmed, with an exhaustive opinion by Judge Learned Hand, on August 1, 1950, 183 F. 2d 201 (C. A. 2), slightly less than two months before the final enactment of the Act involved here. This Court later affirmed the Second Circuit, *Dennis* v. *United States,* 341 U. S. 494 (without finding it necessary to review the sufficiency of the evidence).

Armed warfare began in Korea in June 1950.

Thu., Congress had reason to believe, in September 1950, that the dissolution of the Communist

International in 1943 had been merely a subterfuge and that there remained in existence a world Communist movement which endangered the security of the United States.[12] This was the problem with which Congress undertook to deal in the Subversive Activities Control Act of 1950.

### B. THE IMMEDIATE EVOLUTION OF THE ACT

The Subversive Activities Control Act was the final distillate, after more than two years of study, of a number of different bills. Efforts were made to remove objectionable features from early drafts and to define with precision the terms employed without leaving the remedial legislation vulnerable to the kind of calculated avoidance that had been the prime weakness of previous registration statutes.

The so-called "Mundt-Nixon" bill (H. R. 5852, 80th Cong., 2d sess.) was introduced in the House and referred to the Committee on Un-American Activities on March 15, 1948 (94 Cong. Rec. 2893). As amended and reported out, § 8 of the bill provided for registration with the Attorney General by "Communist political organizations" and "Communist-front organizations." The Attorney

[12] See, in addition to the materials referred to in the text, *The Strategy and Tactics of World Communism* (Report of the House Foreign Affairs Committee's Subcommittee No. 5 on National and International Movements); H. Doc. No. 619, 80th Cong., 2d sess. (1948), pp. 3–4.

General was authorized under § 13, either on his own initiative or at the request of either House of Congress, to make an investigation and conduct hearings to ascertain whether an organization was required to register.

In its report on the bill, the Committee on Un-American Activities cited the fact that the Foreign Agents Registration Act of 1938 and the Voorhis Act of 1940, while "directed against both Nazis and Communists," had "proved ineffective against the latter, due in part to the skill and deceit which the Communists have used in concealing their foreign ties" (H. Rep. No. 1844, 80th Cong., 2d sess., p. 5). It was also stated that, while the Alien Registration Act of 1940—*i. e.*, the Smith Act—made it a crime to advocate the overthrow of the Government of the United States by force and violence, and "[w]hile force and violence is without doubt a basic principle to which all Communist Party members subscribe, the present line of the Party, in order to evade existing legislation, is to avoid wherever possible the open advocacy of force and violence" (*ibid.*). The report also indicated that ten years' investigation by the Committee had established (*id.*, p. 2)—

> (1) That the Communist movement in the United States is foreign-controlled; (2) that its ultimate objective with respect to the United States is to overthrow our

> free American institutions in favor of a Communist totalitarian dictatorship to be controlled from abroad; (3) that its activities are carried on by secret and conspiratorial methods; and (4) that its activities, both because of the alarming march of Communist forces abroad and because of the scope and nature of Communist activities here in the United States, constitute an immediate and powerful threat to the security of the United States and to the American way of life.

The Senate Judiciary Committee, to which the House bill was referred, sought the advice of several prominent lawyers and the then Attorney General as to the constitutionality of the bill (see 94 Cong. Rec. 9028). The legal memoranda received in response to this request are set out at pp. 415–428 of Hearings before the Committee on the Judiciary, Senate, 80th Cong., 2d sess., on H. R. 5852; see also *id.*, pp. 428–488.[13] The principal objection of those who thought the bill had constitutional defects was that the bill used such terms as "Communist political organization" and "Communist-front organization" without adequately defining those terms, and furnished the Attorney General with no precise legislative

[13] See also the analysis of the bill in Cohen and Fuchs, *Communism's Challenge and the Constitution* (1948–49), 34 Corn. L. Q. 182–219, 352–375.

guide in determining whether an organization was required to register.

A new version of the bill was prepared (see 94 Cong. Rec. 9028, 9029–9032). It more precisely defined in its § 3 the terms "Communist political organization" and "Communist-front organization," and set forth in § 7 the duty of such organizations to register with the Attorney General and to file annual reports. In place of the provision for an administrative determination by the Attorney General, the revamped bill (§§ 12, 13) provided for a Subversive Activities Board, similar to that finally established in the Act, which was to make the determination as to whether a given organization was required to register, with further provision for judicial review of its determinations.

The redrafted bill—known as the "Mundt-Ferguson-Johnston" bill—was introduced in the First Session of the 81st Congress as S. 2311.[14] The opinions of various prominent attorneys were again solicited and the consensus appeared to be that in respects here relevant the bill met the constitutional objections theretofore raised and at the same time avoided the weaknesses of

[14] S. 2311 evolved after extensive hearings before a subcommittee of the Senate Judiciary Committee from S. 1194 and S. 1196, which were originally introduced in the 81st Congress.

prior legislation (S. Rep. No. 1358, 81st Cong., 2d sess., pp. 7, 16–17).

The Internal Security Act, of which the Subversive Activities Control Act is a constituent part (Title I), was passed on September 23, 1950, over the President's veto. Both the House and Senate committee reports reemphasized the pressing need for bringing Communist organizations out in the open through the medium of registration requirements (H. Rep. No. 2980, 81st Cong., 2d sess., on H. R. 9490; S. Rep. No. 2369, 81st Cong., 2d sess., on S. 4037; S. Rep. No. 1358, 81st Cong., 2d sess., on S. 2311). The House committee report reiterated the fact that prior legislation directed to this end had been ineffectual against the Communist Party itself, and cited the fact that 30 of the 70 major countries of the world had outlawed the Communist Party (H. Rep. No. 2980, 81st Cong., 2d sess., p. 2). The report further noted that the committee had rejected proposals to outlaw the Communist Party or to make membership therein illegal *per se*, and emphasized that the "Communist organization of the United States" was not made guilty of any offense by reason of the enactment of the Act (*id.*, p. 5).

### C. THE STRUCTURE AND PROVISIONS OF THE ACT

The Subversive Activities Control Act is Title I of the Internal Security Act of 1950, c. 1024,

64 Stat. 987, 50 U. S. C. §§ 781*ff*. It has been twice [15] amended—once, in a relatively minor detail (see *infra*, p. 71), by the Act of July 29, 1954, c. 646, 68 Stat. 586, and again, in a more substantial manner, by the Communist Control Act of [August 24] 1954, c. 886, §§ 6–11, 68 Stat. 775, 777–780. In view of the length of the Act and the complex interlocking of its numerous sections and subsections, a summarization of its principal provisions may be helpful to the Court. Rather than a mere section-by section summary, the effort will be to present an over-all view showing the structure of the Act, with emphasis on the essentials of the registration scheme and the nature of the so-called "sanctions", or legal consequences which attach to an organization's act of registering (or being ordered to register), both as they affect the organization itself, considered as an entity, and as they affect individual members of the organization and others.

*1. The congressional findings as to the necessity for the legislation*

Section 2 sets forth in fifteen numbered paragraphs certain findings—based on "evidence adduced before various committees of the Senate

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[15] Exclusive of a 1952 amendment increasing the salaries of Board members from $12,500 to $15,000 per annum (Act of July 12, 1952, c. 697, 66 Stat. 590), and a 1955 amendment relating to tenure of Board members (Subversive Activities Control Board Tenure Act, Pub. Law 254, 84th Cong., 1st sess., August 5, 1955, 69 Stat. 539).

and House of Representatives"—which convinced Congress of the necessity for the legislation. Congress found, for example, that "[t]here exists a world Communist movement" consisting of a "world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization" (§ 2 (1)). The "direction and control" of this movement was found to be "vested in and exercised by the Communist dictatorship of a foreign country," not named in the Act (§ 2 (4)). This foreign Communist dictatorship, it was further found, establishes "action organizations" in various countries, these organizations being "sections of a world-wide Communist organization" and controlled by the foreign dictatorship (§ 2 (5)). These "Communist-action organizations" seek to bring about "the overthrow of existing governments by any available means, including force if necessary" and to set up in their stead local Communist dictatorships subservient to the parent dictatorship (§ 2 (6)). These Communist organizations "are organized on a secret, conspiratorial basis" and operate to a substantial extent through organizations known as "Communist fronts," which are maintained

and used so as to conceal their true character and membership (§ 2 (7)). Finally, Congress found (§ 2 (15))—

> The Communist movement in the United States is an organization numbering thousands of adherents, rigidly and ruthlessly disciplined. Awaiting and seeking to advance a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States by force and violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparations by Communist organizations in other countries have aided in supplanting existing governments. The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the United States and to the existence of free American institutions, and make it necessary that Congress, in order to provide for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the ex-

istence of such world-wide conspiracy and designed to prevent it from accomplishing its purpose in the United States.

### 2. *"Communist-action" and "Communist-front" organizations*

*"Communist-action organization."*—The Act defines a "Communist-action organization" as "any organization in the United States" other than one diplomatically accredited which "is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2" *and* which "operates primarily to advance the objectives" of that movement "as referred to in section 2" (§ 3 (3)).

*"Communist-front organization."*—A "Communist-front organization" is defined as "any organization in the United States" which is "substantially directed, dominated, or controlled by a Communist-action organization" *and* "is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement" (§ 3 (4)).

### 3. *The registration scheme*

The heart of the Act—the organizational registration requirement—is contained in § 7.

*The duty of Communist-action and Communist-front organizations to register with the Attorney*

*General.*—Each Communist-action organization (§ 7 (a)) and each Communist-front organization (§ 7 (b)) is required to "register with the Attorney General on a form prescribed by him by regulations" as the one or the other type of organization. Registration is to be effected within 30 days after enactment of the Act (§ 7 (c) (1)), or, in the case of an organization which becomes registerable after the Act's passage, within 30 days after becoming registerable (§ 7 (c) (2)). In the case of an organization which does not voluntarily register and which is subsequently ordered to register by the Subversive Activities Control Board, registration must be effected within 30 days after the Board's order becomes final [16] (§ 7 (c) (3)).

*The registration statement.*—The registration process includes the submission of a registration statement, to be prepared in accordance with regulations, containing certain specified information (§ 7 (d)). The information is to include (1) the name and address of the organization, (2) the name, address, title, and duties of each officer of the organization, including each person who has been an officer at any time during the preceding year, (3) an accounting of all funds received

[16] The process leading to an order by the Board to register is provided for in § 13 (see *infra*, pp. 73–75). The conditions under which a Board order becomes final are set forth in § 14 (b) (see *infra*, p. 79).

and spent by the organization during the preceding year, including the sources of the funds and the purposes of the expenditures, (4) (applicable to action organizations only) the name and address of each member of the organization, including each person who has been a member at any time during the preceding year, (5) any aliases that may ever have been used by any officer or member required to be listed, and (6)[17] a list of all printing presses and other mechanical devices used in printing in the possession or control of the organization, its officers, or members.

*Annual reports.*—Annual reports are required to be submitted to keep the initial registration statement up to date (§ 7 (e)).

*Records required to be kept.*—Accurate financial records are required to be kept by all registered organizations (§ 7 (f) (1)). In addition, action organizations are required to keep accurate membership lists (§ 7 (f) (2)).

*Remedies open to persons claiming to be wrongly listed.*—Section 7 (g) provides certain remedies for persons who are listed by reporting organizations as being officers or members and who deny they are such. The Attorney General is required to notify all individuals whom reporting organizations list as officers or members that they have been so listed. Any listed individual who denies that he is an officer or member may

[17] Added by the Act of July 29, 1954, c. 646, 68 Stat. 586.

request the Attorney General to strike his name from the statement. In such event, the Attorney General is required to investigate the matter, and if he is satisfied that the denial is correct, he is to strike the individual's name. If he is not satisfied that the denial is correct and declines to strike the name, or if he fails to strike it within five months after receiving the request, the individual may petition the Board for relief pursuant to § 13 (b) (see *infra*, p. 78).

*Publication to constitute notice.*—Upon the registration of an organization, the Attorney General is required to publish in the Federal Register the fact that the organization has registered as a Communist-action or Communist-front organization as the case may be (§ 9 (d)). Such publication, it is provided, "shall constitute notice to all members of such organization that such organization has so registered" (*ibid.*).

*Keeping of registers.*—The Attorney General is required to keep registers of all organizations which register, consisting of the names and addresses of the organizations and their registration statements and annual reports (§ 9 (a)). The registers are to be open to public inspection, except that the name of any person listed by an organization as being an officer or member who denies his status as such may not be made public pending determination by the Attorney General of the correctness of the listing (§ 9 (b)).

### *4. Proceedings before the Board leading to orders requiring organizations to register*

Section 13 of the Act provides for quasi-judicial proceedings before the Subversive Activities Control Board leading to orders requiring, or refusing to require, organizations claimed by the Attorney General to be action or front groups to register with him as such. The Board itself is established and its general powers and functions defined in § 12.

*The petition by the Attorney General.*—Whenever the Attorney General has reason to believe that any organization which has not registered under § 7 (a) as an action organization or under § 7 (b) as a front organization "is in fact an organization of a kind required to be registered under such subsection," he is required to file with the Board and serve upon the organization a petition for an order requiring the organization to register (§ 13 (a)).

*Hearings before the Board.*—Upon the filing of such a petition, the Board (or any member or a designated examiner) holds a hearing to inquire into the facts regarding the organization's registerability (§ 13 (c)). The administration of oaths and the issuance of subpoenas are provided for (*ibid.*). Hearings are public, and each party is entitled to present its case with the assistance of counsel, to offer oral or documentary evidence, and to cross-examine opposing witnesses (§ 13 (d)).

*Types of evidence required to be considered.*—Section 13 (e) sets forth in eight numbered paragraphs certain types of evidence which the Board is required to consider in determining whether an organization is a Communist-action organization under § 3 (3). For example, the Board is to take into consideration—

> (1) the extent to which its [the organization's] policies are carried out and its activities performed, pursuant to directives or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 * * *.

Similarly, § 13 (f) sets forth evidential factors required to be taken into consideration in determining whether an organization is a front group under § 3 (4).

*Reports and orders.*—If the Board determines that the organization is a Communist-action or Communist-front organization, it must make a report stating its findings of fact and issue an order requiring the organization to register (§ 13 (g) (1)). If it determines that the organization is not such a group, it so reports and issues an order denying the Attorney General's petition (§ 13 (h) (1)).

*Publication to constitute notice.*—When an order of the Board requiring registration of a

Communist-action organization becomes final (see *infra*, p. 79), that fact must be published in the Federal Register, and such publication is declared to "constitute notice to all members of such organization that such order has become final" (§ 13 (k)).

### *5. The duty of individuals to register under certain circumstances*

The Act also imposes upon individuals a duty to register under certain circumstances.

#### *(a) Officers required to effect an organization's registration*

If a Communist-action or Communist-front organization should fail to register or to file a registration statement or annual report as required by § 7, it is the duty of the executive officer and of the secretary of the organization (or the individuals performing the usual duties of such officers), and of such other officers as the Attorney General may by regulations prescribe,[18] to reg-

[18] Pursuant to the authority thus vested in him, the Attorney General has designated the following additional officers as sharing with those named in the Act the responsibility of effecting the registration of an organization which is required to register but fails to do so: (a) the president, chairman, or other person who is chief officer; (b) the vice-president, vice-chairman, or person performing the functions of either; (c) the treasurer; and (d) members of the governing board, council, or body (28 C. F. R. § 11.205).

ister for the organization or to file the registration statement or annual report, as the case may be (§ 7 (h)).

*(b) Personal registration by members of Communist-action organizations*

*Conditions under which required.*—The Act specifies two conditions under which members of a Communist-action organization are required to register personally with the Attorney General. First, if there is in effect a final order of the Board requiring the organization to register and more than 30 days elapse without compliance, it becomes the duty of each member of the organization to register personally (§ 8 (a)). Secondly, if a Communist-action organization registers but fails to include the names of all its members on the membership list it files, each member not on the list who knows the organization to be registered and to have omitted his name must himself register within 60 days after obtaining such knowledge (§ 8 (b)). In either case, the individual is required to file a registration statement containing such information as the Attorney General may by regulations prescribe (§ 8 (c)).

*Proceedings before the Board.*—If an individual who the Attorney General believes is required to register under § 8 does not in fact register, the Attorney General may petition the Board (as in the case of an organization) for an order requiring the individual to register (§ 13 (a)).

*Hearings.*—The Attorney General's petition is heard by the Board in the same manner as a petition for an order requiring an organization to register (*supra*, pp. 73–74) (§ 13 (c) and (d)).

*Reports and orders.*—In each instance the Board must make a report stating its findings and issue an order either requiring the individual to register (§ 13 (g) (2)) or denying the Attorney General's petition (§ 13 (h) (2)).

*6. Fact of registration not admissible in any criminal prosecution and membership not to constitute per se a violation of any criminal statute*

The fact of the registration of any person as an officer or member of any Communist-action or Communist-front organization may not be received in evidence against such person in any prosecution for any alleged violation of any criminal statute (§ 4 (f)). In addition, neither the holding of office nor membership in any Communist organization by any person shall constitute *per se* a violation of any criminal statute (*ibid.*).

*7. Cancellation of registration*

The Act establishes procedures whereby an individual or an organization which has once registered—whether with or without an order of the Board commanding him or it to do so—may procure the cancellation of his or its registration in the event of a change in the circumstances which originally required registration.

*Application to the Attorney General.*—Any organization registered under § 7 as an action or front group, and any individual registered under § 8 (see *supra,* pp. 76–77), may, not oftener than once in each calendar year, make application to the Attorney General for the cancellation of such registration (§ 13 (b)).

*Petition to the Board.*—If the Attorney General denies the application, the organization or individual concerned may, within 60 days after such denial, file with the Board and serve upon the Attorney General a petition for an order requiring the cancellation of registration (§ 13 (b)). Section 13 (b) further provides that any individual whose name the Attorney General has declined pursuant to § 7 (g) to strike from an organization's registration statement listing him as an officer or member (see *supra,* pp. 71–72) may similarly petition the Board for an order requiring the Attorney General to strike his name.

*Hearings.*—The petition is heard by the Board in the same manner as a petition by the Attorney General requesting that an organization or individual be directed to register (§ 13 (c) and (d)).

*Reports and orders.*—In each case the Board must make a report stating its findings and issue an order granting (§ 13 (i)) or denying (§ 13 (j)) the petition.

*8. Judicial review and finality of Board orders*

The Act provides that any party aggrieved by any order of the Board be given full opportunity for judicial review in the United States Court of Appeals for the District of Columbia Circuit (or the circuit of the petitioning party's residence), with the possibility of further discretionary review by this Court on writ or certiorari (§ 14 (a)). On such review the Board's findings of fact, if supported by the preponderance of the evidence, are conclusive (*ibid.*).

*Exhaustion of judicial review a prerequisite to an order of the Board becoming final.*—An order of the Board does not become final, *i. e.*, enforceable, until full opportunity for judicial review has been exhausted or until review is foreclosed by failure to make timely application therefor (§ 14 (b)).

*9. The so-called "sanctions", or legal consequences of an organization's registration or of a final order to register*

When an organization registers under § 7, or when an order of the Board under § 13 requiring an organization to register becomes final under § 14 (b), the Act provides for the immediate occurrence of certain legal consequences—some affecting the organization as such, others affecting members of the organization. These consequences are, generally speaking, in the nature of

legal disabilities; they have come to be referred to in these proceedings as "sanctions" (see Op. 5, R. 2082), though this term is not used in the Act. In addition, upon the registration of an organization or when an order directing it to register becomes final, certain limitations are imposed upon the conduct of officers and employees of the United States and of "defense facilities", as defined in the Act, with respect to their relations with the organization and its members. These various legal consequences may be summarized and classified as follows:

*(a) Consequences to the organization as such*

*The "labeling" requirements.*—When an organization is registered or has been finally ordered to register, any publication of the organization transmitted by mail or in interstate or foreign commerce and intended to be circulated among two or more persons must bear on its face and on any wrapper in which it is contained the printed statement "Disseminated by [name of organization], a Communist organization" (§ 10 (1)). Similarly, radio and television broadcasts sponsored by the group must be identified as being "sponsored by [name of organization], a Communist organization (§ 10 (2)). Violation of these provisions by the organization or by any person acting on its behalf is made a punishable offense (§§ 10, 15 (c)).

*Denial of tax benefits.*—Persons making contributions to any organization which is registered or has been finally ordered to register may not deduct the amount of their contributions from their gross taxable income notwithstanding any other provisions of law (§ 11 (a)), and no such organization may claim any tax-exemption privilege specified in § 101 of the Internal Revenue Code (§ 11 (b)).

(*b*) *Consequences to members of the organization*

*Employment restrictions.*—Section 5 (a) (1) provides that members of an organization having knowledge or notice that the organization is registered or has been finally ordered to register are prohibited from (A) concealing or failing to disclose their membership in seeking, accepting, or holding any nonelective federal employment, (B) holding such employment, (C) concealing or failing to disclose their membership in seeking, accepting, or holding employment in any defense facility,[19] (D) working in any defense facility

[19] A "defense facility" is defined in § 3 (7) as any plant, factory, airport, vessel, pier, etc. "designated and proclaimed by the Secretary of Defense pursuant to section 5 (b)." Section 5 (b) authorizes the Secretary of Defense to designate and proclaim, and from time to time revise, a list of facilities with respect to the operation of which he finds that "the security of the United States requires the application of the provisions of" § 5 (a). Section 5 (b) further provides for the publication of the list and revisions thereof in the Federal Register and the posting of notices of such designation in conspicuous places on the premises of listed facilities.

(this clause is applicable only to members of action organizations), or (E)[20] holding office in or being employed by any "labor organization" as defined in the National Labor Relations Act[21] or representing any employer in proceedings under that Act.

*Passports.*—Members of an organization having knowledge or notice that the organization is registered or has been finally ordered to register are prohibited from applying for, seeking to renew, using, or attempting to use any passport issued under the authority of the United States (§ 6 (a)).

*Provisions applicable to aliens.*—Alien members of or aliens affiliated with organizations which are registered or have been finally ordered to register are excluded from admission into the United States, are deportable, and are ineligible for naturalization.[22] The joining of or affiliating

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[20] Added by the Communist Control Act of 1954, § 6, 68 Stat. 777.

[21] *I. e.*, "any organization * * * in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work" (29 U. S. C. § 152 (5)).

[22] These provisions were originally contained in §§ 22 and 25 of the Subversive Activities Control Act, which amended the immigration and naturalization laws so to provide. They are now contained in the Immigration and Nationality Act of June 27, 1952, c. 477, 66 Stat. 163, §§ 212 (a) (28) (E) (exclusion), 241 (a) (6) (E) (deportation), and 313 (a) (2)

with an organization so registered or required to register within five years after naturalization, if naturalization occurs after the effective date of Immigration and Nationality Act of 1952, is declared to constitute *prima facie* evidence, warranting revocation of citizenship in a denaturalization proceeding if not rebutted, of lack of attachment to the principles of the Constitution and of the quality of being well disposed to the good order and happiness of the United States at the time of naturalization.[23]

(c) *Consequences to government and defense-facility employees in their relations with the organization and its members*

*Contributions to registered organizations forbidden.*—When an organization is registered or has been finally ordered to register, officers and employees of the United States and of defense facilities,[24] having knowledge or notice of that

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(G) and (H) (ineligibility for naturalization). If the alien can establish that he did not know the organization in question to be a Communist organization when he joined it and did not acquire such knowledge prior to the time it registered or was required to register, the provisions are by their terms inapplicable (except that members of action organizations are declared ineligible for naturalization without such qualifying language).

[23] As amended and carried forward in § 340 (c) of the Immigration and Nationality Act of June 27, 1952, c. 477, 66 Stat. 163, 261.

[24] See fn. 19, *supra*, p. 81, for the definition of "defense facility."

fact, are prohibited from contributing funds or services to such group (§ 5 (a) (2) (A)).

*Counseling violation of employment provisions.*—Section 5 (a) (2) (B) makes it a punishable offense for an officer or employee of the United States or of any defense facility, with knowledge or notice that an organization is registered or has been finally ordered to register, to advise or counsel any person whom he knows to be a member of such organization to perform or omit the performance of any act the performance or omission of which would constitute a violation of the employment provisions of § 5 (a) (1) (see *supra,* pp. 81–82).

*Issuance of passports.*—When an organization is registered or has been finally ordered to register as a Communist-*action* organization, officers and employees of the United States are prohibited from issuing passports to or renewing the passports of any individual who they know or have reason to believe is a member of such organization (§ 6 (b)).

### *10. Criminal penalties*

*Organizations.*—Any organization which has been directed by a final order of the Board to register and which fails to do so within the time allowed, or which fails to file a required registration statement or annual report or to keep records as required, is punishable for each such

offense by a fine of not more than $10,000 (§ 15 (a) (1)). Each day of failure to register is a separate offense (§ 15 (a)). Each violation of the labeling provisions of § 10 (see *supra*, p. 80) is similarly punishable (§ 15 (c)).

*Individuals.*—Each individual officer having a duty under § 7 (h) to register or to file a registration statement or annual report on behalf of an organization which has been finally ordered to register (see *supra*, pp. 75–76) is punishable for each failure to fulfill such duty by a fine of not more than $10,000, or imprisonment for not more than five years, or both (§ 15 (a) (2)). Each individual having a duty to register personally under § 8 (see *supra*, p. 76) is similarly punishable, provided there is in effect with respect to him a final order of the Board requiring him to do so (§ 15 (a) (2); see *supra*, pp. 76–77, 79). In either case, each day of failure to register is a separate offense (§ 15 (a)). The willful making of a false statement or the willful omission of a fact required to be stated is similarly punishable (§ 15 (b)). Each false statement or willful omission constitutes a separate offense (§ 15 (b) (1)), and each listing of the name or address of any one individual is to be deemed a separate statement (§ 15 (b) (2)).

Any individual who violates any of the employment provisions or the contributions prohibition of § 5 (see *supra*, pp. 81–82, 83–84), the passport provisions of § 6 (see *supra*, pp. 82, 84),

or the labeling provisions of § 10 (see *supra*, p. 80) is similarly punishable for each such offense by a fine of not more than $10,000, or imprisonment for not more than five years, or both (§ 15 (c)).

*Act not to affect previously existing criminal statutes.*—The Act provides that its provisions are to be construed as being "in addition to and not in modification of existing criminal statutes" (§ 17).

*11: Communist-infiltrated organizations*

The Act as originally passed defined and dealt with but two types of "Communist organization" (§ 3 (5))—the Communist-action organization (§ 3 (3)) and the Communist-front organization (§ 3 (4)). The Communist Control Act of 1954, c. 886, §§ 7–11, 68 Stat. 775, 777–780, amended the Act so as to define a third category of Communist organization, *viz*, the "Communist-infiltrated organization," and to enact various restrictive measures with respect to such groups.

Communist-infiltrated organizations are not subject to the registration requirements of the Act. They are, however, subject to Board orders "determining" them to be Communist-infiltrated, which orders, when they become final, entail for such groups some of the same legal consequences which attach to action and front groups when registered or directed to register by a final

Board order. "Infiltrated" organizations are defined in § 3 (4A). Proceedings leading to a Board order determining an organization to be Communist-infiltrated are provided for in § 13A. Such orders are reviewable in the same manner as other orders of the Board (§ 14). The legal consequences which flow from a final Board order determining a group to be infiltrated are set forth in §§ 10, 11, 13A (h), and 13A (j).

*12. Separability clause*

The Act contains the customary separability clause providing that if any of its provisions or the application thereof to any person or circumstances is held invalid, the remaining provisions, or the application to other persons or circumstances of any provisions held invalid as to some, shall not be affected thereby (§ 32).

## II

### THE SUBVERSIVE ACTIVITIES CONTROL ACT IS CONSTITUTIONAL AS APPLIED TO PETITIONER

As we have already pointed out (*supra*, p. 42), what is immediately before the Court is (a) the Board's finding that the Communist Party of the United States is a Communist-action organization under the Act, and (b) the Board's order that the Party register as such. The court below thought that the Act is an "integrated unit" (Op. 4–7, R. 2081–2084), and that even at this

stage the registration requirements cannot be considered separately from certain of the statutory sanctions "which depend upon or flow from registration of the organization" (Op. 6, R. 2083). This view may well be correct. But it is also conceivable that—as respondent argued below—the Court may wish to defer passing upon the sanctions (or some of them) until they actually come into play, for the registration provisions—which are directly involved in this proceeding—have a purpose and vitality independent of any sanction.[25] In any event, the Act's separability clause (*supra*, p. 87) makes it clear that the registration provisions would survive even if one or more of the sanctions should be held invalid. Cf. *Electric Bond and Share Co.* v. *Securities and Exchange Commission*, 303 U. S. 419.

For these reasons, we shall first consider petitioner's contentions that the hearing and registration provisions are invalid as violative of the free-speech, self-incrimination, and due-process clauses of the Constitution (*infra*, pp. 89–162). We shall then separately reply to the arguments that the sanctions, which become operative when an order of the Board directing an organization to register becomes final, are invalid on various constitutional grounds (*infra*, pp. 162–209). In both aspects, we shall consider the Act's provisions only in so far

[25] See footnote 43, *infra*, p. 164.

as they apply to the Communist-action type of group; petitioner has been ordered to register as such a group, and no Communist-front organization—the other type subject to the registration provisions—is before the Court. See *United Public Workers* v. *Mitchell*, 330 U. S. 75, 89–90; *Watson* v. *Buck*, 313 U. S. 387, 402; *Electric Bond and Share Co.* v. *Securities and Exchange Commission*, 303 U. S. 419, 433–439, 443; *Peters* v. *Hobby*, 349 U. S. 331, 338.

A. THE HEARING AND REGISTRATION PROVISIONS ARE VALID

1. *The First Amendment does not prohibit Congress from requiring registration of, and disclosure of information by, domestic organizations dominated by foreign agencies whose purpose it is to establish a Communist dictatorship in this country*

The heart of the Act is the requirement that Communist-action organizations register with the Attorney General, disclose the names of their officers and members, and give financial accountings (*supra*, pp. 69–71, 73–74). A Communist-action organization is defined as any organization in the United States, other than one diplomatically accredited, which is substantially dominated or controlled by "the foreign government or foreign organization controlling the world Communist movement" *and* which operates primarily to advance the objectives of that movement (*supra*, p. 69). The "world Communist movement" referred to is that "world-

wide revolutionary movement" which Congress found to exist, "whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization" (*supra*, p. 67). After full hearing, the Communist Party has been found to be such a group. Congress has the power to require it to register and disclose information. There is no violation of the First Amendment.

(*a*) *Rights of free speech and press may be indirectly restrained in proper circumstances*

There is, of course, no better settled principle of constitutional law than that the freedoms guaranteed by the First Amendment are not absolute. *E. g., Schenck* v. *United States*, 249 U. S. 47, 52; *Dennis* v. *United States*, 341 U. S. 494, 508. Even direct limitations on the freedoms protected by that Amendment are permissible where clearly necessary to the effectuation by Congress of an end within its power to bring about. *Schenck* v. *United States, supra*, at 52; *Dennis* v. *United States, supra*, at 509–510. *A fortiori*, indirect limitations come within the rule. *American Communications Assn.* v. *Douds*, 339 U. S. 382, 402–404.

The law is filled with examples of statutes which place indirect restraints on freedom of speech or of the press, but which are nevertheless valid because the statute's objective lies within the power of Congress to bring about, and the restraint is a necessary and appropriate concomitant of the exercise of the power. The Hatch Act validly forbids the taking of active part in political campaigns by officers and employees in the executive branch of the Federal Government (Act of August 2, 1939, c. 410, § 9, 53 Stat. 1148; 5 U. S. C. § 118i), notwithstanding the obvious restraints imposed by that Act on such officers' and employees' freedom of speech and political expression. *United Public Workers* v. *Mitchell,* 330 U. S. 75, 94–104. The Federal Regulation of Lobbying Act (Act of August 2, 1946, c. 753, Title III, §§ 305, 307, 308, 60 Stat. 840–842; 2 U. S. C. §§ 264, 266, 267) validly requires all "those who for hire attempt to influence legislation or who collect or spend funds for that purpose" to spread on the record pertinent information as to "who is being hired, who is putting up the money, and how much", notwithstanding the incidental inhibitory effect of this requirement on the exercise of First Amendment freedoms. *United States* v. *Harriss,* 347 U. S. 612, 625–626. The Federal Corrupt Practices Act validly requires all political committees which accept contributions or make expenditures for the purpose of

influencing national elections to keep exact accounts of all such contributions and to report publicly the names and addresses of all contributors as well as of persons to whom such expenditures are made (Act of February 28, 1925, c. 368, Title III, §§ 302–305, 43 Stat. 1070–1072; 2 U. S. C. §§ 241–244), though here, too, the requirement unquestionably imposes indirect restraints upon freedom of political expression. *Burroughs and Cannon* v. *United States,* 290 U. S. 534.

The unfair-labor-practice provisions of the National Labor Relations Act have led to certain valid restraints on free speech. *National Labor Relations Board* v. *Virginia Elec. & Power Co.,* 314 U. S. 469; *National Labor Relations Board* v. *Falk Corp.,* 308 U. S. 453. Newspaper companies are subject to regulation in the public interest, notwithstanding possible incidental restrictive effects on their freedom to publish. *Associated Press* v. *National Labor Relations Board,* 301 U. S. 103, 130–133; *Associated Press* v. *United States,* 326 U. S. 1, 19–20; *Mabee* v. *White Plains Publishing Co.,* 327 U. S. 178, 184; *Oklahoma Press Publishing Co.* v. *Walling,* 327 U. S. 186, 192–193; *Lorain Journal* v. *United States,* 342 U. S. 143, 155–156. Radio broadcasting stations engaging in discriminatory practices can be denied licenses without unlawfully encroaching on First Amendment rights, despite the indirect restraint on freedom of speech which

may result from such denials. *National Broadcasting Co.* v. *United States,* 319 U. S. 190, 226–227.

Likewise, the Foreign Agents Registration Act validly requires agents of foreign principals to register with the Attorney General and to submit a mass of detailed information relating to the agency relationship (Act of June 8, 1938, c. 327, 52 Stat. 631–633; 22 U. S. C. §§ 611 *ff.*). *United States* v. *Peace Information Center,* 97 F. Supp. 255, 261–263 (D. D. C.); see also *Viereck* v. *United States,* 318 U. S. 236, 241, where the constitutionality of the Act was assumed. The National Labor Relations Act, as amended by the Labor Management Relations Act of 1947, validly denies the benefits of that Act to labor organizations unless each officer takes oath that he is not a member of the Communist Party (Act of July 5, 1935, c. 372, § 9 (h), as amended by the Act of June 23, 1947, c. 120, § 101, 61 Stat. 146; 29 U. S. C. § 159 (h)). *American Communications Assn.* v. *Douds,* 339 U. S. 382, 389–412. The postal laws validly require the publishers of newspapers and magazines, as a condition of their use of second-class mail facilities, publicly to disclose the names of the owners of these publications and to mark with the word "advertisement" all contents the insertion of which has been paid for (Act of August 24, 1912, c. 389, § 2, 37 Stat 553; now 39 U. S. C. §§ 233, 234);

*Lewis Publishing Co.* v. *Morgan,* 229 U. S. 288. The Court has also upheld the provisions of a state statute requiring that associations having an oath-bound membership file with a state official sworn copies of their constitutions, oaths of membership, and the names of all officers and members. *Bryant* v. *Zimmerman,* 278 U. S. 63, 72–73.

In all these and similar cases, the question was not whether some indirect, incidental restraint on complete freedom of speech or of the press might result from the enforcement of the law enacted by the legislature. That there would be some such restraint was apparent in all these cases. The question was whether the objective of Congress was one within its power to seek to effect and, if so, whether the incidental restraint was appropriate and reasonable under all the circumstances, including the end sought to be achieved by the law, as well as the nature, impact and scope of the restraint.

*(b) The evil at which the Act strikes is one of the gravest that could befall the nation*

The evil aimed at by the Hatch Act was the bad effect on government service of "political activity by government employees." *United Public Workers* v. *Mitchell,* 330 U. S. 75, 95. The Regulation of Lobbying Act was aimed at the danger that "the voice of the people" might go unheard by Congress due to being "drowned

out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal." *United States* v. *Harriss,* 347 U. S. 612, 625. The harm sought to be eliminated by the Corrupt Practices Act was "the corrupt use of money to affect elections." *Burroughs and Cannon* v. *United States,* 290 U. S. 534, 548. The injury at which the Foreign Agents Registration Act was directed was the "spreading [of] foreign propaganda" in this country by unidentified agents of foreign principals. *Viereck* v. *United States,* 318 U. S. 236, 241. The evil aimed at by the non-Communist affidavit clause of the amended National Labor Relations Act was the obstruction of commerce due to "political strikes." *American Communications Assn.* v. *Douds,* 339 U. S. 382, 387–389. In all these cases, the fact that incidental and indirect restraints upon First Amendment freedoms resulted from the steps taken by Congress to combat those evils was held not to invalidate the legislative remedy adopted. However, the evils at which those statutes were directed, grave as they were, were relatively trivial compared to the evil at which this Act strikes.

That evil is nothing other than the threatened destruction, through force, violence, and deceit, of our constitutional form of government, the loss of our national independence and of our cherished liberties, and the passing of the nation

under the domination of a ruthless foreign dictatorship (§ 2). The world Communist movement, including its domestic manifestations, declared Congress in summing up the purposes of the Act, presents "a clear and present danger to the security of the United States and to the existence of free American institutions, and make[s] it necessary that Congress, in order to provide for the common defense, to preserve the sovereignty of the United States as an independent nation, and to guarantee to each State a republican form of government, enact appropriate legislation recognizing the existence of such world-wide conspiracy and designed to prevent it from accomplishing its purpose in the United States" (§ 2 (15)).

It is obviously a matter of the gravest concern that there exists in this country such a highly organized conspiratorial group controlled and dominated by a foreign country or foreign organization, the principal efforts of which are directed to furthering the interests of that foreign country or organization to the detriment of the United States. "Antipathy to domination or control by a foreign government," as the court below observed (Op. 8, R. 2085), "or even to interference on the part of a foreign government, is a basic policy in this nation. It was one of the compelling reasons for the making of the Constitution in replacement of the Confederation. * * *".

As we have seen, Congress has for more than twenty years regarded the threat to the United States represented by the Communist movement as a legitimate subject of congressional inquiry and legislation (*supra*, pp. 44–65; and see pp. 216–228 of the *Internal Security Manual*, S. Doc. No. 47, 83d Cong., 1st sess., where the many hearings held by committees of Congress investigating subversive activities from 1930 to 1953 are synopsized). The general power of Congress not only to conduct inquiries in this area, but to legislate on the basis of the information thus obtained, has been repeatedly recognized by this Court as well as others. *E. g., Galvan* v. *Press*, 347 U. S. 522, 529; *Carlson* v. *Landon*, 342 U. S. 524, 534–536; *Harisiades* v. *Shaughnessy*, 342 U. S. 580, 590; *Dennis* v. *United States*, 341 U. S. 494; *American Communications Assn.* v. *Douds*, 339 U. S. 382, 387–389; *Lawson* v. *United States*, 176 F. 2d 49, 51–52 (C. A. D. C.), certiorari denied, 339 U. S. 934; *Barsky* v. *United States*, 167 F. 2d 241, 244–247 (C. A. D. C.), certiorari denied, 334 U. S. 843; *United States* v. *Josephson*, 165 F. 2d 82, 88–92 (C. A. 2), certiorari denied, 333 U. S. 838.

*(c) In the light of the evil, the registration requirement does not invalidly restrict free speech, press, or association*

In the survey we have given of the cases in which the Court upheld legislation touching upon

the constitutionally protected areas of political association and expression of ideas (*supra*, pp. 90–94), "disclosure" cases are prominent. *United States* v. *Harriss*, 347 U. S. 612, 625 (Registration of Lobbying Act); *Burroughs and Cannon* v. *United States*, 290 U. S. 534 (Federal Corrupt Practices Act); *Bryant* v. *Zimmerman*, 278 U. S. 63 (New York Anti-Ku-Klux-Klan statute); *Lewis Publishing Co.* v. *Morgan*, 229 U. S. 288 (ownership-disclosure requirements of the postal laws); cf. *Viereck* v. *United States*, 318 U. S. 236 (Foreign Agents Registration Act).

The basic rationale underlying all these decisions is that it is in the interest of both free speech and free association that Congress and the public be adequately and correctly informed, at least where the dangers stemming from non-disclosure are serious. As Mr. Justice Black, with whom Mr. Justice Douglas concurred, stated with respect to the Foreign Agents Registration Act in his dissenting opinion in *Viereck* v. *United States*, 318 U. S. 236, 251:[26]

> * * * Resting on the fundamental constitutional principle that our people, ade-

[26] The constitutionality of the Foreign Agents Registration Act was not challenged in the *Viereck* case, either in the Court of Appeals (*Viereck* v. *United States*, 130 F. 2d 945 (C. A. D. C.), reversed, 318 U. S. 236; *Viereck* v. *United States*, 139 F. 2d 847 (affirming conviction following retrial), certiorari denied, 321 U. S. 794), or in this Court. This Court's reversal of Viereck's first conviction was based on grounds not here material.

> quately informed, may be trusted to distinguish between the true and the false, the bill is intended to label information of foreign origin so that hearers and readers may not be deceived by the belief that the information comes from a disinterested source. Such legislation implements rather than detracts from the prized freedoms guaranteed by the First Amendment. * * *

See also *United States* v. *Peace Information Center,* 97 F. Supp. 255 (D. D. C.). And the *Harriss* decision pointed out (347 U. S. at 625–626) the importance of disclosure of facts where a serious evil grows out of secrecy or nondisclosure.[27]

In the light of our knowledge of the world Communist movement and of the evil to be faced (*supra,* pp. 44–65, 95–97), there would seem to be little doubt that this device of registration and disclosure can properly be applied to the Communist

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[27] In addition to judicial approval, the principle of registration and disclosure has been widely recognized by legal writers as a constitutional and desirable remedy against potential abuses of political freedoms. See *To Secure These Rights,* Report of the President's Committee on Civil Rights (1947), p. 164; Smith, *Democratic Control of Propaganda Through Registration and Disclosure,* 6 Pub. Opin. Quart. 27 (1942); Institute of Living Law, *Combating Totalitarian Propaganda: The Method of Suppression,* 37 Ill. (Northwestern Univ.) L. Rev. 193, 213; Ernst and Katz, *Speech: Public and Private,* 53 Col. L. Rev. 620, 626; Nutting, *Freedom of Silence: Constitutional Protection Against Governmental Intrusions in Political Affairs,* 47 Mich. L. Rev. 181, 204–213.

Party, now that it has been found, after full hearing, to be directed and controlled by the Soviet Union and to be operating primarily to advance the objectives of the world Communist movement. See Sutherland, *Freedom and Internal Security* (1951), 64 Harv. L. Rev. 383, 406–407. If the leaders of the Communist Party may be imprisoned for conspiring to advocate the overthrow of the Government by force and violence (*Dennis* v. *United States,* 341 U. S. 494; see also fn. 8a, *supra,* p. 49), certainly the Party itself may be compelled to register and disclose its officers, members, funds, and operations. Whatever diminution of the Party's influence or effectiveness results from this publicity—including a possible falling-off in its "peaceful" and "non-seditious" activities—is a valid consequence of the Government's and the public's right to be informed about this particular organization's activities and connections. Its seditious connection with the Soviet Union plainly warrants the kind of disclosure Congress has required. See also, *infra,* pp. 165–178, for further discussion in connection with the "labeling" sanction.

*Thomas* v. *Collins,* 323 U. S. 516, on which petitioner relies, dealt with the wholly different problem of a state's requirement that any individual must register as a condition of the exercise of his normal right to make a lawful public speech enlisting support for a lawful and peaceful movement (the trade union movement) and a peaceful and lawful

activity (joining a labor union). There was no problem of sedition, subversion, or of a domestic organization controlled by a foreign dictatorship and dedicated to forcible overthrow of this Government. See Sutherland, *Freedom and Internal Security* (1951), 64 Harv. L. Rev. 383, 403–404. And insofar as the registration provisions of the present Act may curtail the "peaceful" and "non-seditious" utterances and activities (but see *infra*, pp. 166–167) of the Communist Party, *De Jonge* v. *Oregon*, 299 U. S. 353, is clearly inapposite. There, the disability imposed was criminal punishment (299 U. S. at 365), not the much milder form of "restraint" in the form of registration and disclosure requirements; and it is also not without significance that the circumstances of the *De Jonge* case took place in an earlier era (1934), before most of the more significant events occurred and the knowledge was acquired on which the present Act is grounded (see *supra*, pp. 45–49, 56–61).

*2. Neither the registration provisions of the Act nor the Board's order violates the Fifth Amendment's prohibition against compulsory self-incrimination*

Petitioner also urges (Br. 82–90) that the registration provisions of the Act as well as the order under review, directing it to register, violate the Fifth Amendment's prohibition against compulsory self-incrimination. "The legislative scheme of the Act," it argues, "culminates in an attempt to coerce confessions of membership in the Communist Party * * *. This is a crass vio-

lation of the privilege against self-incrimination. *Blau* v. *United States*, 340 U. S. 159" (Pet. 59; Br. 83). The contention is without merit for a number of reasons.

*(a) The privilege against self-incrimination applies only to natural individuals, of whom there is none before the Court at this time; the present case is not a proper vehicle for the litigation of self-incrimination issues*

It is settled that the privilege against self-incrimination "is essentially a personal one, applying only to natural individuals." *United States* v. *White*, 322 U. S. 694, 698. It may be invoked neither by a corporation (*Wilson* v. *United States*, 221 U. S. 361; *Essgee Co.* v. *United States*, 262 U. S. 151, 155–156; *Oklahoma Press Publishing Co.* v. *Walling*, 327 U. S. 186, 205) nor by an unincorporated organization or association, such as petitioner. *United States* v. *White*, *supra*, 322 U. S. 694, 699. The order under review is directed against petitioner alone, not against any natural individual, and petitioner alone is before the Court at this time. While it is true that artificial entities such as corporations and unincorporated associations can act only through individuals, sight must not be lost of the simple fact that only natural individuals are protected by the privilege and no such individual is a party to this case.

Assuming *arguendo* that the officer or officers who will eventually have the duty to effect the registration of petitioner will be personally privileged to decline to do so, or at least to assert and

litigate a claim of privilege, that fact does not render either the registration provisions of the Act or the registration order invalid. Consequently, the instant case is not an appropriate vehicle for the litigation of the self-incrimination issue, which is entirely hypothetical at this time.

(*i*) *The privilege against self-incrimination is one which must be explicitly claimed and no such claim has thus far been made; it cannot be assumed that a claim will inevitably be made or, if made, that it must necessarily be honored*

In the first place, the privilege against self-incrimination is a privilege which must be personally and explicitly claimed. *Quinn* v. *United States*, 349 U. S. 155, 162; *Emspak* v. *United States*, 349 U. S. 190, 194; *Rogers* v. *United States*, 340 U. S. 367, 370; *Smith* v. *United States*, 337 U. S. 137, 150; *United States* v. *Monia*, 317 U. S. 424, 427; *United States* v. *Murdock*, 284 U. S. 141, 148; *Vajtauer* v. *Commissioner of Immigration*, 273 U. S. 103, 113. "A witness' privilege against self-incrimination," as Judge Bazelon himself stated in an opinion rendered prior to his dissent below, at an earlier stage of this case, "must be claimed personally, at the time the alleged incriminating questions are propounded, not before they are asked at all" (*Communist Party of the United States* v. *McGrath*, 96 F. Supp. 47, 52 (D. D. C.) (concurring opinion), stay denied, 340 U. S. 950). It is

"merely an *option of refusal,* not a prohibition of inquiry." 8 Wigmore, *Evidence* (3d. ed. 1940), § 2268.

There has been no claim of privilege thus far, and, as the court below observed (Op. 19–20, R. 2096–2097), there may never be one. Since this Court does not anticipate constitutional issues (*Peters* v. *Hobby,* 349 U. S. 331, 338), petitioner's attempt to litigate the self-incrimination issue in this case, before it is raised, would clearly seem to be premature on general principles. Cf. *Electric Bond & Share Co.* v. *Securities and Exchange Commission,* 303 U. S. 419, 443. The question of the availability of the privilege to an officer or officers of petitioner will not arise until the order of the Board becomes final and the duty to bring about petitioner's registration comes into being. If at that time a privilege is claimed, it can then be litigated.

Petitioner argues, however, that the principle requiring that the privilege be claimed to be enjoyed is inapplicable in a proceeding of this type for the reason that "the Act gives the officers no opportunity to claim the privilege and provides no tribunal before which they can make the claim" (Br. 87). The contention is untenable. As petitioner acknowledges (*ibid.*), the Act provides a 30-day period after a registration order becomes final within which to effect registration (§ 7 (c) (3)) before criminal liability

under § 15 (a) for failure to register is incurred. We believe that that is the period during which an officer of petitioner having the duty to effect petitioner's registration, who desires to claim the privilege, should do so. As for the "tribunal" before which the claim should be made, we believe that *United States* v. *Sullivan,* 274 U. S. 259, provides the answer. In that case the Court held that a taxpayer should make his claim of privilege respecting his sources of income in the tax return itself if necessary. So here, by analogy, the privilege could be claimed on the registration form required to be filed with the Attorney General. (See also *infra,* pp. 117–121).

There are, moreover, several reasons why it cannot justifiably be assumed at this time that a substantial claim of privilege will inevitably be made and be required to be honored when petitioner is confronted by the statutory requirement that it register, so that (according to the argument) the constitutionality of the requirement might as well be settled in this proceeding.

*a.* Presumably, the basis of any future claim of privilege on the part of an officer of petitioner having the duty to effect the registration will be the tendency of his act of filing the required registration statement to incriminate him under the Smith Act (18 U. S. C. § 2385). That is, it will be claimed by the officer required to file the statement that the very act of filing, even if he

were to omit his own name from the membership list, would constitute an admission that he is a member and officer of petitioner, and thus furnish "a link in the chain of evidence" required to convict him under that Act. See Br. 83, citing *Patricia Blau* v. *United States*, 340 U. S. 159, 161. But, as the court below observed, the top officials of petitioner, who are the ones who will have the duty of filing the registration statement,[28] "have never attempted to conceal their membership or their places of leadership" (Op. 20, R. 2097). Hence, there is "no basis for assuming that they would claim protection against a mere revelation of their membership" (*ibid.*).

Furthermore, a claim of privilege on their part would be on a different footing from a similar claim made by a person not publicly known as a Communist Party member or functionary if he were asked whether he is a member of petitioner.

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[28] Section 7 (h) of the Act places the duty of effecting the registration of an organization required by § 7 to register, and which fails to do so, on "the executive officer (or individual performing the ordinary and usual duties of an executive officer)," "the secretary (or individual performing the ordinary and usual duties of a secretary)," and such other "officer or officers * * * as the Attorney General shall by regulations prescribe." Under the regulations, the following additional officials share the registration duty with those named in the Act: (a) the president, chairman, or chief officer, by whatever title he is known; (b) the vice-president or vice-chairman; (c) the treasurer; and (d) members of the governing board, council, or body (28 C. F. R. § 11.205).

Cf. *Patricia Blau* v. *United States*, 340 U. S. 159; *Irving Blau* v. *United States*, 340 U. S. 332; *Rogers* v. *United States*, 340 U. S. 367, 372–373. It is a matter of common knowledge that each of the individuals who would have the duty of effecting petitioner's registration when the time comes, if petitioner should fail to register itself (see fn. 28, *supra*, p. 106), is a member and high official of the Party. Many of them have already been prosecuted and convicted under the Smith Act without the benefit of any forced concessions on their part of membership in petitioner. *Dennis* v. *United States*, 341 U. S. 494; *United States* v. *Flynn*, 216 F. 2d 354 (C. A. 2), certiorari denied, 348 U. S. 909.[29] It is absurd to suppose that a prosecutor, even assuming the Government might ever bring new criminal proceedings against them for violation of the Smith Act, would find it necessary to establish their membership and high official position in petitioner from the fact that they filed a registration statement under the Subversive Activities Control Act. The privilege against self-incrimination, as this Court has emphasized, "presupposes a real danger of legal detriment arising from the disclosure." *Rogers* v. *United States*, *supra*, 340 U. S. 367, 372–373. The protection afforded by

[29] All eleven of the defendants in *Dennis* and several of the thirteen defendants in *Flynn* were members of the National Committee of petitioner.

the privilege "must be confined to instances where the witness has reasonable cause to apprehend danger from a direct answer. *Mason* v. *United States,* 244 U. S. 362, 365 (1917), and cases cited. The witness is not exonerated from answering merely because he declares that in so doing he would incriminate himself—his say-so does not of itself establish the hazard of incrimination." *Hoffman* v. *United States,* 341 U. S. 479, 486.

To argue, as does petitioner, that for a member of petitioner's governing board to be required to perform an act which by implication establishes his membership in petitioner amounts to compulsory self-incrimination, when that person has never sought to conceal and indeed has many times conceded his membership, is too mechanical an application of the constitutional guaranty. To force an admission of membership from an obscure or concealed member of petitioner is one thing (cf. *Patricia Blau* v. *United States,* 340 U. S. 159). To require, say, the National Chairman of petitioner to effectuate petitioner's registration under the Act and thus, incidentally, to admit what he has never denied or attempted to conceal and what has been indisputably proved—that he is a member and officer of petitioner—is another. In the one case there is "a real danger of legal detriment arising from the disclosure" (*Rogers* v. *United States, supra,* 340 U. S. at 373); in the other, there is nothing of the sort.

*b.* In evaluating the merit or lack of merit of a claim of privilege which an officer of petitioner might hereafter advance, one of the fundamental principles is that the privilege in question is a privilege against *self*-incrimination. The claimant may not, under the guise of protecting himself against self-incrimination, seek to shield oth[illegible]. *Rogers* v. *United States, supra,* 340 U. S. 367, 371; *United States* v. *Murdock,* 284 U. S. 141, 148; *Hale* v. *Henkel,* 201 U. S. 43, 69; *Brown* v. *Walker,* 161 U. S. 591, 609. Relevant to the issue of the *bona fides* of the claim of privilege against self-incrimination, in addition to the considerations already mentioned, would be the fact that, under the terms of the Act, neither the holding of office nor membership in any Communist organization by any person shall constitute *per se* a violation of any criminal statute, and the further fact that the registration of any person under the Act as an officer or member of any Communist organization may not be received in evidence against such person in any prosecution for any alleged violation of any criminal statute (§ 4 (f)). While the latter provision is a limited and not an absolute grant of immunity against prosecution (cf. *Counselman* v. *Hitchcock,* 142 U. S. 547, with *Brown* v. *Walker,* 161 U. S. 591, and *United States* v. *Ullman,* 221 F. 2d 760 (C. A. 2), pending on writ of certiorari, No. 58, this Term), it is nevertheless a pertinent factor to be considered in evaluating

the merit or lack of merit of a claim of privilege, that is to say, the verity of the claimed fear of self-incrimination.

*c.* Another reason why it should not be assumed that a claim of privilege will inevitably be made and honored is to be found in the prior history of this very case. In 1951, following the Attorney General's filing with the Board of his petition for an order directing registration, petitioner sought in the United States District Court for the District of Columbia to enjoin the Attorney General from proceeding further. The requested injunction was denied by a statutory three-judge court. *Communist Party of the United States* v. *McGrath*, 96 F. Supp. 47, stay denied, 340 U. S. 950. Judge Bazelon, who dissented below, was one of the members of the three-judge court. As pointed out by Judge Bazelon in his concurring opinion in the injunction proceeding (96 F. Supp. at 50), and as he recalled in his dissent below (Op. 86, R. 2163, n. 39), one of the grounds urged by petitioner for enjoining hearings before the Board was that its defense before the Board required the filing of an answer and the giving of testimony by its officers and that, since "such testimony would necessarily entail their admission of Communist Party affiliations" (Op. 86, R. 2163, n. 39), such officers "will not appear for fear of self-incrimination or, if subpoenaed, will invoke their privilege and, as

a result the Party's defense will necessarily fail" (96 F. Supp. at 50). Notwithstanding these representations, after the dismissal of its suit to enjoin the proceedings (from which dismissal it did not appeal), officials of petitioner did appear and testify at the Board hearings (see R. 136 [2049]).

This instance shows that the making of a future claim of privilege is never "inevitable," however likely it may seem or be represented to be. Two of petitioner's three witnesses before the Board, John Gates and Elizabeth Gurley Flynn, voluntarily admitted on the witness stand that they were members of petitioner's governing body, the National Committee of the Communist Party (R. 1199, 1275). As such, assuming they still hold those offices, they will be among the persons having the duty to effect the registration of petitioner when the order directing such registration becomes final (28 C. F. R. § 11.205 (d); see fn. 28, *supra*, p. 106). If either should hereafter invoke the privilege against self-incrimination as justification for refusing to register petitioner, it would become an important point of inquiry, in determining the validity of such claim, whether it was made in good faith and whether it should not be rejected on the ground that they had waived their privilege by having taken the stand and voluntarily admitted their membership and high official positions in petitioner. Cf.

*Rogers* v. *United States*, 340 U. S. 367, 372–373. See the opinion below, Op. 22, R. 2099.

*d.* It is not our purpose here to explore all the ramifications of the question of the possible privilege of an official to refuse to effect petitioner's registration of petitioner on the ground that to do so would tend to incriminate him. On the contrary, our position is, as we have stated, that this question is not in this case at this time and has been prematurely raised by petitioner. Our purpose has been rather to refute the Party's contention that (1) the claim is certain to be made eventually, and that (2) when made it must certainly be upheld, so that (3) it should in the interest of economy be settled in this case, (4) in favor of upholding the claim. We submit that it is clear from what has been said that the premises of this argument are untenable; it cannot justifiably be assumed in this case either that a claim of privilege is certain to be made as soon as the order becomes final, or that, if and when made, it will present a plain and simple issue which must be resolved in favor of the claimant.

(ii) *Even assuming that a claim of privilege will be made and must be honored, this would make the order to register at most unenforceable, not void*

Even if it be assumed, moreover, that a claim of privilege will be made by each and every one of the officials of petitioner having the duty of

effecting petitioner's registration (see (fn. 28, *supra,* p. 106), and that such a claim must of necessity be upheld, this would not render either the registration provisions of the Act or the order of the Board invalid. The order to register should still be upheld in this proceeding. "[T]he utmost result," as the court below observed, "would be that the statute and order would be unenforceable" (Op. 23, R. 2100). The distinction is important for at least three reasons. First, the non-enforceability of the order to register would not affect the "sanctions" or disabilities which come into being when the order to register becomes final; these have a vitality separate and apart from the registration process and do not depend upon actual registration (see *supra,* pp. 79–84). Secondly, the non-enforceability of the order could be removed by a grant of immunity from prosecution for any offense of which a prospective registerer of petitioner might fear to incriminate himself. See *Brown* v. *Walker,* 161 U. S. 591; *United States* v. *Ullman,* 221 F. 2d 760 (C. A. 2), pending on writ of certiorari, No. 58, this Term.[30] Thirdly, an important public

[30] It is probable that such a grant of immunity would require a new statute. The court below suggested the possibility that immunity might be granted under 18 U. S. C. § 3486 (c), one of the immunity provisions created by the Act of August 20, 1954, c. 769, § 1, 68 Stat. 745 (see Op. 22–23, R. 2099–2100). It is true, as the court observed, that "[u]nder that statute the courts have broad powers to grant

function is served by the Board's finding that the petitioner is a Communist-action organization and should register, regardless of whether the registration can actually be effectuated; Congress desired to have the facts sifted and established by quasi-judicial proceedings and then made known to the public (*supra*, pp. 88, 98–100).[30a]

Petitioner's (Br. 88) and the dissenting judge's (Op. 84–85, R. 2161–2162) reliance on *Boyd* v. *United States*, 116 U. S. 616, as authority for their view that the Act should be declared invalid as violative of the self-incrimination clause even in the absence of a claim of privilege, is misplaced. That decision invalidated a statute which presented to a suspected violator of the

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immunity, upon application of the Attorney General, in proceedings before them involving violations of the statute here involved" (Op. 22, R. 2099). However, the immunity statute in question is limited by its terms to cases or proceedings "before any grand jury or court of the United States" involving the national security. This would seem to exclude the possibility of granting immunity in connection with the process of registering organizations with the Attorney General. However, the fact that new legislation would probably be required to authorize the granting of immunity in connection with registration proceedings does not affect our argument that, because of the possibility of granting immunity, the order is not invalid merely because it might not be enforceable without such a grant.

[30a] It should be recalled that organizations found, after hearing, to be "Communist-infiltrated" are not required to register (*supra*, pp. 86–87); as to these organizations, Congress was content with the Board's order and findings.

revenue laws the alternative of either (1) producing his private books and records in refutation of charges alleged by the Government to be based on what those books and records would show or (2) suffering the charges to be taken as confessed.[31] The statute did not contemplate that the suspected violator could be excused from producing his books and records by a claim of the privilege against self-incrimination.

In the context of such a statute, a claim of privilege would have been quite meaningless. For this reason it is not surprising that nowhere in this Court's opinion is there any discussion of the necessity that the privilege against self-incrimination be specifically claimed as a prerequisite

[31] The statute provided in pertinent part as follows: "In all suits and proceedings other than criminal arising under any of the revenue laws of the United States, the attorney representing the government, whenever in his belief any business book, invoice, or paper belonging to, or under the control of, the defendant or claimant, will tend to prove any allegation made by the United States, may make a written motion, particularly describing such book, invoice, or paper, and setting forth the allegation which he expects to prove; and thereupon the court * * * may, at its discretion, issue a notice to the defendant or claimant to produce such book, invoice, or paper in court * * *; and if the defendant or claimant shall fail or refuse to produce such book, invoice, or paper in obedience to such notice, the allegations stated in the said motion shall be taken as confessed, unless his failure or refusal to produce the same shall be explained to the satisfaction of the court. * * *" (116 U. S. at 619–620).

to its judicial consideration—the feature of self-incrimination cases so prominently mentioned in all the later cases (see *supra*, p. 103). The statute was held void as necessarily conflicting with the privilege. In the case at bar, on the other hand, there is no reason to believe that a valid claim of privilege will or must be rejected, and certainly the Act, unlike the statute in *Boyd*, does not deny the privilege to a person who could validly claim it. In other words, the *Boyd* statute flatly denied the privilege to one who could properly claim it and wished to do so; the Act involved here does no such thing.

Furthermore, as was pointed out by the court below (Op. 23–24, R. 2100–2101), the *Boyd* case dealt with personal, private papers—a fact on which the *Boyd* opinion laid great emphasis (116 U. S. at 622, 623, 624, 630, 633, etc.) and which was, as the court below said, "a key to the decision" (Op. 23, R. 2100). In all the later cases in which *Boyd* is discussed, this Court has emphasized that feature of the case. See, *e. g.*, *Wilson* v. *United States*, 221 U. S. 361, 377; *Essgee Co.* v. *United States*, 262 U. S. 151, 158; *Nathanson* v. *United States*, 290 U. S. 41, 47; *United States* v. *White*, 322 U. S. 694, 699; *Shapiro* v. *United States*, 335 U. S. 1, 33. Here, on the other hand, as we shall stress (see *infra*, pp. 117–121), the books and records which would reflect the data to be included in the registration

statement are not personal but organizational records—the distinction which forms the very basis of this Court's *White* decision, 322 U. S. 694 (see *supra*, p. 102; *infra*, pp. 117–121).

*(b) In any event, the officers of petitioner having the duty under the Act and regulations to effect the registration will not be personally privileged to refuse to do so*

If the Court should reject our argument that it need not and should not now pass upon the issue of whether an officer of the Party can validly claim the privilege as a ground for not registering the Party, and should desire to determine that issue in this proceeding, our position would be that the privilege is not available to such officers. In *United States* v. *White*, 322 U. S. 694, the Court held not merely that an organization or association cannot invoke the privilege against self-incrimination, but that an officer of an organization or association who has custody of its records, if called upon to produce them pursuant to a subpoena, may not lawfully refuse to do so even if they would tend to incriminate him personally. "[T]he papers and effects which the privilege protects," this Court said, "must be the private property of the person claiming the privilege, or at least in his possession in a purely personal capacity. * * * But individuals, when acting as representatives of a collective group, cannot be said to be exercising their personal rights and duties nor to be entitled to their purely

personal privileges. Rather they assume the rights, duties and privileges of the artificial entity or association of which they are agents or officers and they are bound by its obligations. In their official capacity, therefore, they have no privilege against self-incrimination. And the official records and documents of the organization that are held by them in a representative rather than in a personal capacity cannot be the subject of the personal privilege against self-incrimination, even though production of the papers might tend to incriminate them personally" (322 U. S. at 699).

The rationale of the *White* case is equally applicable, we submit, to the case at bar. Cf. Meltzer, *Required Records, The McCarran Act, and the Privilege Against Self-Incrimination*, 18 Univ. of Chi. L. Rev. 687, 720. This Court has, in fact, specifically cited the *White* case as authority for the proposition that one of this very petitioner's officers on the local level—the Treasurer of the Communist Party of Denver—"had no privilege with respect to the books of the Party, whether it be a corporation or an unincorporated association." *Rogers* v. *United States*, 340 U. S. 367, 371–372.

Nor is the rationale of *White* inapplicable on the ground that in *White* physical records were in question, while the issue here is the compulsory submission of a registration statement containing the names and addresses of officers and members

of petitioner and an accounting of moneys received and expended. For, as the court below said, the data required to be contained in the registration statement "are reproductions of or extracts from organization records" (Op. 17, R. 2094). If the officer of petitioner having custody of its records, showing the names and addresses of its officers and members and the sources and modes of expenditure of its funds, may be required to submit those records pursuant to a subpoena *duces tecum*, notwithstanding his claim that they tend to incriminate him personally, it would be an exaltation of form over substance to hold that he may not be required to transpose such data to a registration form to be filed as required by the Act. Whether the records reflecting the required data "are kept formally or informally is immaterial," as the court below observed, since "[n]o additional explanatory testimony is required by this statute" (Op. 18, R. 2095). Indeed, there is authority for the view that, to a limited extent, in cases where the compellability of the production of records is established, oral testimony "auxiliary to the production" may also be compelled. *United States* v. *Field*, 193 F. 2d 92, 97 (C. A. 2), petition for certiorari dismissed, 342 U. S. 908; *Pulford* v. *United States*, 155 F. 2d 944, 947 (C. A. 6). For example, an officer who has been compelled to produce documents which incriminate him may also be required to

testify as to their genuineness (*United States* v. *Austin-Bagley Corporation*, 31 F. 2d 229, 234 (C. A. 2), certiorari denied, 279 U. S. 863; *United States* v. *Daisart Sportswear*, 169 F. 2d 856, 861–862 (C. A. 2), reversed on other grounds *sub nom. Smith* v. *United States*, 337 U. S. 137) or to explain incomplete, illegible, or abbreviated entries. *Fleming* v. *Silverman*, 7 F. R. D. 29, 31 (N. D. Ill.). Cf. *Porter* v. *Heend*, 6 F. R. D. 588, 589–590 (N. D. Ill.).

Judge Bazelon, dissenting below, attempted to distinguish the *White* case on the ground, among others, that the officer executing a registration statement is required to do more than produce records of the organization he is registering; that is, he is required to prepare a statement containing data which may or may not be entirely contained in the organization's records (Op. 82–83, R. 2159–2160). To the extent that any required data might not be reflected in the records, he pointed out, the officer is required to rely on his own personal knowledge, and if he has to rely on his own personal knowledge, the information he supplies is to that extent "forced from [his] lips * * *, rather than obtained from the records" (Op. 83, R. 2160). But the argument that, because some of the information called for in a statement required to be filed may be privileged, no statement at all need be filed, has been specifically rejected by this Court. See *United States*

v. *Sullivan*, 274 U. S. 259, holding that the fact that some of the answers called for on an income tax return form may be incriminating does not excuse a failure to file any return at all, the proper course being to file a return and claim the privilege, where the facts warrant, with respect to specific questions. Similarly with respect to a registration statement, even if it be assumed that the registering officer has a privilege with respect to called-for data not found in the organization's records, he would be required to file as complete a statement as possible based on the records, and claim his privilege with respect to the rest.[32]

*(c) The validity of the personal registration requirements of Section 8 is not in issue since no individual member of petitioner has been required to register and none is before the Court*

The court below was obviously correct in holding that the validity of the personal registration requirements of § 8 of the Act is not presented in this case (Op. 24–25, R. 2101–2102). As already noted, that section provides, first, that individual members of Communist-action organ-

[32] Thus, for example, if the filing official were known by more than one name and he feared that the listing of his *aliases* would tend to be self-incriminatory for some reason (see Op. 24, R. 2101), he could indicate in the registration statement that he was claiming his privilege with respect to his own *aliases*, though, as the court below indicated (*ibid.*), he could not do so with respect to the *aliases* of others.

izations must register personally as members if their organization has been finally ordered to register and fails to do so (§ 8 (a)), and, secondly, that if a Communist-action organization registers but fails to include the names of all its members on the membership list it files, the members whose names are omitted must register themselves as members (§ 8 (b)). See *supra*, pp. 76–77. Section 8 is thus "an alternate, rather than an attachment, to the registration of the organization. As such it poses a separate and independent problem from that posed by the requirement for organization registration. To reach the problem posed under Section 8 we would have to assume that the Party will not register if it is finally ordered to do so, or that if it registers its membership list will be incomplete. But we cannot make such assumptions" (Op. 25, R. 2102). Self-incrimination questions pertaining to the personal registration requirements of § 8 are thus even more premature than those pertaining to the organizational registration requirements of § 7. They are hypothetical questions which may never arise in justiciable form. The Act, moreover, contemplates the institution of proceedings before the Board, culminating in an order, subject to full judicial review, directed to an individual and ordering him to register, as the exclusive means of enforcing § 8 (see §§ 13 (a), (c), (d), (g) (2),

14 (a), (b), 15 (a) (2); and see *supra*, pp. 76–77, 79). For these reasons, the personal registration provisions of § 8 are plainly not before the Court. *Electric Bond & Share Co.* v. *Securities and Exchange Commission*, 303 U. S. 419, 443.

*3. The registration provisions are in accord with due process*

Petitioner challenges the registration provisions of the Act as violative of due process in a number of respects (Br. 41–60, 64–82), none of which, we submit, has merit.

*(a) The Act does not predetermine petitioner's liability to registration so as to render the proceedings before the Board a formality*

Petitioner first urges (Br. 41–45, 56–60) that the Act violates due process because it "predetermines" (Br. 42, 43, 45, 57, 59), by "legislative fiat" (Br. 43, 45, 59), a decision by the Board requiring it to register. The Act contains, it is charged, a "built-in finding that petitioner is a Communist-action organization" (Pet. 50; Br. 26), and the quasi-judicial proceeding before the Board was therefore a mere formality. Petitioner's argument, however, is founded on an unwarranted oversimplification of the Act's terms. It seeks to ignore, or unjustifiably to discount the importance of, crucial language in the § 3 (3) definition of a "Communist-action" organization.

(i) Under the definition of § 3 (3), a domestic organization which is not "substantially directed,

dominated, or controlled" by the foreign government or foreign organization controlling the world Communist movement, *or* which does not "operate primarily to advance the objectives" of that movement, is not a "Communist-action organization" and is not subject to the registration and other provisions of the Act, regardless of how "communistic" its philosophy might be, or how deep might be its bonds of sympathy and kinship with the foreign government or organization. Both conditions, it is to be observed, must be fulfilled for the definition to apply. Either alone is insufficient.

It is therefore entirely without warrant to assert, as petitioner does, that the Board had no real function to perform so far as petitioner was concerned, or that it was, and was meant by Congress to be, no more than a "rubber-stamp" designed to place a predetermined label on petitioner. See *Communist Party of the United States* v. *McGrath*, 96 F. Supp. 47, 50 (Judge Bazelon concurring). That Congress may have confidently believed, on the basis of evidence adduced at congressional hearings, that petitioner would fall within the definition of § 3 (3) is of no moment so far as the requirements of due process are concerned. Congress supposes in the case of many of the statutes it passes that specific organizations or persons will be subject to their terms. As the court below observed, "A statute is not

necessarily null merely because it fits a known person. Many valid statutes do" (Op. 40, R. 2117).

The important point is that Congress required proof of the two fundamental operative facts, referred to above, by a preponderance of the evidence in proceedings before the Board, and made the Board's findings subject to judicial review, before the obligation to register or any other requirement of the Act could become effective. The congressional findings as to the existence of a world and an American Communist movement do not make the Act operative against petitioner. Further crucial findings were required to be made, on proof, before that could occur, *viz,* that petitioner is substantially dominated and controlled by the foreign government or organization controlling the world Communist movement *and* is operating primarily to advance the objectives of that movement.

The decisions cited by petitioner (Br. 56–57), of which *Tot* v. *United States,* 319 U. S. 463, is representative, do not aid petitioner's argument. These cases concern the validity of statutory presumptions under the due process clause. They hold that, in the language of *Tot,* "a statutory presumption cannot be sustained if there be no rational connection between the fact proved and the ultimate fact presumed, if the inference of the one from proof of the other is arbitrary, be-

cause of lack of connection between the two in common experience" (319 U. S. at 467–468). But, as we have just pointed out and as observed by the court below (Op. 43, R. 2120), the Subversive Activities Control Act creates no statutory presumptions in this connection. Rather, the Act provides freely for trial of the two issues, stated above, which were left to the Board. We point out below (*infra*, pp. 132–150) that the eight factors listed in § 13 (e) do not constitute statutory "presumptions."

(ii) Furthermore, due process does not require, as petitioner contends, that the legislative findings of § 2 be the subject of redetermination in a "free adjudication of the facts" in the quasi-judicial proceedings before the Board (Pet. 48; Br. 57–59). This argument confuses two sets of facts—the *legislative* facts, or those facts which have been found by the legislature itself after investigation to exist and to require the legislative action taken, and the *adjudicative* facts which, on proof in adversary litigation, bring a specific person or organization within the purview of the legislation, or otherwise make the general terms of the legislation specifically applicable. See McCormick, *Judicial Notice*, 5 Vand. L. Rev. 296, 315–318; Davis, *Official Notice*, 62 Harv. L. Rev. 537, 549–560.

Legislative facts are general conclusions which support the policy of a particular law, and can

be attacked only by showing that Congress acted arbitrarily or unreasonably or beyond its delegated powers. *Alabama State Federation of Labor* v. *McAdory*, 325 U. S. 450, 465–466; *United States* v. *Carolene Products Co.*, 304 U. S. 144, 152–153. The facts on which the legislature acted can frequently be the subject of judicial notice; in other cases the courts may make inquiry to determine whether there is a reasonable basis for the legislative action. *United States* v. *Carolene Products Co.*, *supra*, 304 U. S. at 153; *Borden's Farm Products Co.* v. *Baldwin*, 293 U. S. 194, 209–210; *Chastleton Corp.* v. *Sinclair*, 264 U. S. 543, 547–548; see McCormick, *Judicial Notice*, 5 Vand. L. Rev. 296, 316–317. But, at most, the inquiry is as to whether the legislature has acted reasonably.

Here, Congress recorded in § 2 the basis for its action, the threat to the United States presented by the Communist movement. The existence of that threat and of that movement are recognized facts of modern history. See *supra*, pp. 44–61. Congress cannot be accused of irrationality in taking account of them. Cf. *Carlson* v. *Landon*, 342 U. S. 524, 535–536. Due process in adversary proceedings, whether before courts or quasi-judicial bodies like the Board, does not require formal proof of these basic facts of which Congress took official notice. The existence of the Communist movement and the fact that it is a threat to this

nation's security are, therefore, no more subject to litigation in a particular proceeding under the Act than would be, for example, the fact that much of the world was at war between 1941 and 1945 or that the nation and the world were suffering from severe economic dislocations in the early 1930's.[33] Cf. McCormick, *Judicial Notice,* 5 Vand. L. Rev. 296, 313, 315–318. In short, these legisla-

[33] The latter example suggests a hypothetical analogy to the statute at bar. Suppose that Congress, during the depression of the '30's, passed an act which found as a fact, among other things, that there existed a world-wide economic depression, having certain described characteristics, which was severely affecting the nation's economy. Suppose further that the act established a regulatory agency with the power, under the guidance of appropriate standards, to prohibit or control certain types of business activity which were found on the basis of evidence to have a substantial tendency to deepen the world and national economic crisis by further depressing interstate and foreign commerce. Could a person or company liable to be affected by an order of such an agency demand the right to seek to prove before it that there was no world-wide economic depression of the type described in the congressional findings? Or that, if there was, it was not affecting the domestic economy in the manner found by Congress? We submit that there is nothing in any valid concept of due process which could properly be construed to require that every person or company involved in a proceeding before such an agency be granted a hearing in which to attempt to convince it that these basic legislative findings of Congress were erroneous. This is so, we maintain, notwithstanding that the adjudicative findings of the agency would assume the facts incorporated in the legislative findings in precisely the same sense in which the adjudicative findings of the Board in this case assume the facts stated in the legislative findings of § 2 of the Act at bar.

tive findings in § 2 are "[t]he reasons for the exercise of power" by Congress. *Carlson* v. *Landon*, 342 U. S. 524, 535. And as this Court said with respect to these very findings, in *Galvan* v. *Press*, 347 U. S. 522, 529:

> On the basis of extensive investigation Congress made many findings, including that in § 2 (1) of the [Subversive Activities Control] Act that the "Communist movement * * * is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship," and made present or former membership in the Communist Party, in and of itself, a ground for deportation. Certainly, we cannot say that this classification by Congress is so baseless as to be violative of due process and therefore beyond the power of Congress.

(iii) The fact that § 4 of the Communist Control Act of 1954 (see Pet. Br. 268–269) refers to petitioner by name as a "Communist-action" organization under the Subversive Activities Control Act (see Pet. Br. 59–60) does not aid petitioner's basic contention on this point. Since the Communist Control Act was passed long after the termination of these proceedings before the Board, it is evident that that Act's designation of petitioner by name could not have influenced the

Board's deliberations or otherwise affected the administrative proceedings. At most, it amounted to congressional approval of and concurrence in the Board's decision. And that decision, as we have pointed out (*supra,* pp. 123–126), was required to be based upon judicially reviewable proof that petitioner came within the § 3 (3) definition of a Communist-action organization.

(*b*) *The Act does not establish a Board which is "necessarily biased" against petitioner*

Related to the previous contention is petitioner's further argument (Br. 53–56, 70–71) that "the Act violates due process by establishing a Board which is necessarily biased and has an interest in the event" (Br. 70) because to sustain its *raison d'etre* it would have to find the Communist Party within the Act. What petitioner in effect is charging is that the structure and scheme of the Act are such that it would be impossible to staff the Board with members who would not enter upon their duties with the intention of violating their oaths of office. This Court has refused to impute, on the theory of constructive bias, a dishonest or interested point of view to government employees sitting as jurors in cases to which the Government is a party (*Frazier* v. *United States,* 335 U. S. 497; *United States* v. *Wood,* 299 U. S. 123), including criminal prosecutions of admitted Communists

of high position. *Dennis* v. *United States,* 339 U. S. 162. There is no more reason to believe members of the Board would violate their oaths in a proceeding under this Act by determining to find petitioner registerable as a Communist-action organization, irrespective of the Act's definition of the term and regardless of what the evidence might show. This Court has said, "We cannot agree that courts should assume in advance that an administrative hearing may not be fairly conducted." *Fahey* v. *Mallonee,* 332 U. S. 245, 256; see also *Federal Trade Commission* v. *Cement Institute,* 333 U. S. 683, 700–703; *National Labor Relations Board* v. *Air Associates,* 121 F. 2d 586 (C. A. 2). This is especially true where full opportunity for judicial review is afforded by the Act (see *Fahey* v. *Mallonee, supra,* 332 U. S. at 256; *Marquette Cement Mfg. Co.* v. *Federal Trade Commission,* 147 F. 2d 589, 594 (C. A. 7)), and even more particularly where, as here, the standard of review is the strict "preponderance of the evidence" standard (see Op. 49, R. 2126). A full and fair hearing was in fact afforded in this case, and the Board's findings (in the main) and conclusions were upheld by the Court of Appeals as sustained by the preponderance of the evidence. The court below is surely not subject to the charges made against the Board.

(c) ***The Act does not authorize a determination that an organization is a Communist-action organization on the basis of irrational or vague criteria or presumptions***

Petitioner next contends (Br. 46–53, 64–69; Pet. 16–18, 51–54) that the Act "violates due process because it authorizes a determination that an organization is a Communist-action organization on the basis of irrational and vague criteria" (Pet. 51). The "criteria" referred to are the eight evidentiary matters or factors listed in § 13 (e), which the Act requires the Board to "take into consideration" in "determining whether any organization is a 'Communist-action organization'." *Supra*, p. 74.

(i) At the heart of petitioner's contention, vitiating it in all its ramifications, is its fundamentally erroneous view (see Br. 46, 47, 48, 50, 51, 64, 68) that the eight factors itemized in § 13 (e) are *tests* or *individual criteria* of whether a given organization is a Communist-action organization. Petitioner assumes that under § 13 (e) the Board has been authorized by Congress to find that an organization is a Communist-action organization if it meets any one of the eight "tests" listed in that subsection. This assumption, however, is clearly erroneous, and the error is basic. Congress provided no such collection of litmus tests as petitioner supposes. The items listed in § 13 (e) are simply relevant considerations or guides to the consideration of evidence bearing

upon the question of whether an organization is a Communist-action organization. The sole and exclusive "test", which petitioner concedes to be "definite and meaningful" (Br. 53), is that supplied by the definition of such an organization in § 3 (3), *viz,* whether it is substantially directed, dominated, or controlled by the foreign government or organization controlling the world Communist movement *and* operates primarily to advance the objectives of that movement as referred to in § 2.

As the court below aptly phrased it (Op. 43, R. 2120), § 13 (e) is merely a "catalog of some basic considerations" bearing on that ultimate issue, and the listed items are in no sense exclusive. "Nothing in the statute hints at an exclusive criterion. The Board should, and so far as we can tell did, admit and consider whatever is competent, relevant and material" (Op. 42, R. 2119).[34] On the other hand, if petitioner were right in its reading of the items in § 13 (e), the definition in § 3 (3) would serve no purpose at all.

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[34] In this respect, the Act is comparable to many other federal statutes which set forth guides to administrators, guides which are not separate "tests" but factors to be considered. See, *e. g., Hampton & Co.* v. *United States*, 276 U. S. 394; *Mulford* v. *Smith*, 307 U. S. 38; *Sunshine Coal Co.* v. *Adkins*, 310 U. S. 381; *Opp Cotton Mills* v. *Administrator*, 312 U. S. 126; *Yakus* v. *United States*, 321 U. S. 414; *American Power Co.* v. *Securities and Exchange Commission*, 329 U. S. 90; *Fahey* v. *Mallonee*, 332 U. S. 245; *Lichter* v. *United States*, 334 U. S. 742. See also *infra*, pp. 150–154.

(ii) When the function to be served by the § 13 (e) evidentiary factors is properly understood, they are not, as petitioner contends, "irrational" (Br. 46, 64). On the contrary, they are all both rational and probative. While we believe this to be evident from a mere reading of the items, we shall take them up *seriatim* and examine each in the light of the particular criticism leveled by petitioner. But in the course of this necessarily painstaking analysis we should not like the Court to forget that petitioner, by hacking away at the individual trees and ignoring the forest, has reached the astounding conclusion that it is impossible rationally to conclude that the Communist Party of the United States is the pawn of the Soviet Union and exists to further the objectives of the world Communist movement. In the guise of an elaborate textual argument, petitioner is simply denying that reasonable men can characterize it as has been done many times by all three branches of our government, by countless scholars throughout the world, by a multitude of foreign states, and by most of the press of the free nations.

*The "directives and policies" consideration (§ 13 (e) (1)).*—Section 13 (e) (1) requires the Board to take into consideration—

> (1) the extent to which its [the organization's] policies are formulated and carried out and its activities performed, pursuant

> to directives or to effectuate the policies of the foreign government or foreign organization in which is vested, or under the domination or control of which is exercised, the direction and control of the world Communist movement referred to in section 2 * * *.

This goes directly to the nature of the relationship existing between the organization and the foreign government or organization controlling the world Communist movement, which is the primary focus of the Act. Petitioner contends, however, that it is irrational on two counts.

First, it says, § 13 (e) (1) does not require the Board to consider whether the organization seeks to effectuate "the seditious objectives ascribed to the world Communist movement and the Soviet Union by section 2", but only whether it seeks to effectuate "any policies of the Soviet Union, irrespective of their content" (Br. 47, including fn. 19). Accordingly, says petitioner, the Board is authorized by § 13 (e) (1) to find that the domestic organization is a Communist-action organization "from the fact that the alleged agent advances objectives which are not peculiar to the alleged principal, but which may be shared by, and may benefit, non-Communist individuals and governments, including our own" (Br. 47).

This argument distorts the language of § 13 (e) (1). Section 13 (e) (1) does not say that the

Board is to consider the extent to which the organization's policies are formulated and carried out, and its activities performed, to effectuate "any" policies of the foreign government which controls the world Communist movement. The word used is "the," which refers to the policies of the foreign government as a whole. These would certainly include at least those major objectives referred to in § 2 as presenting a clear and present danger to the security of the United States, *i. e.*, the establishment of Communist totalitarian dictatorships in the countries throughout the world and the forcible overthrow of this Government (see, particularly, § 2 (1) and (15)), as well as any "good" objectives—objectives which might "be shared by" and "benefit" the United States—which could incidentally, as tactical or intermediate ends, accompany the major goals. As the court below remarked (Op. 44, R. 2121)—

> The crucial factor in the statute before us is the aim, spelled out in detail, of the world Communist movement to disestablish our system of government. Our Government may well oppose the establishment in this country of a totalitarian dictatorship of the sort described in the definition, even if such a dictatorship does not meet the definition of "evil" [*i. e.*, having "immediate objectives" which are "morally wrong" (see *ibid.*)] or even if it has many beneficent features

Thus, contrary to petitioner's claim (Br. 68), § 13 (e) (1), fairly read, does direct the Board to consider evidence that the accused organization is engaged in promoting the disestablishment of our system of government. Furthermore, as we have pointed out (*supra*, pp. 123-125), the Board must in any event be satisfied from all the evidence that the organization before it, besides being controlled by the foreign government or organization controlling the world Communist movement, operates primarily to advance the objectives of that movement "as referred to in section 2." The objectives of the world Communist movement "as referred to in section 2" are precisely those objectives which petitioner contends, erroneously, are not required to be considered.[35]

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[35] Throughout its brief, petitioner repeats a statement to the effect that the court below held that "while section 3 (3) defines a Communist-action organization as one which promotes the seditious objectives attributed to the world Communist movement by section 2, section 13 (e) authorizes the Board to issue a registration order without any proof whatsoever that the accused organization promotes these objectives" (Br. 66; see also Br. 46, 47, 99, 101, 109, 113 [fn. 56], 115). The pages of the court's opinion which petitioner cites for this statement—Op. 41, 44, 45, R. 2118, 2121, 2122 (see Br. 46)—do not bear it out. What the court said was that the objectives referred to in § 13 (e) (1) "need not necessarily be 'evil' in [the] sense" of "*immediate* objectives which are *morally wrong*" (Op. 44, R. 2121, emphasis supplied)—which was what the court assumed petitioner meant by the word "evil" in the argument the court was then considering. The court did not say and could not have meant

Secondly, says petitioner, under the § 3 (3) definition "the two elements of a Communist-action organization"—foreign control and the fact that the organization operates primarily to advance the objectives of the world Communist movement—are stated "in the conjunctive", but § 13 (e) (1) refers to these elements "in the disjunctive. * * * This is plainly irrational" (Br. 47). Here, again, petitioner mistakes the function of § 13 (e) (1) as an alternative definition of a Communist-action organization. We have pointed out (*supra*, pp. 123–125) that only § 3 (3) contains the definition of such an organization. It alone controls the ultimate finding as to registerability. But this does not detract from the significance of § 13 (e) (1), which refers to evidentiary consid-

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to imply that the Board would be authorized under the Act to find a domestic group a Communist-action organization without any proof that it promotes the objectives attributed to the world Communist movement by § 2. This is clear from its statement, among others, that "[o]ur Government may well oppose the establishment in this country of a totalitarian dictatorship of the sort described in the definition, even if such dictatorship does not meet the definition of 'evil' * * *" (*ibid.*)—*i. e.*, "evil" in the sense in which the court had just previously used the term.

Since the § 3 (3) definition requires a finding that an organization, to be a Communist-action organization, operates primarily to advance the objectives of the world Communist movement "as referred to in section 2", the evidence must establish that fact to support such a finding, but whether those objectives be deemed by any particular individual to be "good" or "evil" in the "moral sense" is not controlling.

erations having a direct bearing upon that issue and which are thus possessed of probative force.

*The "non-deviation" consideration* (§ *13* (*e*) (*2*)).—Section 13 (e) (2) requires the Board to take into consideration—

> (2) the extent to which its [the organization's] views and policies do not deviate from those of such foreign government or foreign organization [*i. e.*, the foreign government or organization which controls the world Communist movement].

The court below not only held that the "non-deviation" inquiry is a proper one to be made in determining the question of foreign control, but observed that it would be "difficult to conceive of a more proper" one (Op. 44, R. 2121). "In an inquiry as to the domination of one organization by another," said the court, "the extent of the deviation one from the other in views and policies is both relevant and material; indeed it would be one of the necessary considerations" (*ibid.*). Non-deviation, in short, may not be conclusive, but it is plainly relevant.

Petitioner mistakes the meaning and purpose of this factor when it contends that "[u]nder this obscurantist text, the stigma of foreign control and sedition can be avoided only by adopting views which are demonstrably false if the Soviet Union has adopted views which are demonstrably true" (Br. 48). The fact that a local organiza-

tion mirrors in each facet of its activities through the years the policies of a foreign state is surely pertinent to proof of its control by that state. See Sutherland, *Freedom and Internal Security* (1951), 64 Harv. L. Rev. 383, 401. That B undeviatingly reflects A's every act does not, of itself, prove that A controls B; the possibility remains that B controls A, or that each is controlled by C, or that it is simply a matter of extraordinary coincidence. But the fact is certainly relevant to the inquiry. Cf. *North American Co.* v. *Securities and Exchange Commission*, 327 U. S. 686, 692, where this Court observed that, in determining whether one company was subject to the controlling influence of another, the Securities and Exchange Commission was "warranted in considering the harmonization of local policies."

*The "financial aid" consideration (§ 13 (e) (3)).*—Section 13 (e) (3) requires the Board to take into consideration—

> (3) the extent to which it [the organization] receives financial or other aid, directly or indirectly, from or at the direction of such foreign government or foreign organization [*i. e.*, the foreign government or organization which controls the world Communist movement].

Petitioner attacks this evidentiary factor on the ground that foreign financial aid to a local organization does not, *in and of itself*, prove domination and control (Br. 49, emphasis added). Of course it does not. But foreign financial support

is a pertinent factor which may reasonably be considered with other evidence as tending to show control by the foreign donor. In the ordinary course of events a foreign power does not contribute funds to a local organization as a bare gratuity, without expectation of some benefit.

Petitioner argues that in such cases "the relevant consideration is not the bare fact of aid, but the terms and conditions, if any, on which it is given" (*ibid.*). But as observed by the court below, while "the terms of a contribution are more, even much more, material to the issue of intended influence by means of the gift," nevertheless "the bare fact of the gift is not irrelevant" (Op. 46, R. 2123). While "it may be explained away, as may any of the statutory specifications of considerations" listed in § 13 (e), "the fact of the gift is certainly an admissible item of proof" (*ibid.*).

*The "instruction and training" consideration (§ 13 (e) (4)).*—Section 13 (e) (4) requires the Board to take into consideration—

> (4) the extent to which it [the organization] sends members or representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics of such world Communist movement.

Petitioner's attack on this "test" (Br. 49–50) is another instance of its erroneous treatment of

each paragraph under § 13 (e) as supplying a criterion which may, in and of itself, be ultimate. But viewed as a factor to be weighed, this consideration is surely pertinent. True, the sending of one representative to one foreign conference might have little or no meaning. On the other hand, a local organization's continuous course of regularly sending representatives for specialized training in the strategy and tactics of world Communism, which is subsequently used for carrying out directions in this country, could be highly significant. Petitioner nevertheless contends that this factor "is irrational because it does not require a showing that the accused organization is obliged to or does conform to what is taught" (Br. 50). However, as remarked by the court below, the question at this point is not whether the Board could legitimately "make an ultimate finding of foreign domination upon the basis of bare evidence that [petitioner] sent agents abroad" (Op. 46, R. 2123), but the propriety of considering such evidence as part of a total picture.

*The "reporting" consideration (§ 13 (e) (5)).*—Section 13 (e) (5) requires the Board to take into consideration—

> (5) the extent to which it [the organization] reports to such foreign government or foreign organization [*i. e.*, the foreign government or organization which controls the world Communist movement] or to its representatives.

Here, too, it is the context in which the reporting is done—the entire factual background against which the reporting occurs—which gives meaning and significance to the act of making reports. A report may be made, as petitioner says (Br. 50), under circumstances which suggest nothing in the way of control or domination. On the other hand, such surrounding circumstances as the length of time the reporting goes on, the frequency of its occurrence, the conditions of secrecy under which it is carried out, the contents of the reports, the reasons therefor, and all the other background data might very well indicate a definite degree of domination and control, or even that the reporting party is an agent of the party reported to. The fact of reporting is consequently a legitimate evidentiary item whose significance is to be appraised in the light of the evidence as a whole.

*The "discipline" consideration* (§ 13 (e)(6)).—Section 13 (e)(6) requires the Board to take into consideration—

> (6) the extent to which its [the organization's] principal leaders or a substantial number of its members are subject to or recognize the disciplinary power of such foreign government or foreign organization [*i. e.*, the foreign government or organization which controls the world Communist movement] or its representatives.

If, as in the hypothetical case petitioner poses (Br. 50), the evidence should show that only a

relatively few of the organization's leaders or an unimportant minority of its members are subject to foreign disciplinary power, that fact would, of course, tend to discount the significance of this factor in the total picture which emerges from the evidence as a whole. But the possibility of that result does not negate the propriety of the inquiry, which is into "the *extent* to which" the organization's leaders and members are under foreign discipline. As with all the other evidentiary matters contained in § 13 (e), it is the *degree* to which the particular evidential factor appertains that the Board is directed to consider. If the evidence is equivocal or insignificant with respect to a given item of inquiry, the record will so show. It cannot be assumed in advance that the Board will be governed by trivial evidence or evidence having no real probative force with respect to the ultimate issue, or that Congress so intended.

*The "secret practices" consideration* (*§ 13 (e) (7)*).—Section 13 (e) (7) requires the Board to take into consideration—

> (7) the extent to which, for the purpose of concealing foreign direction, domination, or control, or of expediting or promoting its objectives, (i) it [the organization] fails to disclose, or resists efforts to obtain information as to its membership (by keeping membership lists in code, by instructing members to refuse to acknowledge membership, or by any other method);

> (ii) its members refuse to acknowledge membership therein; (iii) it fails to disclose, or resists efforts to obtain information as to, records other than membership lists; (iv) its meetings are secret; and (v) it otherwise operates on a secret basis.

Petitioner contends that this "test" is irrational because it makes "secret practices" relevant (Br. 51)—

> * * * only if employed for the purpose of concealing foreign control or promoting the organization's objectives. The first of these purpose limitations involves circular reasoning, since foreign control is one of the ultimate facts to be established under section 3 (3). Obviously, a standard whose application requires proof of an ultimate fact cannot be used to determine the existence of the ultimate fact. * * *

This argument, however, overlooks the fact that the "purpose" clause of § 13 (e) (7) is not limited to "for the purpose of concealing foreign direction, domination or control." It is cast in the disjunctive: "* * * or of expediting or promoting its [the organization's] objectives." Thus, so far as the language of § 13 (e) (7) is concerned, the purpose of the secret practices may not be directly concerned with "concealing foreign direction, domination, or control." Petitioner's contention that § 13 (e) (7) necessarily

involves circular reasoning is therefore untenable.[36]

Once again we must stress—because petitioner pointedly ignores it—that this is but one of several factors to be taken into account and is not determinative in itself. An organization's habit of operating on a basis of secrecy, for either of the purposes referred to in § 13 (e) (7), is obviously a pertinent factor to be considered in determining whether it meets the § 3 (3) definition of a Communist-action organization, along with such evidence as the calculated avoidance of previous registration acts, past illegal activities of its leaders, and past domination and control by a foreign government. Cf. *American Power Co.* v. *Securities and Exchange Commission*, 329 U. S. 90, 104.

[36] Petitioner also attempts to build a "circuity" argument on the second part of the "purpose" clause of § 13 (e) (7), *viz*, "for the purpose of * * * expediting or promoting its objectives." Relating this to the second element of the definition of a Communist-action organization—the requirement that the organization in question "operate primarily to advance the objectives of such world Communist movement * * *" (see § 3 (3))—petitioner, in the same manner as it argued in the passage quoted in the text, *supra*, contends that the secrecy test cannot come into play until the ultimate fact that "secret practices" is supposed to establish has first been independently proved (Br. 51). This branch of petitioner's argument, however, is as invalid as the other, and for the same reason—that the two parts of the "purpose" clause of § 13 (e) (7) are in the disjunctive.

*The "allegiance" consideration* (§ *13* (*e*) (*8*)).—Section 13 (e) (8) requires the Board to take into consideration—

> (8) the extent to which its [the organization's] principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to their obligations to such foreign government or foreign organization [*i. e.*, the foreign government or organization which controls the world Communist movement].

Petitioner criticizes this "test" on several grounds (Br. 51–52). First, it says, it is "completely subjective. It directs an inquiry into a pure state of mind" (Br. 51). Of course, allegiance is ultimately a matter of mental attitude. But this is determinable from objective facts. Inquiry into states of mind—with what intent a person did something, for example—is a common legal function.

Secondly, says petitioner, the paragraph in question "assumes the facts prerequisite to the state of mind into which the Board is to inquire" (Br. 51). It does not, according to the argument, direct the Board to determine *whether* any of the organization's leaders or members owe obligations to the foreign government or organization but assumes that some leaders and members do owe such obligations and confines the Board's inquiry

to whether they consider those obligations subordinate to their allegiance to the United States (Br. 51–52). This argument is little more than a quibble. It could as well be argued that the paragraph assumes—what might be contrary to the facts—that all of the leaders and members of the organization consider that they owe at least some degree of allegiance to the United States. Properly construed, the paragraph simply means that the Board should take into consideration the extent to which the organization's principal leaders or a substantial number of its members consider the allegiance they owe to the United States as subordinate to such obligations as they *may* have or feel they have to the foreign government or organization which controls the world Communist movement.

Thirdly, petitioner urges that the paragraph "imputes to the organization the state of mind of its 'principal leaders or a substantial number of its members' although they may be an unrepresentative or dissenting minority and though the organization itself is completely loyal" (Br. 52). This criticism is equally unavailing. It is the same attack which petitioner makes against the "discipline" consideration of § 13 (e) (6) (see *supra*, pp. 143–144) and our reply to that criticism (*supra*, pp. 143–144) is also applicable here. The essential point, once again, is that this factor, like all the other factors listed in § 13 (e), presents

a pertinent evidentiary consideration and is in no sense a controlling criterion.

The "allegiance" consideration, far from being irrational, is one of the most relevant and cogent factors. The character of an organization is always colored by the viewpoint of its leadership. When that viewpoint is shared by substantial segments of its other members, it may very well stamp the organization with an indelible character. If a significant number of the leaders and members of a certain group feel they owe a higher allegiance to a foreign country (or to an organization or movement controlled by that country) than to their own, that fact is incontestably one indication of the group's character. This factor becomes even more obviously relevant when applied to an autocratic organization dominated and inflexibly disciplined by a central ruling clique from the top down.

If the leaders and significant numbers of the membership pay fealty to the foreign government or organization over the years while manifesting hostility to every move of their own government; if they heap praise on the foreign government while consistently castigating their own; if internally they reflect as a group the thinking and the attitude of that foreign government to the point of actual identity while disassociating themselves from that of their homeland—such evidence is a legitimate and potent factor, to be

evaluated in the light of all the other evidence, in determining the ultimate issue presented by § 3 (3).[37]

(iii) After attacking each of the considerations separately, petitioner further contends (Br. 52–53, 68–69) that § 13 (e) is invalid, as a whole, because it is so vague that decision is left to the Board's unfettered discretion. Pointing out that the subsection directs the Board to take into consideration eight "standards" in determining whether an organization is a Communist-action organization, petitioner argues that "[t]he Act nowhere indicates whether a registration order must be supported by adverse findings under all eight standards, or whether something less is sufficient" (Br. 52). Furthermore, it is argued, "[t]he obscurity which thus envelops section 13 (e) is made even more impenetrable by the phrase 'the extent to which,' which prefaces each of the eight standards" (Br. 52–53).

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[37] Related to and overlapping petitioner's argument that the considerations listed in § 13 (e) are irrational is its argument (Br. 64–65) that the subsection is based upon "arbitrary and unreasonable" "presumptions", which are "conclusive" (Br. 65). As our discussion of the eight considerations shows (*supra*, pp. 134–150), they are plainly not "presumptions" of any kind, *prima facie* or conclusive, but factors to be weighed—akin to the many similar lists in other federal legislation providing for administrative rulings—and they are certainly not unreasonable.

This is precisely the attack which has been made, time and time again, on delegations of authority by Congress to an administrative or executive agent, and the answers which the Court has given in the past suffice to destroy the present complaint. To begin with, the fact that the Board's findings of fact are subject to judicial review, and are conclusive only if supported by the preponderance of the evidence (§ 14 (a)), in itself refutes the suggestion that the Board has any "unfettered" discretion in its fact-finding function. *Carlson* v. *Landon,* 342 U. S. 524, 543.[38] But, beyond that, the only "test" by which the validity of the Act must be judged is the ultimate standard of § 3 (3), containing the definition of a Communist-action organization. The Act can be invalid for reasons of vagueness only if this ultimate standard is not "* * * sufficiently precise for an intelligent determination of the ultimate questions of fact by experts." *Sunshine Coal Co.* v. *Adkins,* 310 U. S. 381, 400. Significantly, petitioner does not challenge the definition on the score of vagueness, but acknowledges that "the ultimate standards established by

[38] In the *Carlson* case, this Court observed that "In carrying out that policy [*i. e.*, as to the deportation of aliens] the Attorney General is not left with untrammeled discretion as to bail. Courts review his determination. * * *" (342 U. S. at 543).

section 3 (3) are definite and meaningful" (Br. 53).

This sufficiency is not diluted by the fact that Congress, in addition to formulating the final criterion, directed the Board to "take into consideration" "the extent to which" certain factors were true with respect to a given organization in determining whether it came within § 3 (3). Congress did not tell the Board, as petitioner apparently suggests it should have, what relative weight it should give to each of the factors mentioned, or advise it as to what "extent" each factor should be present to have significance or how much significance it should have. But no such attempt to affix apothecaries' weights to abstract concepts would have been possible even if desirable. The Constitution "is not to be interpreted as demanding the impossible or the impracticable." *Opp Cotton Mills* v. *Administrator,* 312 U. S. 126, 145. This Court's decisions deny that there is any defect in Congress' directive to the Board to "take into consideration" "the extent to which" the factors mentioned are true or applicable in a given case.

In *Hampton & Co.* v. *United States,* 276 U. S. 394, the Court upheld a congressional direction to the President, in adjusting tariffs, to "take into consideration," "in so far as he finds it practicable," a variety of economic matters—includ-

ing the catch-all "any other advantages or disadvantages in competition" (276 U. S. at 401–402). In *Mulford* v. *Smith*, 307 U. S. 38, 48–49, the direction in the Agricultural Adjustment Act of 1938 to the Secretary of Agriculture that, in allotting marketing quotas among states and producers, he give "due consideration" to a variety of economic factors (307 U. S. at 43) was sustained. *Opp Cotton Mills* v. *Administrator, supra,* 312 U. S. 126, 142–146, upheld the requirement in the Fair Labor Standards Act of 1938 that, in fixing minimum wage rates, the Wages and Hours Administrator "consider among other relevant factors" certain itemized economic considerations (312 U. S. at 136). And in *Yakus* v. *United States,* 321 U. S. 414, 423–427, the Court sustained the directive to the Price Administrator, in establishing maximum prices on commodities, to "ascertain and give due consideration to," "so far as practicable", prices prevailing during a designated base period, and to "make adjustments for such relevant factors as he may determine and deem to be of general applicability, including" certain specified economic factors (321 U. S. at 421).[39]

The *Opp Cotton Mills* case, *supra,* is particularly pertinent. "It is urged," said the Court,

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[39] See also: *American Power Co.* v. *Securities and Exchange Commission*, 329 U. S. 90, 104–106; *Bowles* v. *Willingham*, 321 U. S. 503, 512–516; *Sunshine Coal Co.* v. *Adkins*, 310 U. S. 381, 397–399; *Field* v. *Clark*, 143 U. S. 649, 680–694.

"that the statute does not prescribe the relative weight to be given to the specified factors or the other unnamed 'relevant factors.' It is said that this * * * leave[s] the function which the committee and Administrator are to perform so vague and indefinite as to be practically without any Congressional guide or control" (312 U. S. 143–144). Rejecting this argument, the Court said (at 145–146):

> * * * The fact that Congress accepts the administrative judgment as to the relative weights to be given to these factors in each case when that judgment in other respects is arrived at in the manner prescribed by the statute, instead of attempting the impossible by prescribing their relative weight in advance for all cases, is no more an abandonment of the legislative function than when Congress accepts and acts legislatively upon the advice of experts as to social or economic conditions without reexamining for itself the data upon which that advice is based.

The same point was expressed in *Bowles* v. *Willingham*, 321 U. S. 503, 516.[40]

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[40] "* * * The fact that there is a zone for the exercise of discretion by the Administrator is no more fatal here than in other situations where Congress has prescribed the general standard and has left to an administrative agency the determination of the precise situations to which the provisions of the Act will be applied and the weight to be accorded various statutory criteria on given facts."

*(d) The Communist Control Act of 1954 does not make it impossible for petitioner to know who its members are.*

Petitioner's next challenge to the registration provisions as violative of due process is based on its reading of those provisions in the light of § 5 of the Communist Control Act of 1954, c. 886, 68 Stat. 776 (Br. 29, 75–82). The argument runs as follows: If the order of the Board becomes final, petitioner and its officers will be required to list the names of all its members in its registration statement, and "other persons" will have to "determine whether they are members" in order to know whether they are subject to the Act's sanctions and whether they must personally register in the event of petitioner's default (Br. 75). Section 5 of the Communist Control Act, continues the argument, sets forth certain "criteria for determining membership" in petitioner, so that petitioner's officers "must apply" these "criteria," as must also the "other persons" (Br. 75–76). But § 5 of the Communist Control Act establishes such "vague and irrational criteria" of membership in petitioner, the argument concludes, that it is impossible for any one to know whether or not anybody, including himself, is a member, with the alleged consequence that the registration requirements of the Act, consid-

ered in the light of § 5 of the Communist Control Act, are void for indefiniteness (Br. 76).[41]

(i) For reasons similar to those set forth *supra*, pp. 102–104, 121–123, this contention is premature since the stage of preparing and filing a registration statement has not yet been reached, and the Board's findings and order are valid even though some of the officers of petitioner who will have the duty to effect its registration may have good reasons for not complying with the order, or not complying fully.

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[41] Section 5 provides that—

> In determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, *the jury, under instructions from the court*, shall consider evidence, if presented, as to whether the *accused person*: * * *. [Emphasis added.]

This is followed by thirteen numbered paragraphs, of which it will suffice here to quote the first few as examples:

> (1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;
>
> (2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;
>
> (3) Has made himself subject to the discipline of the organization in any form whatsoever;
>
> (4) Has executed orders, plans, or directives of any kind of the organization;
>
> * * * * *

A fourteenth and final paragraph provides:

> (14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

(ii) In any event, the argument is unsound. As with the considerations set forth in § 13 (e) (*supra*, pp. 132–154), petitioner erroneously attempts to depict § 5 of the Communist Control Act as a collection of "tests" of membership, any one of which would suffice. But the language of § 5 makes it absolutely clear that its purpose is merely to list items of evidence to be considered in reaching the ultimate factual conclusion of knowing membership. It states that in determining membership, etc., the jury "shall consider evidence * * * as to whether * * *," etc. And subsection (14) provides that the enumeration of the "above subjects of evidence" shall not limit the inquiry into and consideration of "any other subject of evidence" on membership, etc. See fn. 41, *supra*, p. 156. Each of the evidentiary items listed is plainly a relevant consideration even though it may not be determinative. The whole section makes sense when it is realized that the Communist Party, as the evidence before the Board showed (see R. 105–106 [1994–1995]; see also *United States* v. *Hiss*, 185 F. 2d 822, 824, 829 (C. A. 2), certiorari denied, 340 U. S. 948), has traditionally had two broad types or classes of members—"open" members, who hold themselves out to the public as such and make no attempt to conceal their membership, and "secret" or "underground" members, whose membership

for various reasons is known only to a select few in the organization.

Petitioner's elaborate attempt (Br. 77–82) to depict § 5 as a trap for the unwary—as a snare for catching as members persons who do not know they are members—disregards the nature of the items as non-exclusive evidentiary factors and particularly ignores the provision that the jury's consideration of the types of evidence listed be "under instructions from the court." It is to be presumed that the court's guidance of the jury in its consideration of such evidence will be an intelligent guidance. Petitioner's suggestion that the only way in which a person of prudence can under § 5 avoid the risk of being found to be a member of it is to "shun association or communication with all men" and "live the life of a hermit" (Br. 82) is certainly incompatible with that premise.

(iii) Moreover, the language of § 5 shows that the section has no application to or connection with petitioner's duty under the Subversive Activities Control Act to file a registration statement (when the order to register becomes final) listing its members, or to possible criminal proceedings against it or its officers for willfully omitting the names of any of its members in such a registration statement. The fact that § 5 is exclusively concerned with jury trials shows that it has no reference to the administrative process

of filing a registration statement with the Attorney General. And the fact that it relates to jury trials in which the "accused person" (see fn. 41, *supra*, p. 156) is one who denies either his membership in the Party or his knowledge of the purpose or objective of the Party shows that it has no relation to possible criminal proceedings against the Party or its officers for willfully omitting the names of any of its members in the registration statement.[42]

Section 5 of the Communist Control Act might apply to criminal prosecutions brought under § 15 (a) (2) of the Subversive Activities Control Act against individual members who fail to register as required in those limited situations (defined in § 8) in which individual members are

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[42] Section 15 (a) (1) of the Subversive Activities Control Act provides for the punishment of the "organization" if, having been finally ordered to register, it fails to register or to file a registration statement or annual report or to keep records as required. This is the only criminal provision connected with the registration process which is applicable to organizations as such. Section 15 (b) provides for the punishment of "[a]ny individual" who, in a registration statement, willfully makes any false statement or willfully omits to state any fact required to be stated. Paragraph (2) of § 15 (b) provides that each listing of the name or address of any one individual in a registration statement shall be deemed a separate statement. The "individuals" required to file registration statements on an organization's behalf, should the organization itself fail to do so, are certain designated officers of the organization (§ 7 (h); 28 C. F. R. § 11.205; see *supra*, pp. 75–76, including fn. 18).

required after Board proceedings to register personally (see *supra*, pp. 76–77). But, as we have pointed out, it has no connection with criminal proceedings for failure, either by petitioner or by its officers, to file a full and true registration statement listing all members.

(*e*) *The validity of the provision making each day of failure to register a separate offense is not presented, and in any case it is valid*

Petitioner points out that an "astronomical accumulation" of penalties is made theoretically possible by the provision of § 15 (a) whereby each day of failure to register, once the obligation to do so arises, is declared to constitute a separate offense (Br. 28, 32–33).

(i) This contention, too, is prematurely raised in this proceeding. The penalty may never be applied to petitioner, and the issue may therefore never be reached. See *United States* v. *Harriss*, 347 U. S. 612, 626–627.

(ii) On its merits, the point must be rejected. It is clear, in the first place, that there cannot be any such accumulation of penalties unless an organization which has been finally ordered to register chooses to incur them by continued deliberate non-compliance. An organization is not required under the Act to disobey a final order to test its validity. Cf. *Gulf, Colorado & Santa*

*Fe Ry. Co.* v. *Texas*, 246 U. S. 58, 62; *Ex parte Young*, 209 U. S. 123, 145–148. The duty to register arises only after the validity of the registration requirements has been judicially determined and a final order has resulted. See *supra*, p. 79. Thus, penal liability results only from willful refusal to comply with a requirement laid down by Congress, implemented by a Board order after formal hearings, and upheld by the courts.

It is settled, moreover, that the extent of the permissible punishment imposable under an otherwise valid statute is, subject only to the Eighth Amendment's prohibition against cruel and unusual punishments, a matter of exclusive legislative discretion. *Blockburger* v. *United States*, 284 U. S. 299, 305. Congress was no doubt aware that effective enforcement of registration and reporting requirements is difficult where continuing disobedience can result in but a single penalty, which might be considered *de minimis* by a large organization. And it does not follow that because a court might, in a particular case, inflict punishment in an unreasonably harsh manner that the statutory clause under which the punishment is inflicted is completely invalid. It is easy to see, for example, that the law making a separate offense of each mailing in furtherance of a fraudulent scheme could in certain cases be enforced in a confiscatory manner. But the con-

stitutionality of the statute itself is settled. *Badders v. United States*, 240 U. S. 391, 394; cf. *Marcus v. Hess*, 317 U. S. 537, 552; *Blockburger* v. *United States*, 284 U. S. 299; *Ebeling* v. *Morgan*, 237 U. S. 625.

### B. THE SO-CALLED "SANCTION" PROVISIONS OF THE ACT ARE VALID

*Introduction.*—Immediately upon the registration of an organization under the Act, or when an order of the Board requiring an organization to register becomes final (after judicial review), certain legal consequences automatically occur. These consequences are, generally speaking, in the nature of legal disabilities or restrictions. They are broadly classifiable into two types—those affecting the organization as such, and those affecting members of the organization. They have come to be known in this litigation as "sanctions" (see Op. 5, R. 2082). Briefly, they may be identified as the "labeling," "tax," "contributions," "employment," "passport," and "alien" provisions, the first three being applicable to organizations as entities, and the last three to individual members of the organizations affected. See *supra*, pp. 79–84; *infra*, pp. 165–201.

These sanctions are to be distinguished from the Act's criminal penalties. In addition to the criminal penalties imposed both on organizations and individuals for various offenses connected

with the registration process (see *supra*, pp. 84–85), the Act imposes other penalties on individuals for certain offenses connected with four of the general sanctions (the "labeling," "contributions," "employment," and "passport" provisions; see *supra*, pp. 85–86). But, while the sanctions become automatically operative upon an organization's registration or being finally ordered to register, a criminal penalty associated with a sanction can be enforced only in the usual manner in which criminal penalties are enforced, *i. e.*, by indictment, trial, and conviction.

Petitioner assails the sanctions of the Act on several different constitutional grounds. First, it attempts to show that the sanctions, considered together with the "public opprobrium" which results from a registration order (Br. 31), make the Act one of "outlawry" (Br. 26–33), and, as such, violative of the freedoms guaranteed by the First Amendment (Br. 90–107, 113–119, 173–174). Secondly, it contends that the sanction provisions violate due process (Br. 72–75). Finally, it argues that, by virtue of the sanctions, the Act is a bill of attainder, proscribed by Article I, § 9, clause 3 (Br. 60–64). For the reasons suggested above (*supra*, pp. 42, 88–89, 104, 113–114), the validity of none or only some of the sanctions may now be before the Court, but in view

of the Court of Appeals' treatment of this problem[43] and petitioner's extensive argument we discuss all of the sanctions.

*1. The sanction provisions do not violate the First Amendment*[44]

We have previously shown (*supra*, pp. 89 ff.) that the Act's registration provisions, as such, are consonant with the guaranties of the First Amendment. In that connection, we discussed the gravity of the evil with which Congress was dealing in this Act as well as this Court's rulings showing that First Amendment protections are far from absolute. Against the same significant back-

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[43] The "alien" and "tax" sanctions have no criminal penalties associated with them, but their validity could be tested in appropriate proceedings unconnected with the present one (*e. g.*, habeas corpus or declaratory judgment proceedings or proceedings in the Tax Court). Because the validity of all of the sanctions could be tested apart from the present proceeding, we argued in the court below that the court could properly limit its consideration to the validity of the registration provisions, and that no sanction was so functionally bound up with the registration provisions that it was required to be considered together with the registration provisions, in this proceeding, as part of a seamless web. The court below, however, rejected this contention and requested argument on the sanction provisions (*supra*, p. 11; Op. 4–7, R. 2081–2084) on the ground that the sanctions are "attachments" to registration and "[w]e cannot strip the registration of its attachments" (Op. 5, R. 2082).

[44] Since petitioner stresses the First Amendment, we include that provision of the Constitution in the heading for this sub-point, but to avoid needless duplication our discussion will also consider certain aspects of substantive due process related to the First Amendment issues.

ground, we now consider petitioner's related contention that the Act's sanctions are individually violative of the First Amendment (Br. 100–107) and that they confirm its contention that the Act as a whole, by in effect "outlawing" it (Br. 107), will have the practical effect of silencing it and its members as "effective" advocates of "lawful" political action, in alleged further violation of the First Amendment (Br. 91–100).

*(a) Sanctions applicable to organizations as such*

The sanctions which are applicable to organizations as entities are three—the "labeling," "tax," and "contributions" sanctions.

*(i) The labeling requirements*

When an organization is registered or has been finally ordered to register, each publication of the organization transmitted by mail or in interstate or foreign commerce and intended to be circulated among two or more persons is required to bear on its face and on any wrapper in which it is contained the statement "Disseminated by [name of organization], a Communist organization" (§ 10 (1)). Similarly, all radio and television broadcasts sponsored by the organization must be identified as being "sponsored by [name of organization], a Communist organization" (§ 10 (2)). Violation of these provisions by the organization or by any person acting on its behalf is made a punishable offense (§§ 10, 15 (c)).

These labeling requirements most nearly approach, of all the sanctions, the area of First Amendment rights. We contend nevertheless that, measured against the evil at which the Act strikes, they are well within the power of Congress to impose.

*a.* Labeling imposes no censorship on any mail matter or broadcast material; the content of either is immaterial. What the provisions do is not to censor the "speech," but to identify the "speaker." If such revelation interferes with the purposes of an organization by destroying its anonymity and disclosing its true nature, it is because of the unpopularity of the organization in the free market of ideas. The "restraints" are entirely social, not legal. Organizations subject to the requirement are at liberty to issue any literature or propaganda they choose, provided it is labeled and does not contain anything constituting a crime in itself, such as, for example, advocacy of the violent overthrow of the Government. Furthermore, the labeling requirements apply to organizations only. Individuals, including members of the organizations, are not subject to even the indirect restraint of labeling.

*United States* v. *Harriss,* 347 U. S. 612, 625–6, *Burroughs and Cannon* v. *United States,* 290 U. S. 534, 545, 548, and *Lewis Publishing Co.* v. *Morgan,* 229 U. S. 288, 312, 315–316, all teach that such disclosure and labeling requirements may validly

be imposed in order to serve a proper purpose. In *Harriss,* the Regulation of Lobbying Act was sustained because members of Congress have a right to know "who is being hired" to attempt to influence them, and "who is putting up the money". *Burroughs and Cannon* upheld the comparable provisions of the Corrupt Practices Act in order "to safeguard [a federal] election from the improper use of money to influence the result". The requirement that newspapers disclose their owners in order to enjoy second-class mail privileges was held valid in the *Lewis Publishing Co.* case. *National Labor Relations Board* v. *Falk Corp.,* 308 U. S. 453, 462–463, upheld a requirement by the Labor Board that an employer found to have engaged in an unfair labor practice should post notices that it would "cease and desist" from like activity in the future. See, also, *Bryant* v. *Zimmerman,* 278 U. S. 63. None of these rulings is, of course, decisive here, but they do direct the inquiry to the aim and purpose of the particular labeling requirement. They also help to mark the bounds of the proper ends of disclosure.

*b.* What we have in this case is the Communist Party, foreign-controlled and engaged, among its other activities, in widespread propaganda which, whatever the immediate issue may happen to be, has always as its ultimate objective the domination, by force, of this country and the

world by the world Communist movement under the leadership of the Soviet Union. Much of this propaganda is covert, and all of it attempts to sell itself to the public as peacefully and lawfully inspired. The record shows that it is petitioner's standard policy to exploit situations of human misery and legitimate grievance for the temporary foothold its organizers thereby gain in social, racial, and labor groups. The Party frequently dons its mask of respectability and sympathy to plead for various causes which it thinks will advance its own falsely assumed status as a champion of human rights (cf. Br. 92). "Basic to those techniques [of Communism] is the element of disguise. Over and over, the Communist creed poses under a thousand masks—a thousand fronts—organizations—movements—drives—with glittering, alluring appeal to snare the unwary."[45] But the ultimate objective remains steadfast and unvaried.

In theory, perhaps, if every one had the time and talent to be able to make an independent evaluation, after sufficient research, of the truth or soundness of each political utterance with which he is propagandized in the mails and over the air waves, he would have no need to know from what source the propaganda came. "But as a practical matter", as it has been cogently observed, "this independent determination

[45] *Internal Security Manual Revised*, S. Doc. No. 40, 84th Cong., 1st sess., p. 2 (Introduction to the original edition by Senator Alexander Wiley).

is in most cases impossible, and in making judgments we are continually influenced by the source from which statements emanate" (Cohen and Fuchs, *Communism's Challenge and the Constitution* (1948), 34 Corn. L. Q. 182, 208). And nowhere is the need for disclosure of the true source of propaganda more pressing than in the case of a Communist-action organization. "In light of the Soviet allegiance of American communists, the extensive degree to which they use the technique of concealment, and the success that they have had in influencing public opinion by this technique, a requirement of disclosure would seem to be justified. This disclosure would greatly diminish their influence, not because of government suppression, but rather because of public recognition of their interests. Although it is true that some methods of achieving disclosure may infringe upon freedom of expression, the objective of putting the spotlight on communist propaganda does not limit that liberty, but adds to the relevant facts in the market-place of competing ideas" (*id.* at 208–209).

As the court below remarked, "surely the people are entitled to know when an organization which falls within the definition of a Communist-action organization in this statute is addressing them over the air" (Op. 36, R. 2113). This observation is no less true with respect to the circularization of propaganda by mail. To para-

phrase the words of Mr. Justice Black, with whom Mr. Justice Douglas concurred, dissenting in *Viereck* v. *United States*, 318 U. S. 236, 251 (said in their context with reference to the Foreign Agents Registration Act):

> Resting on the fundamental constitutional principle that our people, adequately informed, may be trusted to distinguish between the true and the false, the [Act] is intended to label information [emanating from a Communist source] so that hearers and readers may not be deceived by the belief that the information comes from a disinterested source. Such legislation implements rather than detracts from the prized freedoms guaranteed by the First Amendment.

Moreover, the petitioner calls itself the "Communist Party." There "seems little to choose" so far as petitioner is concerned, between being identified as "The Communist Party" and as "The Communist Party, a Communist organization," which is what the Act requires. See Op. 35–36, R. 2112–2113. It is no answer for petitioner to say that the requirement that it identify itself not only by name but as "a Communist organization" brands it "invidiously" and "discriminatorily" (Br. 106–107) in the eyes of the public. Nor is it an answer to complain that "other political parties" (Br. 93) are not subject to special labeling requirements. An organ-

ization subject to the labeling requirements of this Act is one that has been found, after a full hearing (including judicial review), to be the puppet of a foreign power, working to achieve the ends of that power—ends which encompass the extension of its totalitarian hegemony over this nation "by any available means, including force if necessary" (§ 2 (6)). Cf. *National Labor Relations Board* v. *Falk Corp.*, 308 U. S. 453; *Bryant* v. *Zimmerman*, 278 U. S. 63.

The fundamentally erroneous premise which runs all through petitioner's First Amendment argument is that it is just another political party, expressing ideas in the political arena. It complains that the Act attempts to proscribe for "certain groups", such as Communists, "activities that are perfectly proper for everyone else" (Br. 93). But petitioner is not "just another political party" (cf. Mr. Justice Jackson, concurring in *Dennis* v. *United States*, 341 U. S. 494, 566, and in *American Communications Assn.* v. *Douds*, 339 U. S. 382, 422–433), as the evidence in this case so overwhelmingly proved. See *supra*, p. 9; *infra*, pp. 209–261. When an agency of the world Communist movement poses tactically as a benign domestic organization and champion of constitutional liberties, while concealing its ultimate strategy of foisting a communistic dictatorship on the nation in a Czechoslovakia-type coup as soon as it feels the time to be pro-

pitious—*i. e.*, when its leaders are in positions of sufficient power and the ranks of its lesser members have been sufficiently strengthened by the duped victims of its propaganda (cf. Mr. Justice Jackson, concurring in *Dennis* v. *United States*, 341 U. S. 494, 566)—we submit that Congress can act to defeat the strategy by compelling the truthful identification of the source of the propaganda, to the end that the people may not be deceived.

*c.* On the premise that Congress has power to keep the channels of interstate commerce and the postal system free from concealed propaganda of this type, there is abundant precedent for the labeling requirements, which are not aimed at private correspondence but at literature sent through the mails or in commerce with the intent that it be circulated publicly.

A 1912 statutory requirement provides that newspapers and magazines, to enjoy the privileges of second-class mail, must publicly disclose the names of their owners and plainly mark with the word "advertisement" all items which have been paid for (Act of August 24, 1912, c. 389, § 2, 37 Stat. 553; now 39 U. S. C. §§ 233, 234). Sustaining this law against the charge that it unconstitutionally abridged freedom of the press, this Court quoted with approval from the committee report on the bill, as follows (*Lewis Publishing Co.* v. *Morgan*, 229 U. S. 288, 312, 315–316):

> * * * It is a common belief that many periodicals are secretly owned or controlled, and that in reading such papers the public is deceived through ignorance of the interests the publication represents. We believe that * * * it is not only equitable but highly desirable that the public should know the individuals who own or control them.

The purpose behind that statute—which this Court described as "secur[ing] to the public in 'the dissemination of knowledge of current events,' by means of newspapers, the names not only of the apparent, but of what might prove to be the real and substantial owners of the publications, and to enable the public to know whether matter which was published was what it purported to be or was in substance a paid advertisement" (229 U. S. at 315–316)—was held in no wise to constitute a forbidden invasion of freedom of the press. The pertinence of this decision seems clear. If Congress may condition the enjoyment of second-class mail privileges by publishers on their making full disclosure of the true interests represented by their publications, Congress may also require a Communist-action organization to label its publications, or else desist from distributing them by mail at all.

Similarly, the power of the Government to prevent the fraudulent use of its own mail facilities

is a broad one, and has long been established.[*] This power has been sustained against contentions that it is, in itself, violative of First Amendment and other constitutional rights. *In re Rapier,* 143 U. S. 110; *Horner* v. *United States,* 143 U. S. 207; *Public Clearing House* v. *Coyne,* 194 U. S. 497, 507; *Milwaukee Publishing Co.* v. *Burleson,* 255 U. S. 407. More recently, this Court has sustained the power in the follow-

[*] In 1872, Congress authorized the Postmaster General to forbid the payment of money orders and the delivery of registered letters to persons or companies found by him to be conducting an enterprise to obtain money by false pretenses through the use of the mails, and to return all such letters to their senders with the word "fraudulent" stamped on the envelope (Act of June 8, 1872, c. 335, § 300, 17 Stat. 322; now 39 U. S. C. §§ 259, 732). In the same statute, Congress made it a criminal offense to place any letter or package in the mails for the purpose of carrying out any scheme or artifice to defraud (*id.*, § 301, 17 Stat. 323; now 18 U. S. C. § 1341). In 1889, Congress declared all letters and other matter designed to perpetrate frauds to be "nonmailable" (Act of March 2, 1889, c. 393, § 4, 25 Stat. 874; now 39 U. S. C. § 256). In 1895, the Postmaster General's fraud-order powers were extended to cover all letters or other matter sent by mail (Act of March 2, 1895, c. 191, § 4, 28 Stat. 964; now 39 U. S. C. § 259). Other statutes, such as the Securities Act of 1933 (Act of May 27, 1933, c. 38, § 5, 48 Stat. 77, as amended by the Securities Exchange Act of 1934, c. 404, § 204, 48 Stat. 906; now 15 U. S. C. § 77e) and the Federal Trade Act of 1938 (Act of March 21, 1938, c. 49, § 4, 52 Stat. 114; now 15 U. S. C. §§ 52, 53), contain provisions similarly designed to rid the mails and the channels of commerce of false or fraudulent securities, advertising matter, and the like.

ing language (*Donaldson* v. *Read Magazine,* 333 U. S. 178, 190):

> All of the foregoing statutes [mail fraud statutes], and others which need not be referred to specifically, manifest a purpose of Congress to utilize its powers, particularly over the mails and in interstate commerce, to protect people against fraud. This governmental power has always been recognized in this country and is firmly established.

Rejecting a contention that the First Amendment stood as a bar to congressional action designed to free the mails of fraudulent material, the Court added (333 U. S. at 191):

> * * * None of the recent cases to which respondents refer, however, provide the slightest support for a contention that the constitutional guarantees of freedom of speech and freedom of the press include complete freedom, uncontrollable by Congress, to use the mails for perpetration of swindling schemes.

Congress has not, in this Act, attempted to exercise the same degree of control as it employs to prevent the usual type of mail fraud involving financial swindles. The literature-labeling provisions constitute a far milder form of sanction or control-measure, *viz,* compulsory identification. The provisions do not relate to the contents of any mail matter, however fraudulent they

may be, or however inflammatory. They simply identify the sender organization—which in petitioner's case has no unqualified right to conduct its affairs in secret (cf. *United States* v. *Morton Salt Co.*, 338 U. S. 632, 652)—with an identifying phrase found to be truthful after a full hearing.

The employment of reasonable identification devices to forestall public deception has other precedents. We have already mentioned (*supra*, pp. 172–173) the requirement that publishers who use second-class mail facilities identify their ownership (39 U. S. C. § 233) and mark paid items as advertisements (39 U. S. C. § 234). Cf. 39 U. S. C. §§ 255, 257. In addition, all political circulars and other statements relating to candidates running for federal office, which are deposited in the mails or in interstate commerce, must include the names of the persons or groups responsible for the publication in question, as well as the names of the officers of each such group (18 U. S. C. § 612). The Foreign Agents Registration Act contains rigorous labeling requirements applicable to the dissemination of political propaganda. See *supra*, pp. 93, 95, 98–99.[47] These instances—along with the others we have

[47] In addition, the Foreign Agents Registration Act goes much further than the Act at bar in another respect. It declares certain types of political propaganda to be entirely nonmailable at the discretion of the Postmaster General under certain circumstances (22 U. S. C. § 618 (d)).

cited—show that labeling and identification devices may be used where, as here, there is sufficient need and a proper purpose.

*d.* The identification requirements of § 10 pertaining to radio and television broadcasts are as valid as the literature-labeling requirements and for the same reasons. Indeed, the reasonableness of requiring accurate identification of speaker and sponsor in such mass media of communication as radio and television is even more apparent, since, because of the inherent limitations of those media, they are peculiarly subject to government control in the public interest. *National Broadcasting Co.* v. *United States,* 319 U. S. 190, 226–227; *Radio Commission* v. *Nelson Bros. Co.,* 289 U. S. 266, 285; *Trinity Methodist Church, South* v. *Federal Radio Commission,* 62 F. 2d 850, 851 (C. A. D. C.), certiorari denied, 288 U. S. 599. All paid broadcasts over any radio station have been required since 1934 to be identified and announced at the time of the broadcast as having been paid for by the person furnishing the money (Communications Act of 1934, c. 652, § 317, 48 Stat. 1089; 47 U. S. C. § 317). The Act at bar simply carries this principle one step further in the case of organizations finally ordered to register by requiring them to give the additional identifying words, "a Communist organization," a phrase which, as we have

shown, cannot be deemed unfairly stigmatizing or discriminatory, in view of the nature of the world Communist movement and petitioner's subordination to it.

(*ii*) *The tax provisions*

Section 11 (a) of the Act disallows the deduction for tax purposes of contributions to any organization which is registered or has been finally ordered to register as a Communist organization, and § 11 (b) denies to such an organization tax exemption under § 101 of the Internal Revenue Code (26 U. S. C. § 101).

Petitioner apparently does not seriously question the validity of these provisions, and, in any event, there can be no real doubt of the power of Congress to withdraw its legislative grace, for reasons of policy, in specific areas relating to taxation. That the conferring of tax-exempt status on an organization and permitting the deduction from gross income for tax purposes of sums contributed to such organization are matters of legislative grace is clear. *Helvering* v. *Ohio Leather Co.*, 317 U. S. 102, 106; *Helvering* v. *Northwest Steel Mills*, 311 U. S. 46, 49; *Cornell* v. *Coyne*, 192 U. S. 418, 431; *Rector of Christ Church* v. *County of Philadelphia*, 24 How. 300. These grants vest no permanent right in the favored class to continue its enjoyment of special treatment (*Choate* v. *Trapp*, 224 U. S. 665, 674;

*Yazoo and Mississippi Valley Ry. Co.* v. *Adams*, 180 U. S. 1, 22) and may be withdrawn at will by legislative act. *Rector of Christ Church* v. *County of Philadelphia*, *supra*, 24 How. 300.

Federal tax-exemption and deductibility provisions are founded on the public interest in fostering, as a matter of policy, the types of activity pursued by the favored organizations (*Helvering* v. *Bliss*, 293 U. S. 144, 150–151), most of which enjoy that status because, by performing public services, they relieve the public *pro tanto* of a burden which otherwise would fall on it. *Trinidad* v. *Sagrada Orden*, 263 U. S. 578, 581. Since they thus constitute a form of subsidy to activities deemed by Congress to be beneficial to the public, Congress may withdraw its favor when it sees that a one-time beneficiary of its grace is engaged in activities thought to be inimical to the public interest. It would be strange if this Government were required to foster through special exemptions in its tax laws the activities of a domestic agency of a world-wide movement which is dedicated to its violent overthrow.

(*iii*) *The contributions prohibition*

A restriction which indirectly affects organizations required to register under the Act is the provision of § 5 (a) (2) (A) making it unlawful for any officer or employee of the United States or of any defense facility, with knowledge or

notice that an organization is registered or has been finally ordered to register, to contribute funds or services thereto. Violations are punishable by fine or imprisonment or both (§ 15 (c)).

We shall assume *arguendo* that the effect of this prohibition on petitioner is not so remote, despite the indirectness of the impact, as to deprive it of standing to challenge. Cf. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123, 143, 150–160; *Pierce* v. *Society of Sisters*, 268 U. S. 510, 535–536; *Buchanan* v. *Warley*, 245 U. S. 60, 72–73; *Truax* v. *Raich*, 239 U. S. 33, 38–39; but see *Tileston* v. *Ullman*, 318 U. S. 44.

The forbidding of money contributions or other contributions of value by government and defense-facility employees to a Communist-action organization, as the term is defined in this Act, is a reasonable measure in relation to the problem which faced Congress and which led to the passage of the Act. If Congress can validly forbid employees of the United States to engage in partisan politics (*United Public Workers* v. *Mitchell*, 330 U. S. 75), it can validly forbid them to contribute to the welfare of an organization found to have as one of its primary objectives the destruction of their employer at the earliest feasible opportunity and "by any available means,

including force if necessary" (§ 2 (6)).[46] If the Government has power to safeguard itself by appropriate security and loyalty investigations of its employees (see the Presidential Loyalty and Security Orders, E. O. 9835 of March 21, 1947 (12 F. R. 1935), and E. O. 10450 of April 27, 1953 (18 F. R. 2489); and cf. *Peters* v. *Hobby,* 349 U. S. 331; *Bailey* v. *Richardson,* 182 F. 2d 46 (C. A. D. C.), affirmed by an equally divided Court, 341 U. S. 918), it has also the power to forbid its employees to contribute to the treasury of an organization dedicated to its forcible overthrow. Since the prohibition has prospective effect only, no employee can complain of it. If he insists on his right to make the prohibited contribution, he must quit the employment which Congress has declared to be incompatible with this particular type of political donation. See *Adler* v. *Board of Education,* 342 U. S. 485, 492.

The prohibition against the making of contributions to registered organizations by defense-facility employees, is, we submit, on no greatly different footing. The importance of keeping subversive elements out of the ranks of employees of defense facilities is no less pressing than in the case of employees of the Government itself. If Congress can validly provide that members of

[46] Membership in the Communist Party has long been forbidden, in effect, to Federal employees by the Hatch Act and riders to appropriation acts.

a registered Communist-action organization shall be ineligible for defense-facility employment, as we think it can (see *infra*, pp. 185–189), it can also forbid the employees of such facilities to support such an organization with money contributions.[49]

### (*b*) *Sanctions applicable to individual members of organizations ordered to register*

There are three general categories of sanctions applicable to individual members of organizations which have registered or been finally ordered to register—the "employment," "passport," and "alien" provisions. Again, we assume *arguendo* (though the point is doubtful) that petitioner has standing to contest these provisions, which do not apply directly to it, but only to its members (see *supra*, p. 180).

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[49] Petitioner points out (Br. 102) that under § 3 (6) the term "to contribute funds or services" is defined to include the "* * * making of any gift, *subscription*, loan, advance, or deposit, of money or of anything of value * * *" (emphasis supplied). From this it reasons that the prohibition of § 5 (a) (2) (A) extends to "subscribing" to a publication of an organization ordered to register, which, it argues, is a "crass violation of freedom of the press" (*ibid.*). It is clear, however, under the principle of *ejusdem generis*, that Congress, in using the term "subscription," meant the act of subscribing in the sense of "promis[ing] to give or contribute, by writing one's name with the amount" (Webster's *New International Dictionary*, 2d ed., unabridged), rather than in the more colloquial sense of "enter[ing] one's name for a newspaper, a book, etc." (*ibid.*). (This particular argument has apparently not occurred to petitioner previously; it is advanced for the first time in this Court.)

*(i) The employment restrictions*

The employment restrictions are broadly divisible into three types:—prohibitions against (a) employment by the Federal Government, (b) employment in any defense facility, and (c) holding office in or employment with any labor organization or as an employer-representative in a proceeding under the National Labor Relations Act.

*a. The prohibition against employment by the Federal Government*

When an organization is registered under the Act or has been finally ordered to register, all of its members having knowledge or notice of that fact are forbidden to conceal or fail to disclose their membership in seeking, accepting, or holding any non-elective employment with the Federal Government (§ 5 (a) (1) (A)) or to hold such employment (§ 5 (a) (1) (B)), under penalty of a fine or imprisonment or both (§ 15 (c)).

The reasonableness and validity of these provisions is clear. "The restrictions upon Government employment," as the court below observed, "are directly related to the substantive evil at which Congress was aiming in this statute. Infiltration of government by world Communist adherents is one of the specified evils recited by the Congress, and certainly a prohibition of Government employment to such adherents is a di-

rect attack upon that evil. Indeed we can think of no more direct relationship than that which would exist between the objectives of the world Communist movement, as it is described in this statute, and the occupation of Government positions by members of a Communist-action organization" (Op. 33, R. 2110).

The prohibition applies only to those members who continue to remain such with knowledge or notice that the organization to which they belong either has voluntarily registered under the Act or has been finally ordered to do so. *Bona fide* termination of membership ends the applicability of the provisions. That Congress possesses the power to bar from the ranks of employees of the United States Government persons who knowingly remain members of an organization after that organization has been duly found to be a Communist-action organization, and has been finally ordered to register as such, is not to be doubted. *Wieman* v. *Updegraff*, 344 U. S. 183, 188–192; *Adler* v. *Board of Education*, 342 U. S. 485; *Garner* v. *Los Angeles Board*, 341 U. S. 716; E. O. 9835 of March 21, 1947 (12 F. R. 1935); E. O. 10450 of April 27, 1953 (18 F. R. 2489); see also *supra*, pp. 180–181. And the power to exclude such members from government employment entirely includes the power to penalize those who

willfully conceal their membership in order to obtain or continue to hold such employment.[50]

*b. The prohibition against employment in any defense facility*

When an organization is registered under the Act or has been finally ordered to register, all of its members having knowledge or notice of that fact are prohibited from concealing or failing to disclose their membership in seeking, accepting, or holding employment in any defense facility (§ 5 (a) (1) (C)) or, if the organization is a Communist-action organization, from working in any defense facility (§ 5 (a) (1) (D)), under penalty of a fine or imprisonment or both (§ 15 (c)).

These provisions are on a par with those relating to government employment. The court below summed up the pertinent considerations when it said, "We think the considerations which validate power to forbid Government employment likewise support the power to forbid defense facility employment. The latter employment is sensitive business, and it would be sheer folly to say that

[50] See pp. 201–206, *infra*, for our reply to petitioner's contention (Br. 72–75) that the government-employment prohibition violates due process because of its alleged failure to require proof of knowledge on the part of the member of the character of the organization.

the Government cannot close the gates of such facilities against those who are knowingly members of organizations under the dominion of a foreign government" (Op. 34, R. 2111). Particularly is this true, we would add, when the foreign government is the very *raison d'etre* of most of these defense facilities.

The manifest purpose of these provisions is to guard against sabotage and espionage in establishments vital to the national defense. They constitute a valid exercise of the war and defense powers. Congress has never regarded itself, or been thought by the courts to be, impotent to deal with the problems of sabotage and espionage in defense facilities. See, for example, 18 U. S. C. §§ 793–794 (espionage); 18 U. S. C. §§ 2151–2156 (sabotage); *Korematsu* v. *United States*, 323 U. S. 214, 216–217; *Gorin* v. *United States*, 312 U. S. 19; *United States* v. *Gray*, 207 F. 2d 237, 241 (C. A. 9); *Parker* v. *Lester*, 112 F. Supp. 433, 443 (N. D. Cal.), appeal dismissed, 191 F. 2d 1020 (C. A. 9).

Nor is Congress limited, in striking at these evils, to exacting criminal penalties after they occur. It can adopt reasonable measures to prevent their occurring. The *Gray* case involved the constitutionality of the so-called Magnuson Act of August 9, 1950, c. 656, 64 Stat. 427, 50 U. S. C. §§ 191, 192, which, together with the regulations promulgated under it (see E. O. 10173 of October

18, 1950 (15 F. R. 7005); E. O. 10277 (16 F. R. 7537); E. O. 10352 (17 F. R. 4607)), are known as the Port Security Program. It provides for Coast Guard screening of workers in harbors, ports, vessels, and waterfront facilities. The Court of Appeals for the Ninth Circuit, while it found the procedures in the particular cases before it defective, had no doubt of the power of Congress to prohibit members of subversive organizations from engaging in employment which would give them opportunities to commit sabotage and espionage. "There seems no reason to doubt," said the court (207 F. 2d at 241), "that the screening operation initiated by the Magnuson Act is a legitimate war measure." Similarly, the court in *Parker* v. *Lester, supra,* 112 F. Supp. at 443, referred to the same Port Security Program as being justified by "the undoubted right of the Nation to protect itself from subversion."

If ship and harbor workers may, subject to criminal penalties for non-compliance (50 U. S. C. § 192), be denied clearance to work as a security measure to protect our merchant marine and harbor facilities, we submit that the same considerations justify the prohibitions of § 5 (a) (1) (C) and (D) of the Act at bar. Both programs subject violators to criminal sanctions appropriate to curb the evil aimed at. Both are valid exercises of the nation's power to provide for its own survival.

We must assume that the Secretary of Defense, under the power granted him by § 5 (b), will designate "defense facilities" just as vital to national security as are ships, ports, and waterfront installations. And despite petitioner's claim of "unfettered" and "unreviewable authority" to designate all private enterprises, including the most non-sensitive (Br. 102), it is evident that the Secretary's discretion, while unquestionably broad, would not be unlimited; the rule of reason would apply here as elsewhere to supply a remedy if the authority were abused. Petitioner's further argument that its members should necessarily be allowed to work in "non-sensitive jobs in sensitive businesses" even if they can lawfully be excluded from the "sensitive" jobs in the "sensitive businesses" (Br. 102) is also untenable. Neither Congress nor the Secretary of Defense is constitutionally required to make what would surely be problematical distinctions between "sensitive" and "non-sensitive" jobs at such installations, say, as the Oak Ridge laboratories.[51] Congress has the power, if that is its policy, wholly to bar those who insist on remaining a part of the world Communist movement from establishments which, be-

[51] At the present time, by contract, the Secretary of Defense exercises his discretion as to which physical areas of defense facilities that have classified government contracts shall be accessible only to persons having security clearance.

cause of the general nature of their business, are properly classifiable as "defense facilities."

*c. The prohibition against holding office or employment with a labor organization or as an employer-representative in a proceeding under the National Labor Relations Act*

When an organization is registered under the Act or has been finally ordered to register, it becomes unlawful for any member having knowledge or notice of that fact to hold office in or employment with any labor organization as defined in the National Labor Relations Act (see fn. 21, *supra*, p. 82), or to represent any employer in any proceeding under that Act (§ 5 (a) (1) (E)), under penalty of a fine or imprisonment or both (§ 15 (c)).[82]

By its terms this prohibition is applicable only to the holding of office in or employment by labor organizations; it does not extend to mere membership in a union. We submit that the validity of this provision is a logical corollary of *American Communications Assn.* v. *Douds*, 339 U. S. 382. The Court there sustained the validity of § 9 (h) of the Labor Relations Act, as amended by the Labor-Management Relations Act of 1947, under which the benefits of that Act were limited to unions whose officers filed with the Labor Board affidavits attesting that they were not members of

[82] This provision was added to the Subversive Activities Control Act by § 6 of the Communist Control Act of 1954, 68 Stat. 777.

the Communist Party. The objective of the clause in issue, as the Court observed, was the elimination of the obstruction to interstate commerce resulting from the so-called "political strike," which Congress had found after lengthy studies to be the result of the infiltration by Communist Party members into positions of power in labor organizations (339 U. S. at 388–389). "No useful purpose would be served," said the Court, "by setting out at length the evidence before Congress relating to the problem of political strikes, nor can we attempt to assess the validity of each item of evidence. It is sufficient to say that Congress had a great mass of material before it which tended to show that Communists and others proscribed by the statute had infiltrated union organizations not to support and further trade union objectives, including the advocacy of change by democratic methods, but to make them a device by which commerce and industry might be disrupted when the dictates of political policy required such action" (*ibid.*). See also *Osman* v. *Douds*, 339 U. S. 846; *National Labor Relations Board* v. *Highland Park Co.*, 341 U. S. 322, 325; *National Labor Relations Board* v. *Dant*, 344 U. S. 375, 385.

The *Douds* decision thus accepted as a reasonable basis for the non-Communist affidavit legislation the congressional finding that Communists in positions of influence in labor unions tend to promote political strikes and thereby to endanger

the national interest in time of peace as well as of national peril. This finding was reinforced by the findings of § 2 of the Act at bar, which emphasize even more forcefully the need to keep adherents of the world Communist movement out of positions of influence in labor and industry (see, particularly, § 2 (1) and (15)).[53]

On that basis, there is no significant difference between the policy and purpose of § 9 (h) of the amended National Labor Relations Act and § 5 (a) (1) (E) of the Subversive Activities Control Act. If a union officer who cannot subscribe to a non-Communist affidavit can be forced out of his position of leadership in the union by the indirect method of depriving his union of rights it would otherwise enjoy before the Labor Board, there can be no infirmity in directly prohibiting him from being on a labor union staff as an officer or employee. The justification for either method is the same—the reasonableness of removing from positions of influence in unions those persons who can reasonably be expected to use these positions to the detriment of the nation.

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[53] See also the passage of the Board's report (R. 67–71 [1926–1933]) relating to Communist infiltration into the labor union movement, the control exercised by Communists over national trade union activities, the systematic training of Communist organizers to gain leverage within the basic industries, and the use made by petitioner of the political strike as an effective means of crippling the economy in periods of crisis.

In neither case is any person permanently or categorically barred from holding such a position—he can by renouncing in good faith his Communist ties resume his eligibility with respect to his union. *American Communications Assn.* v. *Douds, supra,* 339 U. S. at 414. His ineligibility is only with respect to a special category of employment and lasts only for so long as he continues it by a self-imposed exile.[54] See also *infra,* pp. 201–206, 208–209.

There is thus no justification for petitioner's reference to the "sanction against trade-union employment" as a "blatant example of the unconstitutional blunderbuss technique of the Act" (Br. 103). Nor is petitioner correct in saying that § 5 (a) (1) (E) is not "an exercise of the commerce power" (*ibid.*). By its terms the paragraph is limited to the holding of office in or employment with labor organizations as defined in the National Labor Relations Act, the scope of which, in turn, is limited by the commerce clause (29 U. S. C. § 152 (6)). The paragraph is thus a joint exercise of the commerce power and the other powers referred to in § 2 (15) (see *supra,* pp. 68–69). It is true that, as petitioner says, the

[54] We are dealing here only with *members* of a Communist-action organization. No self-appraisal or searching for subjective beliefs is called for—unlike some aspects of the non-Communist affidavit clause of the Labor Act. See *Osman* v. *Douds,* 339 U. S. 846.

reach of the paragraph "extends to every employee of every trade union"—provided that by "trade union" is understood "labor organization" as defined in the Labor Relations Act—regardless of the extent to which a particular position may be one "of power over the national economy" (Br. 103). But Congress is under no constitutional duty to make calculations as to the amount of "power over the national economy" a position in a labor organization must possess before barring from its occupancy members of an organization required to register under this Act. This argument by petitioner is on a plane with its similar argument (see *supra*, pp. 188–189) that Congress, though it may bar petitioner's members from "sensitive" jobs in "sensitive businesses", *must* allow them to fill "non-sensitive" jobs in those enterprises.

What has been said with respect to the prohibition against holding office or employment with a labor union applies with equal force to the prohibition against representing any employer in any proceeding arising under the Labor Act. The same logic which underlies the need to eradicate members of Communist-action organizations from positions of influence in labor unions is equally applicable to management representatives, who, from their places on the other side of the bargaining table, could not only exert an adverse influence on interstate labor-management relations

and thus on interstate commerce, but could use their positions for political ends to the same (if not to a greater) extent as union officials. Such representatives are clothed with broad powers and enjoy "an operating participation in governmental facilities." *National Maritime Union of America* v. *Herzog*, 78 F. Supp. 146, 172 (D. D. C.), affirmed, 334 U. S. 854.

*(ii) The passport provisions*

When an organization is registered under the Act or an order directing it to register has become final, members of the group having knowledge or notice of that fact are prohibited from applying for, seeking to renew, using, or attempting to use any passport issued under the authority of the United States (§ 6 (a)). In addition, officers and employees of the United States are forbidden to issue passports to or renew passports of any individuals whom they know or have reason to believe to be members of a Communist-*action* organization which has registered or been finally ordered to register (§ 6 (b)). Violations of these prohibitions are punishable by fine or imprisonment or both (§ 15 (c)). Taken together, these provisions remove from eligibility for passports all persons who remain members of a Communist-action organization after it registers or is finally ordered to do so.

At the present time, a passport has the dual function of extending governmental protection

while abroad and also of granting permission to travel to many parts of the world. See *Schachtman* v. *Dulles*, C. A. D. C., decided June 23, 1955. In the first aspect, a passport is addressed to foreign governments and requests for the holder "permission to come and go as well as lawful aid and protection." *United States* v. *Browder*, 113 F. 2d 97, 98 (C. A. 2), affirmed, 312 U. S. 335; Borchard, *Diplomatic Protection of Citizens Abroad* (1915), p. 493; cf. *Urtetiqui* v. *D'Arcy*, 9 Pet. 692, 698. An American passport "indicates that it is the right of the bearer to receive the protection and good offices of American diplomatic and consular officers abroad and requests on the part of the Government of the United States that the officials of foreign governments permit the bearer to travel or sojourn in their territories and in case of need to give him all lawful aid and protection. It has no other purpose." 3 Hackworth, *Digest of International Law* (1942), ch. X, § 259. Certainly, as remarked by the court below, "the Government may validly decline to confer its diplomatic protection upon, and to request foreign governments to give aid and protection to, a member of an organization operating primarily to achieve the objectives of a world movement such as the Communist movement is defined to be in this statute. Surely a government owes no duty of protection

to those who, dominated by a foreign organization, seek its overthrow" (Op. 34, R. 2111).

The passport sanction is also valid insofar as it prevents travel abroad by members of a Communist-action organization.[55] Congress has specifically found in the Act that, "[d]ue to the nature and scope of the world Communist movement, with the existence of affiliated constituent elements working toward common objectives in various countries of the world, travel of Communist members, representatives, and agents from country to country facilitates communication and is a prerequisite for the carrying on of activities to further the purposes of the world Communist movement" (§ 2 (8)). It is evident that the unity and cohesive force of the world Communist movement, and its capacity to endanger the independence of this Government and the continuation of our free institutions, are promoted through personal contacts of its members both

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[55] Under the pre-existing legislation, it has been held that the Department of State, in exercising its discretion to grant a passport, has the power to require that an applicant disclose his connection with the Communist Party. *United States* v. *Eisler*, 75 F. Supp. 640, 646 (D. D. C.), affirmed, 176 F. 2d 21 (C. A. D. C.), certiorari denied, 337 U. S. 958. Pursuant to the authority delegated to it under 22 U. S. C. § 211a, the Department of State has promulgated rules under which, if membership in the Communist Party is admitted, an applicant for a passport must be refused one without a hearing. 17 F. R. 8013–8014, issued August 28, 1952 (22 C. F. R. §§ 51.135, 51.142).

here and abroad. For one thing, there is evidence that American Communists have secured the traditional indoctrination given to most non-Russian Communist leaders (see R. 89–93 [1965–1971]), and travel abroad by local Communist leaders certainly facilitates their effectiveness as couriers, both of intelligence to foreign countries and of directives to this country. Aside from the findings of the Board on this subject (R. 89–98 [1964–1982]), it is also of judicial record that Communist leaders have made fraudulent use of passports in the past. See, *e. g., Browder* v. *United States,* 312 U. S. 335; *Eisler* v. *United States,* 176 F. 2d 21 (C. A. D. C.), certiorari denied, 337 U. S. 958. For these reasons, the barring, in effect, of foreign travel outside of the Western Hemisphere (see Br. 103) to persons continuing their membership in an action organization is valid as an appropriate method of obtaining the serious and legitimate congressional objectives embodied in the Act. Cf. *Galvan* v. *Press,* 347 U. S. 522, 529.

Nor is it unreasonable to impose criminal sanctions for the very act of applying for a passport with knowledge of ineligibility under the law to receive one. Congress might, it is true, have limited itself to the punishment of false representations in and fraudulent use of passports—crimes already defined in the criminal code. 18 U. S. C. §§ 1541–1546; see *Browder* v. *United*

*States*, 312 U. S. 335; *Warszower* v. *United States*, 312 U. S. 342; *United States* v. *Rubenstein*, 151 F. 2d 915 (C. A. 2), certiorari denied, 326 U. S. 766. But these remedies would not have as effectively prevented attempts by members of covered organizations to obtain passports despite known ineligibility. They could apply for and, perhaps by concealing pertinent information, obtain a passport. The use of aliases is a commonplace among them.[56] Congress preferred to forestall such frauds by making the application for a passport a crime. The further prohibitions of § 6 (a), relating to the use or attempted use of passports by members of covered organizations, are, for the same reasons, equally reasonable in the light of the Act's objectives, as is the proscription of § 6 (b) against issuing or renewing passports to such persons by federal officers and employees.

*(iii) The provisions applicable to aliens*

*a. Exclusion and deportation*

Petitioner's concession that it "recognize[s] that *Galvan* v. *Press*, 347 U. S. 522, is decisive of the validity of the deportation and exclusion sanctions" (Br. 72, fn. 31) eliminates the need for further discussion of these particular sanctions,

[56] See, for example, the aliases used by Gerhardt Eisler and other foreign representatives to petitioner (R. 59–60 [1911–1913]), particularly fn. 42, R. 60 [1912]).

the terms of which are set forth at pp. 82–83, *supra*.

*b. Ineligibility for naturalization*

Under § 313 (a) (2) (G) of the Immigration and Nationality Act of 1952, which substantially reenacts and carries forward the relevant provisions of the now-repealed § 25 of the Subversive Activities Control Act, any alien who is a member of or affiliated with a Communist-action organization during such time as it is registered or required to be registered under the latter Act is ineligible for naturalization. Petitioner, while it does not expressly admit the validity of this sanction, does not specifically challenge it (see Br. 104–105). In any event, there can be no real doubt of its constitutionality, in view of the plenary power of Congress to impose conditions upon the conferring of citizenship by naturalization. *Schneiderman* v. *United States*, 320 U. S. 118, 131; *United States* v. *Macintosh*, 283 U. S. 605, 615. See Note, *The Internal Security Act of 1950* (1951), 51 Col. L. Rev. 606, 644–645. Certainly, it lies within the power of Congress to withhold the privilege of citizenship from alien members of an organization found to be the domestic instrument of the foreign government or group controlling the world Communist movement and to be dedicated to promoting the objectives of that movement. If the exclusion and deportation sanctions are valid, as petitioner concedes (*supra*, pp. 198–199), the validity of this sanction follows *a fortiori*.

### *c. Denaturalization*

Section 25 of the Act, besides enacting the prohibition against naturalization just discussed, contained a further provision amending the nationality laws with respect to denaturalization proceedings. Like the other provisions relating to immigration and nationality, this provision is now contained in the Immigration and Nationality Act of 1952, which carried it forward as § 340 (c). Applying only to persons who become naturalized after the effective date of the latter Act,[57] it provides that if any such person shall within five years next following his naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded him from naturalization under the provisions of § 313,[58] that fact shall be considered *prima facie* evidence, warranting revocation of citizenship in a denaturalization proceeding if not rebutted, of lack of attachment to the principles of the Constitution and of the quality of being well disposed to

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[57] *I. e.*, December 24, 1952. The Immigration and Nationality Act, passed on June 27, 1952, took effect 180 days later (§ 407, 66 Stat. 281). The provision in question in its original form, *i. e.*, before it was transferred to the Immigration and Nationality Act of 1952, applied to persons naturalized "after January 1, 1951" (§ 25 of the Subversive Activities Control Act, 64 Stat. 1013).

[58] This includes Communist-action organizations registered or required to register under the Subversive Activities Control Act (see *supra*, pp. 82–83).

the good order and happiness of the United States at the time of his naturalization.

We submit that this sanction is likewise valid. Persons who obtain their naturalization after December 24, 1952, do so subject to the conditions and provisions laid down by Congress, including this provision. There can be no question of retroactivity, or of the Government's taking back its grant of citizenship on grounds which the naturalized person could have had no reason to anticipate when he received it. In view of the broad power of Congress to impose conditions on its grant of citizenship (*Schneiderman* v. *United States, supra,* 320 U. S. 118, 131; *United States* v. *Macintosh, supra,* 283 U. S. 605, 615) and the reasonableness of the rebuttable presumption established by this provision for the future, it cannot be said to be beyond congressional authority. Cf. *Galvan* v. *Press,* 347 U. S. 522; *Carlson* v. *Landon,* 342 U. S. 524, 535–536."[59]

*2. The member-sanction provisions do not rest on innocent or unknowing past membership and therefore do not deprive petitioner's members of due process*

Petitioner contends (Br. 72–75) that the sanctions imposed on members of action organizations

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[59] The court below did not pass upon this provision. It said, "A denaturalization does not flow automatically from registration; a regular proceeding for the purpose must be brought. No such case is before us * * *" (Op. 38, R. 2115). Accordingly, the court expressed no views as to the validity of this sanction, saying that decision thereon "must await a specific test" (*ibid.*).

which have registered or been ordered to register are imposed "solely because of their association" and without regard to whether or not they have "knowledge of the claimed illicit purposes of the organization", in alleged violation of the rule of *Wieman* v. *Updegraff*, 344 U. S. 183 (Br. 73). Petitioner also argues that, because the Act "makes conclusive a presumption of unfitness [i. e., to do the things forbidden by the sanctions] arising from membership," it conflicts with *Adler* v. *Board of Education*, 342 U. S. 485 (*ibid.*).[80]

Petitioner's contention that the member-sanctions are visited upon "innocent" and "unknowing" members fails to take adequately into account the conditions which must be fulfilled before those sanctions become applicable. We limit our discussion to those member-sanctions applicable to citizens, *viz*, the employment restrictions and passport prohibitions. The alien sanctions are not, we believe, open to ary serious challenge on the grounds urged.[81] The employment and

[80] We point out, once again, that petitioner raises this issue on behalf of its members, none of whom are before the Court.

[81] As has been seen, petitioner concedes the validity of the exclusion and deportation sanctions (*supra*, pp. 198–199), and, for the reasons set forth at p. 199, *supra*, we believe the validity of the naturalization sanction to be equally beyond dispute. The denaturalization sanction (*supra*, pp. 200–201), establishing a *rebuttable* presumption *for the future*, is plainly not subject to the type of challenge we are now discussing.

passport provisions (and their supporting criminal penalties) are applicable only when the members of an organization have "knowledge or notice"[62] either that the organization has registered voluntarily or has been finally ordered to do so after court review (§§ 5 (a) (1), 6 (a)).[63] In complaining that these sanctions are imposed on members without regard to whether or not they have "knowledge of the claimed illicit purposes of the organization," petitioner must be arguing that it is not permissible to impose sanctions on a member if he does not agree with the organization's own estimate of its character or with the formal finding made by the Board and upheld by

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[62] The Act provides that publication in the Federal Register of the fact that an organization has registered or been finally ordered to register "shall constitute notice to all members of such organization" that it has so registered or been finally ordered to do so (§§ 9 (d), 13 (k)). Since petitioner does not challenge the validity of these provisions (see Br. 74, fn. 34), we shall not discuss them otherwise than to state that their validity is clear under such decisions as *United States* v. *Balint*, 258 U. S. 250, 251–252, and *Shevlin-Carpenter Co.* v. *Minnesota*, 218 U. S. 57, 68–70.

[63] As petitioner points out (Br. 74), an officer or employee of the United States is forbidden under § 6 (b) to issue a passport to any individual who he knows or has reason to believe is a member of a registered action organization or of an action organization which has been finally ordered to register, without regard to any "knowledge or notice" on the part of the applicant for the passport. This special situation, however, does not, in our opinion, affect the due process issues raised by petitioner. Cf. Op. 28, R. 2105.

the courts. Nothing in the due process clause or this Court's *Wieman* decision, *supra*, 344 U. S. 183, requires such a result.

*Wieman* held that the due process clause does not permit "a state, in attempting to bar disloyal individuals from its employ, to exclude persons solely on the basis of organizational membership, regardless of their knowledge concerning the organizations to which they *had* belonged" (344 U. S. at 190, emphasis added). "[M]embership may be innocent," observed the Court (*ibid.*), and "[i]ndiscriminate classification of innocent with knowing activity * * * offends due process" (at 191). But the employment and passport provisions of the Act at bar are not imposed on "innocent," "unknowing," *former* members of any organization. They apply only to *current* members of organizations which either admit being (by registering) or are formally found to be (by a judicially reviewed Board finding) substantially controlled by the foreign government or group which controls the world Communist movement, and to be primarily operating to advance the objectives of that movement.

If perchance a member was not aware of these facts before the organization's registration or the entry of a final order directing it to do so, he is made aware of them when the one or the other of these eventualities occurs. He then has it within his power to "renounce the allegiances"

and effect a "voluntary alteration of the loyalties" (*American Communications Assn.* v. *Douds*, 339 U. S. 382, 414) which threaten to bring disabling consequences on him. He can avoid the Act's sanctions by a good-faith termination of his membership. There is thus no possibility of the unconscionable result against which the *Wieman* decision was aimed, *viz*, preclusion from legitimate employment opportunities by innocent and unknowing memberships and associations of one's past. And if the member knowingly continues his membership, he is properly subject to the sanctions. See *Adler* v. *Board of Education*, 342 U. S. 485; *Garner* v. *Los Angeles Board*, 341 U. S. 716; *Gerende* v. *Election Board*, 341 U. S. 56.

Nor is petitioner's second due process contention (*supra*, p. 202)—*i. e.*, that based on its reading of *Adler* v. *Board of Education*, 342 U. S. 485—any more tenable. If we correctly understand the contention, it is that, after an organization has registered as a Communist-action organization, thereby admitting its character as defined in § 3 (3), or after it has been formally found to be such an organization by a Board finding which has been judicially reviewed and sustained, each member of the organization must be afforded an opportunity personally to rebut the organization's own estimate of its character, or the judicially affirmed Board finding with respect thereto, before any member-sanction can be made applicable to

him on account of his continued membership. Nothing in the *Adler* decision, we submit, requires so strained a result.

*3. The sanction provisions do not make of the Act a bill of attainder*

Petitioner also contends (Br. 60–64) that the sanction provisions make of the Act a bill of attainder, forbidden by Article I, § 9, clause 3 of the Constitution. The Act, it says, "imposes various sanctions on the organization identified by the registration order and on its members" after giving the organization "only an administrative hearing; not a judicial trial" and thus, allegedly, "meets the definition of a bill of attainder" (Br. 61).

A bill of attainder is a legislative act which inflicts punishment without a judicial trial on named individuals or on easily ascertainable members of a group for past conduct. *Cummings* v. *Missouri,* 4 Wall. 277, 323; *Ex parte Garland,* 4 Wall. 333, 377; *United States* v. *Lovett,* 328 U. S. 303, 315–317; *American Communications Assn.* v. *Douds,* 339 U. S. 382, 413–414; *Garner* v. *Los Angeles Board,* 341 U. S. 716, 722. Petitioner's attempt to depict itself as a possible victim of a bill of attainder, by referring to an order directing an organization to register as a "death sentence on the organization," comparable to "execution of an individual" (Br. 61;

cf. Br. 63), is unavailing. The punishment inflicted must be visited on individuals.

The punishment inflicted, however, need not necessarily be punishment in the usual sense of fine or imprisonment. It may consist of deprivation of the privilege of pursuing a certain profession (*Ex parte Garland, supra,* 4 Wall. at 377), or in some circumstances of working for the Government (*United States* v. *Lovett, supra,* 328 U. S. at 316), or, in general, of "any rights, civil or political, previously enjoyed," depending upon "the circumstances attending and the causes of the deprivation." *Cummings* v. *Missouri, supra,* 4 Wall. at 320; *Garner* v. *Los Angeles Board, supra,* 341 U. S. at 722. But it is necessary that there be *punishment* and that the conduct punished be *past* conduct. *American Communications Assn.* v. *Douds, supra,* 339 U. S. at 413–414.

Applying these principles to this Act, there can be no question of its being a bill of attainder. Under the Act, after an organization has either voluntarily registered with the Attorney General or been finally ordered to do so by the Board, its members incur the various disabilities and restrictions which have been called sanctions. That is, certain avenues of employment are foreclosed to them, they are no longer free to use passports, and, if aliens, they become excludable,

deportable, and ineligible for citizenship. We have shown (*supra*, pp. 182–201) that these sanctions are all reasonable restrictions in the light of the objectives of the Act and the evil at which it strikes. Furthermore—and most importantly with regard to the bill-of-attainder argument—the "members" on whom these sanctions are imposed are not past or former members of the organization, but *current* members. The sanctions have no retroactive effect; they apply only to persons who continue their membership in the organization after it has registered or been finally ordered to do so, or who become members thereafter. *Bona fide* termination of membership by any person who is a member up to the time of registration or the time when an order to register becomes final precludes the sanctions' taking effect as to him.

The *Douds* decision, upholding the non-Communist oath provision against a similar attack, is precisely applicable to the case at bar, as petitioner practically concedes (Br. 63). Just as "there is no one who may not, by a voluntary alteration of the loyalties which impel him to action, become eligible to sign the [non-Communist] affidavit" (339 U. S. at 414), so too there is no present member of petitioner who may not, by a voluntary and good-faith termination of that membership prior to the time when the order directing registration becomes final, avoid the re-

strictions and disabilities imposed by the Act. For this reason, regardless of whether those restrictions and disabilities be deemed of a penal nature or not, the Act lacks one of the essential characteristics of a bill of attainder, *viz,* the punishment of *past* action or conduct. See Sutherland, *Freedom and Internal Security* (1951), 64 Harv. L. Rev. 383, 403.

## III

### THE COURT BELOW CORRECTLY SUSTAINED THE BOARD'S ULTIMATE FACTUAL FINDING THAT PETITIONER IS A COMMUNIST-ACTION ORGANIZATION AS DEFINED IN THE ACT

#### A. THERE IS NO OCCASION FOR A SECOND JUDICIAL REVIEW OF THE BOARD'S FACTUAL FINDING THAT PETITIONER IS A COMMUNIST-ACTION ORGANIZATION

The evidence in this proceeding consists of more than 14,000 typewritten pages of testimony from 25 witnesses (R. 134–136 [2045–2049], and more than 500 exhibits. Its presentation consumed more than 14 months (R. 2 [1805]). A unanimous Board found, on the basis of the "overwhelming weight of the evidence" (R. 132 [2042]; see also R. 133 [2044]), that petitioner is a Communist-action organization as defined in the Act and, as such, required to register. The Board presented the grounds of this finding, and the subsidiary findings on which it rests, in an exhaustive report covering 133 printed pages, which also appears in the record in annotated form, *i. e.,* with supporting refer-

ences to the testimony and exhibits (R. 1–133 [1804–2044]). This Report, arranged under appropriate headings and subheadings, summarizes the evidence on both sides; where issues of credibility were met on important points, the Board recorded its position, and where there were conflicts in the testimony on particular issues, the Board resolved them.

The court below, in discharge of its statutory obligation under § 14 (a) of the Subversive Activities Control Act, after a painstaking review of the entire record, determined that the Board's finding was "supported by the preponderance of the evidence" (Op. 75–76, R. 2152–2153), that is to say, by the greater weight of the evidence. See *Lilienthal's Tobacco* v. *United States*, 97 U. S. 237, 266; *General Foods Corp.* v. *Brannan*, 170 F. 2d 220, 223–224 (C. A. 7). The court recognized that the statutory "preponderance of the evidence" test imposed "a less stringent restriction upon the function of judicial review than is customary in such statutes" [64] and that "[b]y the same token it imposes a laborious task upon the reviewing court" (Op. 49, R. 2126). See 96 Cong. Rec. 13764–13765. Cf. *Universal*

[64] The usual rule is that the findings of the administrative agency, if "supported by substantial evidence," shall be final. See, *e. g.*, Administrative Procedure Act, § 10 (e) (5), 5 U. S. C. § 1009 (e) (5); National Labor Relations Act, as amended, 29 U. S. C. § 160 (e).

*Camera Corp.* v. *National Labor Relations Board,* 340 U. S. 474, 492; *General Foods Corp.* v. *Brannan,* 170 F. 2d 220 (C. A. 7); *Great Western Food Distributors* v. *Brannan,* 201 F. 2d 476, 479 (C. A. 7), certiorari denied, 345 U. S. 997. Accordingly, in discharge of its heavy responsibility for review, which it recognized, the court devoted more than a third (Op. 48–76, R. 2125–2153) of its 76–page opinion to a discussion and analysis of the evidence on both sides. In those pages the court, while not attempting to "comment upon the evidence on each minute issue of fact" or to "evaluate particles of proof," did "indicate the extent, nature, particularity, and personal character of the testimony presented by the Government, and the nature and extent of the evidence presented by [petitioner], including the character of both its denials and its explanations" (Op. 49, R. 2126). The court concluded from this exhaustive review that two of the Board's eight subsidiary findings should be modified in respects which we shall discuss below (*infra,* pp. 257–261), but that otherwise all of the Board's findings, including its ultimate and decisive finding that petitioner is a Communist-action organization as defined in the Act, were supported by the preponderance of the evidence (Op. 75–76, R. 2152–2153).

This being the posture in which the case reaches this Court, we submit that there is no occasion for this Court to subject the lengthy transcript to a second judicial review for the purpose of

reappraising and reevaluating the evidence and determining its sufficiency to support the Board's findings and order. Section 14 (a) of the Act provides that, where review of a Board order is sought:

> The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari * * *.

Relying on a similar provision in the Taft-Hartley Act, this Court in *National Labor Relations Board* v. *Pittsburgh Steamship Co.*, 340 U. S. 498, 502, held that "Congress has charged the Courts of Appeals and not this Court with the normal and primary responsibility for granting or denying enforcement of Labor Board orders," and concluded (*id.*, 502–503):

> The same considerations that should lead us to leave undisturbed, by denying certiorari, decisions of Courts of Appeals involving solely a fair assessment of a record on the issue of unsubstantiality, ought to lead us to do no more than decide that there was such a fair assessment when the case is here, as this is, on other legal issues.

This view was emphatically reiterated in *National Labor Relations Board* v. *American Insurance Co.*, 343 U. S. 395, 409–410; cf. *Federal Communications Commission* v. *Allentown Broadcasting Co.*, 349 U. S. 358, 364–365.

We suggest that, under the Subversive Activities Control Act, Congress charged the Courts of Appeals and not this Court with the primary responsibility for ascertaining that the findings of the Board are supported by a preponderance of the evidence. This should lead this Court to do no more than to satisfy itself that the Court of Appeals made a fair assessment of the record on the issue of the sufficiency of the evidence. That the Court of Appeals did so, we submit, is evident from its opinion.

B. THE COURT BELOW CORRECTLY AFFIRMED THE BOARD'S FINDINGS AS BASED ON THE PREPONDERANCE OF THE EVIDENCE

The Board found that petitioner, "[u]pon the overwhelming weight of the evidence", "is substantially directed, dominated and controlled by the Soviet Union, which controls the world Communist movement" and "operates primarily to advance the objectives of such world Communist movement" (R. 132 [2042]). These findings brought petitioner within the § 3 (3) definition of a Communist-action organization and made it subject, as such, to the mandatory registration requirements of the Act. In this sense these findings may be described as the ultimate or decisive findings of the Board. In addition to these ultimate findings, the Board made subsidiary findings keyed to the eight paragraphs under § 13 (e), which lists the various factors required to be taken into consideration by the Board in

arriving at its ultimate determination. See *supra*, pp. 132–154. Thus, for example, the Board made a finding, corresponding to § 13 (e) (1), that petitioner's "policies are formulated and carried out and its activities are performed pursuant to directives of, and to effectuate the policies of, the Soviet Union, which directs and controls the world Communist movement" (R. 79 [1947–1948]). Similarly, the Board made a finding, corresponding to § 13 (e) (2), that petitioner's "views and policies do not deviate from those of the Soviet Union" (R. 86 [1959]). And so on with respect to the other paragraphs of § 13 (e).

The evidence of record is elaborately summarized in the Report of the Board, which contains detailed supporting references. It has further been carefully reviewed in briefer form in the opinion of the Court of Appeals, which on the basis of its "laborious" study of the record affirmed the order of the Board as supported by "the preponderance of the evidence." It would accordingly lengthen this brief to no useful end to go over the same ground a third time here. Nor does this appear to be required in this case, for petitioner makes no attempt to assay the significance of any of the proof it attacks from the standpoint of the sufficiency of the evidence as a whole. Its attack, rather, is concentrated on the minutiae of the evidence, frequently lifted out of context. This fragmentary approach overlooks the fact

that, as the court below remarked, "all relevant facts are cumulative in delineating a completed whole" (Op. 61, R. 2138). One knows "fish from fowl," to use the court's figure (*ibid.*), as a result of simultaneous consideration of an accumulation of evidence, seen from an over-all view. Petitioner's approach to the evidence ignores the fact that, to change the figure, an unmistakable pattern or mosaic can emerge from numerous fragments having little individual significance. "When the parts are put together," the court below observed, "the picture is clear and forceful" (Op. 75, R. 2152). Cf. *Interstate Circuit* v. *United States*, 306 U. S. 208, 223–226.

Viewed from the standpoint of the record as a whole, petitioner's criticisms are but pinpricks at the evidence, often relating to matters having obviously minor bearing on the ultimate issue. It is evident, moreover, that the members of the Board, who saw and heard and questioned the witnesses on both sides and could observe their demeanor on the witness stand, had seats of vantage from which to see the development of the picture which the evidence, viewed as a whole, so clearly portrays.

We deal below with petitioner's attack on the evidence relating to the statutory considerations listed in § 13 (e) (Br. 120–158), its contention that the Board's conclusion that petitioner is a Communist-action organization is based on evidence of

conduct which has been discontinued (Br. 160–170), and its attack on the legislative determination, underlying the Act, that there exists a world Communist movement as described in § 2 (Br. 193–199).

*1. The Board and the court below correctly construed and applied the evidentiary considerations enumerated in § 13 (e) of the Act*

Congress, in § 13 (e) of the Act, directed the Board, in "determining whether any organization is a 'Communist-action organization' ", to "take into consideration" the "extent to which" the organization or its leaders do certain things. We have previously indicated the error in petitioner's assumption that these evidentiary factors are "tests" of whether an organization fulfills the § 3 (3) definition of a Communist-action organization as distinguished from matters, as the statute plainly indicates, "to be taken into consideration" and evaluated by the Board in making its ultimate determination (*supra*, pp. 132–133). This error is carried over into petitioner's discussion of the evidence. Thus petitioner contends (Br. 120–160) that the Board's order and the judgment of the court below affirming it "are based on erroneous interpretations of § 13 (e) and on evidence having no rational relation to the criteria of that section or to the definition of a Communist-action organization" (Br. 120). A brief discus-

sion of petitioner's attack on the proof adduced with respect to four of these considerations will expose the insubstantial nature of petitioner's factual contentions when weighed against the obvious purpose of the statutory guides and the thrust of the evidence, considered as a whole.[65]

*(a) The directives and policies consideration*

Section 13 (e) (1) directs the Board to take into consideration, in determining whether an organization is a Communist-action organization, the extent to which its policies are formulated and carried out and its activities performed "pursuant to directives or to effectuate the policies of" the foreign government or organization which directs and controls the world Communist

[65] Petitioner's contentions with respect to the proof relating to the remaining four evidential factors, which we do not discuss, are similarly insubstantial and, in view of the force of the findings which we review, of cumulative significance only. The court below modified the Board's findings with respect to "reporting" (Br. 146–150) and "secret practices" (Br. 153–154), but correctly concluded that these modifications did not require a remand to the Board in view of the overwhelming nature of the findings which were sustained (Op. 72, 73–74, R. 2149, 2150–2151; see *infra*, pp. 257–261). The Board did not rely heavily on the evidence relating to "financial aid" (see Br. 145), all of which, with but one exception, related to the pre-1940 period (R. 88–89 [1964]). Similarly, the Board found, with respect to the "instruction and training" factor (Br. 146), that there was "no substantial evidence of record showing training of [petitioner's] members in the Soviet Union subsequent to the outbreak of World War II" (R. 92 [1971]).

movement. The Board devoted more than one-half of its 133-page Report (R. 9–79 [1820–1948]) to a review and analysis of the evidence pertaining to this factor. It stated its conclusions under this heading in eleven numbered paragraphs (R. 78–79 [1946–1948]), the last of which, using the substance of the language of § 13 (e) (1), was that "[petitioner's] policies are formulated and carried out and its activities are performed pursuant to directives of, and to effectuate the policies of, the Soviet Union, which directs and controls the world Communist movement" (R. 79 [1947–1948]). The remaining ten paragraphs were in the nature of subsidiary conclusions, on which the eleventh was based. One of the ten—the fourth (R. 78 [1946])—stated that:

> Marxism-Leninism, as understood, used and followed by [petitioner], consists of a body of doctrine, policies, strategies and tactics intended to bring about the end of capitalism and substitute for it a dictatorship of the proletariat; it has been promulgated and issued by the Soviet Union as the overall philosophy, authoritative rules, directives and instructions governing the world Communist movement.

Corresponding to the foregoing paragraph of its conclusions, the Board, in the body of its Report, following an extended discussion of the so-called

Marxist-Leninist "classics"—consisting primarily of the writings of Marx, Lenin, and Stalin (R. 21 [1841])—had said (R. 43 [1882]):

> Consequently, we conclude that the Classics are one of the chief means by which the CPSU [Communist Party of the Soviet Union] directs, dominates, and controls the CPUSA.

From the 70 pages of the Report dealing with the "directives and policies" factor petitioner selects the two above-quoted statements (Br. 122, 123) as establishing that the Board erroneously adopted the "thesis" that a "comprehensive body of thought" setting forth a "unified and all-embracing view of man and nature" and covering "almost every area of human thought and activity"—*i. e.*, Marxism-Leninism—constitutes "a set of 'directives and instructions', promulgated and issued' by the Soviet Union [to petitioner]" (Br. 123). Petitioner points out that some of the literature of Marxism-Leninism was "written long before there was a Soviet Union" (Br. 124).

The statements in question, however, when read in context, fail to support petitioner's argument. Their immediate context shows—petitioner omits the qualifying words in its quotation at Br. 122—that it was "Marxism-Leninism, *as understood, used and followed by* [*petitioner*]" (R. 78 [1946], emphasis added) about which

the Board was speaking. And the Board in its Report carefully explained just what the concept, so qualified, connotes (R. 21–44 [1840–1883]). When the term "Marxism-Leninism" is understood in the sense in which the Board used that term, its statements with respect to it and the "classics" are cogently supported by the evidence.

The Board, after pointing out that petitioner describes itself in its constitution as a political party based on the "principles of scientific socialism, Marxism-Leninism" and that its amended answer had admitted that Marxism-Leninism is basic to it (R. 21 [1840–1841]), observed that "Marxism-Leninism is nowhere in the record specifically defined" (R. 21 [1841]). The Board, noting further that it "recognize[d] that the theory of Marxism-Leninism, as such, is not in issue in this proceeding," stated (*ibid.*):

> * * * However, in view of the fact that Marxism-Leninism is declared to be basic to [petitioner] and because of the numerous references to it in the course of these proceedings, and in order to cast as much light as possible upon the issues involved, we have deemed it important to determine its actual meaning from the evidence of record. In this section, we present our findings of what it is, *and how it is understood, used and followed by* [*petitioner*]. [Emphasis added.]

The Board proceeded to trace the history of Marxism-Leninism. After explaining how "Marxism" originated with Marx and Engels in the middle of the nineteenth century, and after stating the basic tenets of that philosophy (R. 21–22 [1841–1843]), the Board pointed out that Lenin "adapted Marxism to Russian revolutionary purposes" (R. 22 [1843]) and that "Stalin later advanced the Marxist-Leninist ideas to a practicality which developed somewhat differently from Marxist theoretical schemes" (*ibid.*). The Board then quoted from Stalin's *History of the Communist Party of the Soviet Union (Bolsheviks)*, which, upon its publication in 1939, became for Communists the world over the supremely authoritative Marxist-Leninist work, superseding in importance all predecessor classics,[66] to show "how Lenin altered Marxism because of his experience in the Russian revolutions of 1905 and 1917" (R. 23 [1844]). "The tactical aspects of the theory," the Board observed, "thus attains [*sic*] a flexibil-

[66] See witness Meyer's testimony at R. 689, quoted in the Board's Report (R. 43 [1880–1881], fn. 30). A joint resolution adopted by the Communist Parties of France, Great Britain, the United States, Germany and Italy in August 1939 (A. G. Ex. No. 296, R. 1601–1609) referred to Stalin's *History* as occupying "an extraordinary place among the classic works of Marxism-Leninism" (R. 1602), and stated that the appearance of the work was "one of the greatest events in the life of the Communist world movement" (R. 1601).

ity which would appear to make it mean what the current leaders of the CPSU want it to mean. So regarded, the theory supplies an easy explanation for all phenomena and furnishes a justification for any line of conduct which these leaders have adopted" (*ibid.*).

The Board then proceeded, by extensive references to the classics, all of which were used in Party schools as the basic text books and instruments of indoctrination continuously up to the time of the hearings herein (R. 38 [1872]; see also R. 689, 787–788, 943–946, 949–952, 1014), to show how, throughout, they contain instructions and directives to Party members as to how they should conduct themselves and what action they must take, in working toward the goal of the "dictatorship of the proletariat," in all sorts of tactical situations (R. 28–44 [1855–1883]), depending upon the "ebb and flow" of events (R. 29 [1856]). For example, when the revolutionary tide in a certain country is rising, *i. e.*, when the ruling classes are disorganized and the masses are in a state of revolutionary ferment, mass action culminating in the general strike and armed insurrection is enjoined upon members (*Programme of the Communist International*, A. G. Ex. No. 125, R. 1446, at 1459; cited by the Board at R. 30 [1857]). When, on the other hand, the revolutionary tide is at ebb, members are directed to adopt "united front" tactics, to limit themselves

to "partial" slogans, and to adjust their demands to the everyday needs of workers (*id.*, at R. 1460–1461; cited by the Board at R. 30 [1858]).

Members are directed to carry on ceaseless propaganda against "all forms of chauvinism" and "imperialist maltreatment of enslaved peoples and races" (*id.*, at R. 1457; cited by the Board at R. 30 [1857]). They are instructed to infiltrate and where possible to capture control of trade unions as ready-made instrumentalities for use in the furtherance of the revolutionary goal (Lenin, *What Is To Be Done?*, A. G. Ex. No. 417, pp. 105 *ff.*; Stalin, *Problems of Leninism*, A. G. Ex. No. 138, R. 1500, at 1508–1509; *Theses and Statutes of the Third (Communist) International*, A. G. Ex. No. 8, R. 1318, at 1328, 1331; all cited by the Board at R. 34 [1865]). Special efforts are to be made to capture the mind of youth for the revolutionary struggle (see numerous references cited by the Board at R. 34–35 [1866–1867]). Many more instances might be cited, but these will suffice to show what the Board meant by the statements petitioner criticizes. Thus the Board's statements, far from being "absurd" (Br. 123), are thoroughly documented by the evidence.

Of course, the Board did not by any means base its "directives and policies" findings exclusively upon the classics of Marxism-Leninism. On the contrary, those works form but

one part of the mass of evidence on which those findings were predicated. It will suffice for present purposes to invite the Court's attention to that portion of the Board's Report wherein the Board reviews the extensive evidence that, throughout petitioner's existence, it has from time to time received directives as to the formulation and carrying out of its policies, programs, and activities from representatives of the Communist Party of the Soviet Union traveling in this country (R. 59–61 [1910–1913]). It was on the basis of this and the other evidence before the Board that the court below observed, with reference to those findings of the Board relating to the directives and policies factor of § 13 (e) (1), that (Op. 71, R. 2148):

> * * * Without recapitulating or reciting the multitudinous bits of evidence which underlie these findings, we simply state that in our view a clear preponderance of the evidence supports them. As we have made clear, there is scarcely a dispute as to the period prior to 1940, and there is ample evidence in this record as a whole, when balanced against the proof offered to the contrary, to support their accuracy as to the present.

(*b*) *The non-deviation consideration*

The Board found that "the views and policies of [petitioner] throughout its history invariably coincide with the views and policies of the Soviet

Union. Moreover, [petitioner] conforms immediately to each reversal in the Soviet Union's views and policies" (R. 86 [1959]), and concluded that "[petitioner's] views and policies do not deviate from those of the Soviet Union" (*ibid.*). The overwhelming evidence supporting this finding is summarized in the Board's Report at R. 79–86 [1948–1959] and is more briefly reviewed in the opinion below at Op. 68–69, R. 2145–2146.

Petitioner does not deny the fact of the identity of its program and policy with that of the Soviet Union. As we have seen (*supra*, pp. 139–140), proof of the fact of identity is all that is contemplated by § 13 (e) (2). Petitioner's discussion of this consideration (Br. 137–144), therefore, is but a further attack on the relevance of non-deviation as one factor tending to establish foreign domination and control—a contention which we have shown to be without merit (*supra*, pp. 139–140).

Petitioner presses its argument by urging that to establish non-deviation within the meaning of § 13 (e) (2) it must be shown that in each instance the view it shared with the Soviet Union, (1) was adopted by it after its adoption by the Soviet Union (Br. 138–140), (2) was itself false or unreasonable and not generally accepted (Br. 140–141), (3) was not "calculated to promote the peace and well-being of the United States" (Br.

141–142), and (4) did not emanate from a common philosophy (Br. 142–144).

The argument is beside the point, for it is obvious that Marxist-Leninist philosophy as implemented by the Soviet Union may have caused petitioner to adopt views on *specific* issues that were not themselves unreasonable and were not inconsistent with the well-being of the United States. Such is to be expected. Proof, therefore, that this was the case with respect to selected issues was, as the Board consistently ruled (R. 836–845, 861–864, 1274–1275), not relevant to the question of non-deviation. The point of non-deviation is not that petitioner's views on every issue were hostile to the interests of the United States, or that they were necessarily evil in themselves.[67] The point is rather that the fact that a domestic organization, throughout its thirty years' history, has undeviatingly mirrored the views of the foreign power which controls the world Communist movement on every significant aspect of world politics is evidence, to be weighed with all the other evidence, that that foreign power controls the domestic organization and that the domestic organization operates primarily to advance the objectives of the world Communist movement.[68] Petitioner's repeated asser-

[67] Petitioner's collateral attempt (Br. 170–173) to attack this aspect of the proof as inconsistent with its right of free speech under the First Amendment is therefore grounded on a mistaken premise.

[68] Petitioner's repeated assertion, made for the first time in its brief on the merits in this Court, that the Board and the

tion that such an inference is irrational offends common experience. The inference is an entirely reasonable and natural one.[69]

It is true, as petitioner observed in its petition for certiorari, that the fact that two persons "both believe that the sum of two and two is four" (Pet. 73) does not give rise to an inference that one controls the other. It is also true that the fact that "two organizations oppose racial discrimination and segregation" (Br. 140) does not prove that the one is under the other's dominion. But the fact that petitioner, in conformity with the position of the Soviet Union, denounced Fascism in Nazi Germany as a peace menace until the Hitler-Stalin Pact of 1939, following which it about-faced and, with the Soviet Union, hailed the Pact as an outstanding contribution to the peace of the world (see R. 82 [1953]; Op. 68, R. 2145), is evidence of a different character. The evidence

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court below were in disagreement as to the evidential effect of the "non-deviation" finding with respect to the ultimate findings (Br. 142, 175–176, 192) is unsupported by the record references it cites (R. 80–86 [1948–1959]; Op. 45, R. 2122) or by anything else in the record. The Board made it abundantly clear, moreover, that its conclusions of fact rested upon the whole record (see R. 132 [2042]), as did the court below (Op. 75–76, R. 2152–2153).

[69] Cf. 96 Cong. Rec. 14532 (observations on this point by Senator Mundt).

at bar was of the latter type. "Dr. Mosely's [70] testimony," observed the Board, "traced the continuing stream of international questions, upon which both the Soviet Union and the CPUSA have announced a position. He enumerated some 45 international questions of major import, extending over the past 30 years, with respect to which there was, as revealed by his testimony, no substantial difference between the position announced on each by the Soviet Union or its official and controlled organs and that announced by the CPUSA or its official and controlled organs. * * * [Petitioner's] witnesses were unable to cite a single instance throughout its history where, in taking a position on a question which found the views or policies of the Soviet Union and the United States Government in conflict, the CPUSA had agreed with the announced position of the United States; nor could they show a single instance when the CPUSA had disagreed with the Soviet Union on any policy question where both [petitioner] and the Soviet Union have announced a position" (R. 80 [1948–1949], 85 [1958]).[71]

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[70] Dr. Philip E. Mosely, Professor of International Relations at Columbia University and Director of the University's Russian Institute, was the Attorney General's expert witness on "non-deviation" (R. 136 [2048]).

[71] The testimony of petitioner's witnesses, Gates and Flynn, to which the Board referred, appears at R. 1247–1248, 1299–1300. Both have been members of petitioner's National Committee for many years, the former since 1945 (R. 1199), and the latter since 1938 (R. 1275).

Petitioner's contention that the proof of non-deviation failed, because it was not shown as to all of the issues in question that the position held by both the Soviet Union and petitioner was first adopted by the Soviet Union and thereafter announced as the position of petitioner, is equally without substance. As the court below held: "The statutory phrase [non-deviation] refers to identity or coincidence and not to chronological adoption" (Op. 69, R. 2146). Indeed this is the only tenable construction, for Congress could hardly be supposed to have placed upon the Board the impossible task of determining the exact time when a foreign government "*first* established" (Br. 138) each of its positions on political affairs.

Furthermore, contrary to the implications of petitioner's suggestion, a great deal of the non-deviation evidence itself showed that petitioner's adoption of a given position or policy did in fact follow the adoption of that position or policy by the Soviet Union. The sudden reversal of petitioner's attitude *vis-à-vis* Nazi Germany following the Hitler-Stalin Pact of 1939, to which we have already referred (*supra*, p. 227), provides one example of this. Another is petitioner's overnight change of view as to the justness of the war against Germany, which followed the German invasion of the Soviet Union in June 1941 (see R. 82–83 [1953]; Op. 68, R. 2145). A third is

petitioner's abrupt reversal on June 29, 1948, of its attitude toward the Tito Government in Yugoslavia, following the Cominform's and Soviet Union's bitter attack on that Government on June 28, 1948 (R. 83 [1954]; Op 68–68, R. 2145–2146).[72]

The testimony of petitioner's witnesses, to the effect that all these parallelisms of view between petitioner and the Soviet Union, including the abrupt reversals and re-reversals, were coincidences which sprang from their joint concern for the true interests of the American people, was considered and evaluated by the Board (R. 85 [1958]) and was also taken into consideration by the court below in the performance of its review function (Op. 69–70, R. 2146–2147). In the light of the whole record the conclusion is inescapable that the Board was amply justified in refusing to credit this testimony.

### (c) *The discipline consideration*

Petitioner's contention (Br. 150–152) that the Board and court below misconstrued and mis-

[72] See also, among other incidents referred to in the Board's Report, the evidence relating to the purge trials of Communist leaders in the Soviet Union in 1937 (R. 83 [1954]), the Russo-Finnish War (R. 83 [1954]), the absorption of Latvia, Estonia, and Lithuania (R. 83 [1954]), and the Berlin Blockade (R. 83 [1954–1955]). Petitioner points out that, with respect to certain of the "non-deviation" issues, "the domestic exhibits antedated the foreign exhibits" (Br. 139, fn. 79). But obviously the dates of the exhibits do not necessarily reflect the dates when the views and policies evidenced therein were adopted.

applied the discipline factor of § 13 (e) (6)—*i. e.*, the direction to the Board to consider, in determining whether an organization is a Communist-action group, "the extent to which its principal leaders or a substantial number of its members are subject to or recognize the disciplinary power" of the foreign government or organization controlling the world Communist movement, or its representatives—is in reality nothing more than an attack on the sufficiency of the evidence supporting the Board's finding on this point. The Board found that "[petitioner's] principal leaders and a substantial number of its members are subject to and recognize the disciplinary power of the Soviet Union and its representatives" (R. 104 [1993]). The evidence supporting this finding is reviewed in the Board's Report at R. 98–104 [1982–1993]. The court below reviewed the evidence on this point at Op. 72–73, R. 2149–2150, and concluded that the Board's finding was supported by "a clear preponderance of the proof" (Op. 73, R. 2150).

As the Court of Appeals observed, "[t]he requirement of iron discipline within the Communist movement is one of the basic principles of the movement. It is the 'democratic centralism' so vigorously insisted upon by Communist leaders in both speeches and documents" (Op. 72, R.

2149),[11] and "[i]dentification of the Soviet Union as the leader of the world Communist movement is amply shown" (Op. 73, R. 2150).

Petitioner's argument under this heading illustrates its mistaken insistence, met with throughout its discussion of the evidence, that the evidence under each of the § 13 (e) categories be considered *in vacuo*, unconnected with and unilluminated by any of the other evidence of record. Thus, after devoting more than a page (Br. 151–152) to summarizing specific examples, cited in the Board's Report, of expulsions of members from its ranks (including a 1951 expulsion for the offense of "urging others to distribute anti-Soviet leaflets", Br. 152) and other instances of the "iron discipline" exercised over its membership, petitioner argues that none of such evidence can "conceivably support the Board's finding that petitioner and its members are subject to Soviet discipline" (Br. 152). Not only does this argument ignore the evidence tending to illuminate these incidents, to which the Board refers in discussing this evidence (see, *e. g.*, R. 99–102 [1983–1989], but it ignores all the other evidence of record which inexorably points to the fact that petitioner is Soviet-controlled.

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[11] For an explanation of the principle of "democratic centralism" and how it works as a disciplinary factor among Communists throughout the world, see the Board's Report at R. 27–28 [1852–1855], 56–57 [1904–1906].

The argument is also based in large measure on petitioner's erroneous assumption, continually reiterated in its brief, that the Board and the court below were required to accept its organizational disaffiliation from the Communist International in 1940 as involving a substantive as distinguished from a merely formal change in its relationship to that body, the Soviet Union, and the world Communist movement. On the contrary, we submit that the Board's (R. 14 [1828–1829]; R. 130 [2038]) and the court's (Op. 64–65, R. 2141–2142) refusal to accept that premise was amply justified by the evidence.

*(d) The allegiance consideration*

The Board found that "[petitioner's] leaders and its members consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union" (R. 128 [2034]). The overwhelming evidence supporting this finding is summarized in the Board's Report at R. 118–128 [2016–2034]. The court below, remarking that "[t]he evidence on this point is long and in great detail" (Op. 74, R. 2151), reviewed it briefly at Op. 74–75, R. 2151–2152, and concluded that the Board's finding was "amply supported" (Op. 75, R. 2152).

One of the several grounds on which the Board based its finding on this point consisted of petitioner's teachings concerning the necessity and

desirability of forcible overthrow of the United States Government to achieve its ends. After reviewing the evidence on this subject (R. 118–122 [2017–2023]), the Board observed that "[petitioner's] adherence to and implementation of a concept requiring the overthrow of the United States Government by any means, including force and violence, is completely incompatible with, and the exact antithesis of, allegiance to the United States" (R. 122 [2023–2024]). In attacking these findings, petitioner (Br. 154–158), asserting that the Board reached its conclusion that petitioner advocates the violent overthrow of this Government "primarily from excerpts from the *Communist Manifesto* and the writings of Lenin and Stalin", argues that this Court, in *Schneiderman* v. *United States,* 320 U. S. 118, "after a study of the same texts", concluded that "adherence to Marxism-Leninism is not inconsistent with attachment to the principles of the Constitution and being well-disposed toward the good order and happiness of the United States" (Br. 155). The contention does not bear analysis.

In the first place, the Board's finding with respect to petitioner's teachings concerning the use of force and violence does not rest "primarily", as petitioner asserts, on the literature of Marxism-Leninism. It was based as much on the personal testimony of witnesses, who had been members of petitioner, recounting their individ-

ual experiences (R. 121 [2022]). That testimony established that petitioner "in reality advocates the overthrow of the government of the United States by force and violence" (*ibid.*). The membership of these witnesses "spanned the entire existence of the Party until January 1951" (*ibid.*). Their positions in the Party "ranged from high offices to rank and file Party membership" (*ibid.*). Included among them was a former General Secretary of the Party (Tr. 1698), the highest executive position in the organization (Tr. 1697), and a former managing editor of the *Daily Worker* (R. 1127), the Party's official organ. Truly, as the Board observed, these witnesses "were in a position to know whereof they spoke" (R. 121 [2022]).[74]

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[74] Petitioner's attempt to disparage the Board's reliance on the testimony of these witnesses for its force-and-violence finding (Br. 155, 205–207) does not avail it. The Board cited the testimony of ten witnesses for this proposition (R. 121 [2022]). Petitioner concentrates its attack on four of these witnesses (see Br. 205). It alleges that two, both of whom concededly so testified on direct examination (Br. 205), retracted their testimony on cross-examination (Br. 155, 205–206); that a third gave no testimony at all on the subject (Br. 155, 206); and that the fourth gave conflicting testimony (*ibid.*). The record does not bear out petitioner's contentions. There was no retraction in fact on the part of the two witnesses whom petitioner alleges to have done so (see R. 501–506 (Honig); R. 649, 675–678 (Johnson)); the witness who allegedly gave no testimony on the subject, Meyer, did in fact give testimony which, fairly construed, warranted the Board in citing it (see R. 729, 730–731); and

Furthermore, the literature of Marxism-Leninism to which the Board referred in its Report was not limited to the literature which this Court considered in the *Schneiderman* case. In *Schneiderman,* the relevant literature was that which had been published prior to 1927, the date of Schneiderman's naturalization (320 U. S. at 148). The writings which were published after that date, the Court said, were "entitled to little weight because they were published after the critical period" (*id.* at 151–152). Here, on the other hand, the Board had before it all the significant literature of Marxism-Leninism published up to the time of the hearings herein, which included a span of more than twenty years beyond the "critical period" of the *Schneiderman* case. Even on the basis of the literature which this Court considered in *Schneiderman,* the Court did not question that it could reasonably have been found that "the Communist Party in 1927 actively urged the overthrow of the Gov-

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there was no real conflict in what the fourth witness said on the subject (see R. 1053–1055). Petitioner's allegation that the Board's Report "conceals" testimony by government witness Lautner favorable to it on the force-and-violence issue (Br. 267, 155) is without record support. Lautner gave no such testimony, but on the contrary characterized petitioner's latter-day statements (R. 979–981, 983–984, 1696, 1705) as "self-serving" (R. 979) and as "poppycock" (R. 985, 997), because they were "in contradiction to the basic principles of Marxism-Leninism" (R. 975) to which petitioner adhered (R. 1695).

ernment by force and violence" (320 U. S. at 153).[75] The literature received in evidence by the Board in this case, on the other hand, a few "illustrative" passages from which the Board quotes in its Report (R. 118–119 [2017–2020]), leaves no doubt that force and violence was and is advocated as a means of overthrowing all "bourgeois" governments, including that of the United States. Significantly, the two works from which the Board quotes for "illustrative" purposes—Stalin's *Problems of Leninism* (1934) and *Foundations of Leninism* (1932)—were not even in evidence in the *Schneiderman* case.[76]

*2. The Board's finding that petitioner is a Communist-action organization is based upon proof as to its current practices and activities as illuminated by its past history*

Petitioner's contention (Br. 160–170) that "the order of the Board and the decision below violate the Act because they rest on alleged conduct of the petitioner which, if it ever took place, had

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[75] As the Court observed in *Schneiderman*, the issue there was not whether the Communist Party in 1927 had urged the overthrow of the Government by force and violence, but rather whether the Government had sustained its burden of proving, by "clear, unequivocal, and convincing" evidence, that Schneiderman himself was lacking in attachment to the Constitution at the time of his naturalization (320 U. S. at 153–154).

[76] The dates given are the dates of the first editions published in the United States. According to petitioner, these works had been written in 1926 and 1924, respectively (Br. 198, n. 116).

been discontinued prior to enactment of the Act". (Br. 160) is without merit. The finding that petitioner is a Communist-action organization and the order directing it to register as such are based on petitioner's current practices and activities as illuminated by its entire past history.

"In reaching our conclusion herein," the Board said (R. 130 [2038])—

> we have considered and weighed commensurately, therefore, such pre-Act evidence as reasonably tends to establish or illuminate the present nature, activities, character, and status of [petitioner] in connection with the issues presented for decision. * * * As the Supreme Court of the United States has stated, "present events have roots in the past." This is particularly true in this proceeding where consideration thereof brought to light facts, and raised presumptions and inferences tending to show [petioner's] true current purpose, as well as the nature of its present conduct. We have been able to trace [petitioner's] operations over more than thirty years into the present and have found that at no time during this period has [petitioner] changed its fundamental objectives, or its nature and purpose. There are no protestations of repentance and reform; and, though [petioner] continually points to its "disaffiliation" from the Communist International, for example, as a severance of its relation-

> ship with international Communism, a study of its pre-Act existence properly enabled us to adjudge that this was, at most, only a superficial act designed in the interest of domestic political expediency to circumvent adverse legislation (Voorhis Act).

That an organization's past history is a relevant and important consideration in determining its present character and status cannot be doubted. See *Federal Trade Commission* v. *Cement Institute*, 333 U. S. 683, 703–706; *United States* v. *Oregon Medical Society*, 343 U. S. 326, 333; *United States* v. *Reading Co.*, 253 U. S. 26, 43–44; *Standard Oil Co.* v. *United States*, 221 U. S. 1, 74–76; *United States* v. *Dennis*, 183 F. 2d 201, 231 (C. A. 2), affirmed, 341 U. S. 494." It is both good sense and good law to use the past to illuminate the present. As the court below said (Op. 63–64, R. 2140–2141):

> The past is clearly pertinent to the present nature of a person or an organization. Surely a person's education and experience are pertinent to his present nature. The same is true of an organization. As a matter of fact it is rarely, if ever, possible

" Petitioner's attempted distinction of the *Dennis* case (Br. 168–169, fn. 98) is unsound. In the present case as well as in *Dennis*, acts and events occurring prior to the critical period were treated as "*media concludendi*" as distinguished from "the factum itself" (183 F. 2d 201, 231). This is made clear by the passage from the Board's Report quoted in the text, *supra*, pp. 238–239.

> to prove present nature by some instantaneous, contemporaneous fact, totally ignoring the whole of the past. Not only is the past clearly pertinent, it may be quite material to a determination of present nature. Whether it is material depends upon whether there is affirmative evidence of a departure from the established past. In the ordinary affairs of life and in ordinary litigation, if a person or an organization is shown to have had over many years a certain policy and program, and no more is shown, the conclusion is clearly indicated that he or it has the same policy and program in the present.

The Board did not, as petitioner contends (Br. 168), rest its decision upon any "vague presumption of 'continuance'." It did not, that is, having found certain conditions to have existed in the past, merely assume that those conditions continued to exist without any further proof. The Board specifically stated that "the record contains ample post-Act evidence which, when illuminated, supports our finding" (R. 130 [2039]).

This post-Act evidence is far from being as "scanty" (Br. 168) as petitioner would have it. The fact that it requires three pages of petitioner's brief (Br. 163–166) merely to itemize the post-Act evidence whose insufficiency it insists upon is convincing proof to the contrary. Neither is this evidence "absurdly irrelevant and imma-

terial" (Br. 166), as petitioner suggests. Petitioner recognizes, for example, that the "nondeviation" evidence relates to the post-Act period quite as much as to the preceding thirty years of its history (Br. 165). It does not avail for petitioner to brush this aside on the ground that *all* the nondeviation evidence is "irrelevant" (*ibid.*). We have already shown that such evidence is far from irrelevant (*supra,* pp. 139–140, 224–230). Nor can petitioner, by castigating some of the witnesses who gave post-Act testimony as "informers" and "provocateurs", and disparaging their testimony as "discredited" (Br. 164), expunge their testimony from the record. See *infra,* pp. 244–245, 251–257. Assaying the credibility of witnesses was the Board's function.

Neither is petitioner's argument aided, to cite but one more example, by its including among the "scanty" and "irrelevant" items of post-Act evidence the fact that "some of [its] present officials held positions in the Communist International prior to 1940, and visited and, in some cases, studied in the Soviet Union before 1940" (Br. 164). The evidence to which petitioner refers is expressed more pointedly in the language of the Report (R. 20 [1840]):

> We further find that a substantial number of [petitioner's] present leaders, including Foster, Stachel, Bittelman, Green, Winter,

> and Williamson, have been to the Soviet Union on numerous occasions on Party business and have been indoctrinated and trained in the Soviet Union on Russian strategy and policies. These leaders have taught in Party schools, written for the Party press, and spoken at Party meetings, on various phases of Marxism-Leninism, including the leading position of the Soviet Union, the concept of proletarian internationalism, and the necessity of revolutionary overthrow of imperialist nations, particularly the United States. We find that Foster and these other leaders of [petitioner] have accepted the views and policies of the Soviet Union and have carried such views and policies into [petitioner], making them the views and policies of [petitioner].

Petitioner's argument that the post-Act evidence is of but trifling significance is further refuted by the fact that of the 507 government exhibits admitted in evidence, 56 post-dated the Act and were extensively used as the evidential bases of many particular findings in the Board's Report.[78] Five of the 19 former members of

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[78] To illustrate, we cite parenthetically after each of the exhibits in the following list the page or pages of the Board's annotated Report at which the exhibit is referred to: Ex. 268 (R. 1955–1956); Ex. 276 (R. 1955); Ex. 283 (R. 1956); Ex. 314 (R. 1955); Ex. 315 (R. 1955); Ex. 316 (R. 1955); Ex. 317 (R. 1955); Ex. 318 (R. 1956); Ex. 319 (R. 1956); Ex. 320 (R. 1956); Ex. 321 (R. 1956); Ex. 322 (R. 1956); Ex.

petitioner who testified for the Government were members during the post-Act period, several as late as 1952 (see R. 134–135 [2045–2048]); and all of these testified extensively concerning the post-Act period. Six others were members up until a time—1949 or 1950—immediately preceding passage of the Act (*ibid.*). Not one of these witnesses indicated that petitioner's character and nature had undergone any change in the post-Act period. Their testimony was, rather, entirely to the contrary. Petitioner's own witnesses, as petitioner itself points out, similarly insisted that the Party was the same sort of organization at the time of their testifying as it had always been, or at least as it had been since they came to know its innermost workings as members of its National Committee, which was in 1938 in the case of Miss Flynn and 1945 in the case of Gates (see Br. 167–168, including fn. 96). Petitioner does not even now claim to have changed its essential character and nature since the Act became law. Its whole position in this case has been that it has never been—or at

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323 (R. 1956, 2033); Ex. 376 (R. 1884, 1900, 1927, 1929, 1935, 1939, 1943, 1967, 1981, 1987, 2029); Ex. 378 (R. 1884, 1909, 1927, 1929, 1939, 1943); Ex. 379 (R. 1942); Ex. 416 (R. 1882); Ex. 451 (R. 1899A); Ex. 455 (R. 1899A); Ex. 467 (R. 1899A); Ex. 468 (R. 1899A, 1900); Ex. 477 (R. 1866, 1900, 1937, 2031); Ex. 479 (R. 1939); Ex. 480 (R. 1900); Ex. 488 (R. 1899A, 1900, 1955); Ex. 489 (R. 1900, 2022); Ex. 493 (R. 2029); Ex. 495 (R. 1899A).

least that it has not been since 1940—an organization of the type this Act defines."[9] The Government's evidence overwhelmingly established the contrary—that the petitioner was and is such an organization.

A theme which recurs throughout petitioner's brief, but which it states with particular emphasis in the present context, is that the Board paid too little heed to the testimony of its witnesses Flynn and Gates. After pointing out that these witnesses gave testimony which in large measure amounted to bland conclusory denials that petitioner does any of the things referred to in § 12 (e) of the Act (Br. 167–168), petitioner complains that the Board "dismissed this uncontradicted testimony with the bald statement that it did not establish the facts 'to our satisfaction' " (Br. 168). The Board, however,

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[9] Indeed, even if the record showed sudden protestations of reform upon the passage of the Act, *United States* v. *Oregon Medical Society*, 343 U. S. 326, teaches that such protestations should be scrutinized with care before being accepted at face value. "When defendants are shown to have settled into a continuing practice or entered into a conspiracy violative of antitrust laws," the Court said, "courts will not assume that it has been abandoned without clear proof. * * * It is the duty of the courts to beware of efforts to defeat injunctive relief by protestations of repentance and reform, especially when abandonment seems timed to anticipate suit, and there is probability of resumption" (*id.* at 333). See also *Independent Employees Assn.* v. *National Labor Relations Board*, 158 F. 2d 448, 455 (C. A. 2), certiorari denied, 333 U. S. 826.

set forth in its Report the considerations which it took into account in weighing the testimony of these witnesses (R. 3 [1808]), as well as the factors which it took into account in weighing the contrary testimony of the Attorney General's witnesses (*ibid.*). It was for the Board to weigh this testimony, as it did, in the light of the whole record and to make findings according to the preponderance of the probative evidence of record. The Board's conclusion that petitioner's witnesses did not establish that petitioner's character and objectives had changed since the passage of the Act (R. 130 [2038]) was fully supported by the record. Moreover, as the Board found, "the record contains ample post-Act evidence which, when illuminated, supports our finding" (*ibid.*).

*3. The Board's conclusion that there exists a world Communist movement, having the characteristics described in § 2 of the Act, while not essential to the validity of its order, was in any event supported by the preponderance of the evidence*

Petitioner contends (Br. 193–199) that the Board erred in finding from the evidence before it that "there exists a world Communist movement substantially as described in Section 2 of the Act" (Br. 193; R. 9 [1819]). This contention is based, however, as petitioner recognizes (Br. 194, 199), on the assumption that the existence of a world Communist movement as found by Congress

in § 2 of the Act, and having the characteristics described in that section, was subject to redetermination in the administrative proceeding before the Board. We argued above that this assumption is untenable—the existence of this world movement is one of the legislative facts found by Congress in the Act itself (*supra*, pp. 126–127). In that connection, we answered petitioner's contention that the making of this finding by Congress renders the Act unconstitutional as "fiat legislation" (*supra*, pp. 123–129). The court below was correct, therefore, in stating that it was unnecessary to redetermine the existence of what Congress had found in the Act to exist (Op. 56, R. 2133). *Galvan* v. *Press*, 347 U. S. 522, 529; *Carlson* v. *Landon*, 342 U. S. 524, 535–536.

The Board, it is true, deemed it "desirable" to make an independent finding, "based upon the evidence in this proceeding," concerning "the world Communist movement, its characteristics and the identification of the leadership of such movement" (R. 4 [1810]). Accordingly, it reviewed such evidence (R. 4–9 [1810–1819]) and found on the basis of it that there exists such a world movement, substantially as described in § 2 (R. 9 [1819]). Similarly, the court below, notwithstanding its holding that it was unnecessary to redetermine the existence of this movement, undertook, because the Board had made such an independent finding, to review the evidence (Op. 56–61, R. 2133–2138), and concluded

that the finding was "supported by a clear preponderance of the evidence" (Op. 61, R. 2138). We submit that this conclusion is correct.

The evidence established far more than the presence of what petitioner describes as "Communist parties in various countries which base their program and activities on a common economic and political outlook, and work toward the ultimate achievement of a common social goal—a universal, classless, stateless society" (Br. 199). Petitioner's assertion that all that the court below found was that there is a world Communist movement in that sense (*ibid.*) is a serious distortion of what the court actually found the evidence to show. The court, while observing that the professed "ultimate objective" of the world Communist movement is a world-wide "classless, stateless society" (Op. 60, R. 2137), observed also that "[i]n the interim the program calls for a small, hard core of revolutionaries, formed into a disciplined Party in every country;" that "[t]his Party is to attain control of the government of its country for the purpose of destroying its present form;" and that "[i]n this interim operation the Party must be ruthless" (*ibid.*).

What this "ruthlessness" is to consist of is also described by the court. In the achievement of the "dictatorship of the proletariat," the

court stated, Stalin, the heir of Lenin and the recognized leader of the world movement until his death, "stressed the necessity for violence" (Op. 57, R. 2134). The court quoted Stalin's statement in his *Foundations of Leninism* (A. G. Ex. 121, R. 1427, at 1434) to the effect that Lenin was "right in saying" that the "proletarian revolution" would be "impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a new one * * *" (Op. 58, R. 2135). The court then proceeded to quote passages from other authoritative works among the classics of world Communism (Op. 58–60, R. 2135–2137), all in evidence in this case, and all tending to prove beyond a doubt that the world Communist movement is indeed, substantially, as § 2 of the Act describes it, "a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization."

Petitioner assumes that, because its witness Aptheker testified that a "dictatorship of the proletariat" would be, and as practiced in the Soviet Union is, democratic government in its

purest form (see R. 1266–1267, 1306–1309, 1310),[80] the Board was bound to accept his testimony and to make findings with respect to this objective of the world Communist movement which would in effect adopt his views (Br. 196–198). The Board, however, was under no such compulsion, particularly when it had before it the following more authoritative views as to what the dictatorship of the proletariat is, how it should arise, and how it should operate in practice (Stalin, *Problems of Leninism*, A. G. Ex. 138, R. 1500, at 1505–1507):[81]

> "In order to win the majority of the population to its side," Lenin continues, "the proletariat must first of all overthrow

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[80] Among other things Aptheker testified that freedom of religion and of the press is enjoyed in the Soviet Union (R. 1308). He stated that when Communists succeed in getting control of a country opposing political parties are allowed to continue to exist and publicize their views as long as "different classes" continue to exist (R. 1306); that, indeed, when the Communist Party gets into a position of leadership in a country it willingly shares its leadership with other parties (*ibid.*).

[81] This work was described by witness Meyer as one of the "central" textbooks used in Communist Party schools in the United States (R. 689; see Report of the Board, R. 43 [1880–1881], fn. 30). Though written in 1926 (Br. 198, fn. 116), the English translation was first published in the United States in 1934 (R. 1500). It was one of the "classics" studied by witness Lautner at the Party's National Training School in 1941 (R. 943–944, 946, 949) and used by him as a textbook and sourcebook when he himself became a teacher in the Party's schools from 1947 till his expulsion in 1950 (R. 950–952).

the bourgeoisie and seize state power and, secondly, it must introduce Soviet rule, smash to pieces the old state apparatus, and thus at one blow undermine the rule, authority and influence of the bourgeoisie and of the petty-bourgeoisie compromisers in the ranks of the non-proletarian toiling masses. * * * * * *

Such are the characteristic symptoms of the proletarian revolution.

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Replying to those who confuse the dictatorship of the proletariat with "popular," "elected" and "non-class" government, Lenin states:

"The class which has seized political power has done so conscious of the fact that it has seized power alone. This is implicit in the concept of the dictatorship of the proletariat. This concept has meaning only when one class knows that it alone takes political power into its own hands, and does not deceive itself or others by talk about popular, elected government, sanctified by the whole people." * * *

* * * * *

Pointing to one of the most important aims of the dictatorship, namely the suppression of the exploiters, Lenin states:

"The scientific concept, dictatorship, means nothing more nor less than power which directly rests on violence, which is not limited by any laws or restricted by any absolute rules * * *. Dictatorship

> means—note this once and for all, Messrs. Cadets [ed. note: "The Constitutional Democrats"]—unlimited power, resting on violence and not on law. * * *" * * *

In short, the record amply supports the Board's conclusion that there exists a world Communist movement substantially as described in § 2 of the Act.

C. THE BOARD'S FINDINGS ARE SUPPORTED BY RELEVANT, COMPETENT EVIDENCE

In a further attack on the findings of the Board, petitioner, at pages 199–211 of its brief, makes an intemperate attack on the Attorney General's witnesses as "discredited," and charges that the Board's findings are based on a "misrepresentation of the evidence." Petitioner's charges, which touch relatively minor aspects of the proof, are insubstantial and in many instances distort the record, as is apparent when the materials alleged to support its assertions are examined.

Petitioner concentrates its attack on the use by the Attorney General of informers. Of the twenty-two witnesses who testified for the Attorney General, nineteen were former members of petitioner and nine had joined or rejoined petitioner as the result of conferences with the F. B. I. (R. 134–136 [2045–2048]). As this Court has noted, the use of informers involves issues of credibility, not of law. There is no policy or rule

of evidence which forecloses use by the Government of otherwise relevant evidence supplied by informers, false friends, or the like. *On Lee* v. *United States*, 343 U. S. 747, 756–758; *Caminetti* v. *United States*, 242 U. S. 470, 495–496; *United States* v. *Dennis*, 183 F. 2d 201, 224–225 (C. A. 2), affirmed, 341 U. S. 494. The reason for the rule is illustrated by the requirements of public policy in a case such as this where the petitioner is an organization which endeavors to operate covertly and, in the nature of things, the available witnesses are persons who were formerly members of that organization.[82]

Issues of credibility are uniquely issues to be resolved by the triers of fact who have the advantage of hearing the witnesses and observing their demeanor while testifying on both direct and cross examination. The record shows that all of the Attorney General's witnesses were subjected to extensive and searching cross examination on matters going both to the substance of their testimony and to issues of credibility. Petitioner urged before the panel its objections to the character of certain of these witnesses, and renewed these objections in its exceptions to the recommended report, in its brief to the Board, and on

[82] Cf. testimony of Assistant Attorney General Tompkins in Hearings before the Subcommittee of Committee on Appropriations, H. R., 84th Cong., 1st sess., on Department of Justice appropriations for 1956, pp. 308–309.

oral argument before the Board.[83] The report of the Board makes it clear that it carefully weighed, as was its duty, these contentions. Thus the Board explicitly stated (R. 3 [1808]):

> In making our findings herein, we have considered and weighed all the evidence of record. In weighing Petitioner's [i. e., the Attorney General's] evidence, we have considered that certain of its witnesses fall into the category of "informers" and we have scrutinized their testimony accordingly; we have considered and resolved the inconsistencies in the testimony of certain of Petitioner's witnesses; we have considered the testimony of Petitioner's witnesses against the background of their various organizational positions and activities in the CPUSA which afforded the sources of their knowledge; and we have had the benefit of the Panel's observation of their demeanor while testifying. Viewing these considerations in the light of the whole record, we find no basis for disregarding the substance of their testimony.
>
> We have likewise weighed and evaluated Respondent's evidence, taking into account that each of its three witnesses has a vital personal interest in the outcome of this

[83] We deal *infra*, pp. 277–285, with the issues raised by petitioner with respect to the testimony of Crouch, Johnson and Matusow. As we there point out, there is no reasonable possibility that the Board's ultimate findings of fact would be different even if the testimony of these witnesses were completely ignored.

> proceeding; that in nature and substance the direct testimony of two of its witnesses amounted, in a large degree, to conclusory denials of the allegations of the petition and the criteria of Section 13 (e) of the Act; that important members of Respondent, whom Petitioner's witnesses had identified as being parties to, or present at, conversations which were detrimental to Respondent herein, were not called to rebut such testimony; and, that the Hearing Panel, having observed the demeanor of its witnesses as they testified, had some misgivings about certain of them.

Petitioner gives copious citations to the record which, it intimates, support the charges it makes. A few examples will demonstrate with what caution petitioner's assertion of record support must be evaluated. In some instances, the citations do not support the assertions made; in others, petitioner has failed to cite other portions of the record which are necessary to an evaluation of the incidents to which reference is made.

Thus petitioner, in its general attack on the asserted low morals of certain of the witnesses, states that they informed on relatives and friends and on persons whom they, "while agents of the F. B. I.," had induced to join petitioner (Br. 201). But petitioner fails to note that these same witnesses testified that recruiting was a task required of them by the Party (Markward, R.

751–752; Cummings, Tr. 11011, 11013); that they never recruited Party members at the request or suggestion of the F. B. I. (Markward, R. 751; Cummings, Tr. 11011–11014; and cf. Tr. 10982–10983, 10990–10991); and that in each instance the F. B. I. was informed of the circumstances surrounding the joining of the Party by the individuals concerned (Markward, Tr. 7814; Cummings, Tr. 11011, 11014).

An analysis of petitioner's attack on the Board's finding that its disaffiliation from the Communist International in November 1940, "did not alter in any substantive way" petitioner's relationship with the International (Br. 202–203) will illustrate the insubstantial nature of petitioner's further attack on specific findings of the Board. Petitioner states that the "only evidence" which can support this finding was testimony by Crouch (Br. 202). But, as appears from the Board's report, it relied also on testimony of Meyer and Lautner (R. 14 [1828–1829]). Petitioner charges that the Board ignored the testimony of its witness Miss Flynn on this point (Br. 203). But, on the contrary, at R. 14 [1829], the Board quoted Miss Flynn's testimony on cross-examination to the effect that "we were not disaffiliating in anger * * *. It was, you might say, a friendly divorce." The Board did not ignore, but evaluated Miss Flynn's testimony. Moreover, petitioner fails to invite the Court's attention to the fact that, as observed by the court below

(Op. 64, R. 2141), petitioner's disaffiliation from the Communist International was, by its own formal admission, "for the specific purpose of removing itself from the terms of" the then recently enacted Voorhis Act (C. P. Ex. 13, p. 50). This, of course, was highly relevant to the question whether the purported disaffiliation constituted a termination of relations in fact, or whether it was a sham maneuver. We do not stop to discuss petitioner's assertion that the report "conceals" the fact that Crouch had never previously testified to a certain statement of Browder on this matter (Br. 203), for there was no showing that Crouch's past silence on the point occurred under circumstances requiring that such testimony be given (see Tr. 5543–5601). Petitioner's final assertion that Crouch's testimony was directly contradicted by that of Lautner (Br. 203) is not sustained by the record. On the contrary, Lautner testified that the Party's decision to disaffiliate from the International would "in no way affect the question of proletariat internationalism, proletariat solidarity and fraternal relationship between the parties" (R. 991). Even petitioner's witness, Miss Flynn, while denying that Browder had said that the Party's relations with the International "would remain exactly as in the past," did testify that Browder had "said something that

might be misinterpreted or deliberately perverted to mean something like that" (R. 1285).

In short, petitioner's attack on the Board's witnesses and on certain minor aspects of the proof is misleading in its use of the record and is *in toto* insubstantial when weighed against the overwhelming proof that, as the Board found and the Court of Appeals affirmed, petitioner is a Communist-action organization. The fact that the Board, by and large, resolved factual conflicts in favor of the Attorney General and rejected the contrary testimony of petitioner's witnesses reflects the character of the proof adduced, and does not, as petitioner would have it (Br. 210–211), impugn the integrity or competence of the Board. *National Labor Relations Board* v. *Pittsburgh Steamship Co.*, 337 U. S. 656, 658–660; *United States* v. *Yellow Cab Co.*, 338 U. S. 338, 340–341.

D. THE COURT BELOW CORRECTLY AFFIRMED THE BOARD'S ORDER, NOTWITHSTANDING THE FACT THAT IT MODIFIED TWO OF THE SUBSIDIARY FINDINGS OF THE BOARD

Petitioner contends (Br. 175–177) that "the court below, having invalidated key findings of the Board, erred in not remanding the case for administrative redetermination" (Br. 175). Petitioner asserts that the court below "struck" (Br. 175) "two of the key findings" (Br. 176) and held that the Board had given "an erroneous application" to a third (*ibid.*), so that there were

only "five findings which survived" (Br. 177).

At the outset, the nature of the rulings of the court referred to by petitioner should be understood. With respect to the Board's subsidiary finding (corresponding to § 13 (e) (5) of the Act) to the effect that petitioner "reports to the Soviet Union and its representatives" (R. 98 [1982]), the Court of Appeals said (Op. 72, R. 2149):

> * * * There is little doubt about these reports having been made when the Party was a member of the International; such was one of the "conditions" of the International. There is some doubt that a preponderance of the evidence supports the broad conclusion that the Party "reports to the Soviet Union and its representatives." Such a conclusion seems to imply constant, systematic reporting as of now. The evidence indicates instances, as in the cases of Eisler and Peters. On this record we would strike this finding as phrased. There is a preponderance of evidence, we think, to support a conclusion that upon occasion leaders of the Party report to representatives of the Soviet Union.

The other "key finding" of the Board to which petitioner refers was its subsidiary finding relating to "secret practices" of petitioner (corresponding to § 13 (e) (7)). After reviewing the long history of such practice (R. 105–116 [1993–2012]) and after considering the evidence relating

to their "purpose" (R. 116–117 [2012–2015]), the Board concluded that (R. 117 [2015]):

> * * * the secret practices undertaken by [petitioner] are for the purpose of concealing the true nature of the Party and promoting its objectives. We cannot accept [petitioner's] contention that its secret practices are merely devices utilized to protect the rights and liberties of its members.

With respect to this finding the Court of Appeals said (Op. 73–74, R. 2150–2151):

> This question, whether the secret practices of the Party are for the purpose of protecting the liberties of the members or are for the purpose of promoting the objectives of the Party, is a nebulous one. The two purposes may well overlap. In so far as protection of its members from public identification as Communists also promotes the objectives of the Party, both purposes could exist together. In a doubtful situation such as that on this point, we strike the finding as to purpose. At the same time we are of opinion that the Party's view of the limited purpose of secrecy is not shown by a preponderance of the evidence. On this point we conclude simply that a defined purpose is not proven.

Petitioner's further assertion that the court below held that the Board had given "an erroneous

application" to the non-deviation finding (Br. 175–176) is, as we have previously pointed out (*supra*, pp. 226–227, fn. 68), without record support.

It thus appears, contrary to petitioner's assertions, that the court below *modified* two of the Board's *subsidiary* findings, while affirming the other six as "supported by a preponderance of the evidence" (Op. 76, R. 2153). And, what is decisive here, the court below further found that the Board's ultimate finding of fact—that petitioner "is substantially directed, dominated, and controlled by the Soviet Union, which controls the world Communist movement * * *; and * * * operates primarily to advance the objectives of such world Communist movement" (R. 132 [2042])—was likewise itself fully supported by the preponderance of the evidence (Op. 75-76, R. 2152–2153).

As we have seen (*supra*, pp. 132–133), the statutory considerations of § 13 (e) are in no sense tests or criteria, the fulfillment of any one of which would suffice to establish that an organization met the Act's definition of a Communist-action group. It would be equally erroneous, however, to assume that the Act requires affirmative findings under each of the § 13 (e) categories before an organization can be held to fulfill the § 3 (3) definition of a Communist-action group. Section 13 (e) simply establishes certain cate-

gories of proof which Congress identified as relevant to the decisive issue presented by the § 3 (3) definition. Here, the subsidiary findings which the court below affirmed as established by a preponderance of evidence, together with the other findings as modified, abundantly supported the ultimate and controlling finding that petitioner is a Communist-action organization, pursuant to which the Board ordered it to register under the Act. Under the circumstances, remand of the case to the Board for redetermination of that issue was not required and would have served no useful purpose. The court below correctly affirmed the Board's order. *National Labor Relations Board* v. *Newport News Co.*, 308 U. S. 241, 247; *National Labor Relations Board* v. *Reed & Prince Mfg. Co.*, 205 F. 2d 131 (C. A. 1), certiorari denied, 346 U. S. 887; *Panhandle Eastern Pipe Line Co.* v. *Federal Power Commission*, 169 F. 2d 881, 883 (C. A. D. C.), certiorari denied, 335 U. S. 854. Cf. *Universal Camera Co.* v. *National Labor Relations Board*, 340 U. S. 474, 488.[84]

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[84] The cases relied on by petitioner (Br. 176–177) are distinguishable from the case at bar. This is not a case in which it is unclear from the record on just what evidence the administrative findings are based (*National Labor Relations Board* v. *Virginia Electric & Power Co.*, 314 U. S. 469, 479); nor one in which the administrative order would be sustainable if based on grounds which the record shows were not the actual grounds on which it was based (*Securities and Ex-*

## IV

### PETITIONER WAS NOT DENIED A FAIR HEARING BEFORE THE BOARD

Petitioner contends that it was denied a fair hearing before the Board because of alleged "extra-legal pressures" on it on the part of the Senate Judiciary Committee to decide against petitioner (Br. 178–183) and because of alleged prejudice against it on the part of the two members of the hearing panel which heard the evidence and made the recommended decision (Br. 183–185). We submit that the contention is without merit in either respect.

#### A. THERE IS NO EVIDENCE THAT THE BOARD WAS SUBJECTED TO "EXTRA-LEGAL PRESSURES" ON THE PART OF THE SENATE JUDICIARY COMMITTEE OR ITS CHAIRMAN

On April 23, 1951, a hearing panel, consisting of three members of the Board, commenced the taking of testimony in this case. The members of this panel, Messrs. LaFollette and Brown and Dr. McHale (as well as the other two members of the Board, Chairman Richardson and Mr. Coddaire) were at that time serving under recess ap-

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*change Commission* v. *Chenery Corp.*, 318 U. S. 80, 94–95); nor one in which the reviewing court modified an administrative order (*Federal Power Commission* v. *Idaho Power Co.*, 344 U. S. 17, 20–21); nor one in which the administrative findings are "so shrouded in doubt" that the basis of the agency's action is not determinable (*Colorado-Wyoming Gas Co.* v. *Federal Power Commission*, 324 U. S. 626, 634–635).

pointments (see *infra*, pp. 285–307). On June 6, 1951, Chairman Richardson resigned from the Board because of ill health (*First Annual Report, Subversive Activities Control Board*, p. 5). On July 30, 1951, the Senate Judiciary Committee, which had the remaining nominations under consideration, reported favorably on the nominations of Brown, McHale, and Coddaire, but took no action on that of Mr. LaFollette, the chairman of the panel. The three nominees reported on favorably were confirmed by the Senate ten days later, on August 9, 1951 (97 Cong. Rec. 9702). The LaFollette nomination died in committee and his recess appointment expired with the adjournment of the First Session of the 82d Congress on October 20, 1951, at which time Mr. LaFollette ceased to serve (R. 1). The hearing continued before the remaining two members of the panel, Brown and McHale, ending July 1, 1952 (R. 1, 2).

Based upon the foregoing facts, petitioner argues that "for many months during the pendency of the administrative proceeding,[85] the tenure of the Board members was subject to the pleasure of the Senate Judiciary Committee, whose chairman [Senator McCarran] had the

[85] Actually, of the 14 months during which the hearings lasted, it was, as we have seen, only during the first 3½ months that the two members of the hearing panel who sat throughout the hearings and participated in the final decision (Brown and McHale) had not been confirmed.

power to block confirmation if their conduct of the proceeding did not conform to his wishes" (Br. 179). Because of this, petitioner argues, the members were necessarily influenced by fear of nonconfirmation and the consequent loss of their positions during the period prior to July 30, 1951, when the Senate Committee reported favorably on their nominations.

Preliminarily, it should be observed that, since the hearings did not end until July 1, 1952 (R. 2), nearly a year following the favorable report by the Senate Judiciary Committee, and since the recommended decision of the hearing panel was not issued until October 20, 1952 (R. 2), four months after that, and since the final order of the Board was not entered until April 20, 1953 (R. 138), six months later still, it is difficult to understand how, even given petitioner's assumptions, the alleged pressure emanating from the Senate Judiciary Committee and its chairman could be said to have affected the decision and order of the Board, which alone is in issue here.

Basically, petitioner's argument consists of an indictment of recess appointments as such. In every case in which the President requests an official to perform statutory duties without prior Senate confirmation of his appointment, the appointee is in the identical position of the Board members in this case. Yet Article II, Section 2, Clause 3 of the Constitution makes specific pro-

vision for recess appointments. It is apparent that the drafters of the Constitution must have considered that on balance it was preferable to have an officer serve before confirmation rather than to require that a position remain vacant whenever the Senate was in recess and therefore not able to pass upon the appointment promptly. It can do the petitioner no good to quarrel with that decision; it is written into the Constitution.

To buttress its argument, petitioner argues not only that members of the Board were in a position where influence might have been exerted, but that it was in fact exerted. This, however, finds no support in the record. There is no evidence that the Senate Judiciary Committee, its chairman, or any of its members attempted to apply pressure to the Board. No action by any member of the Board gives evidence that he was acting under duress or that he was ready to compromise his oath of office because of fear that he might not please Congress.

This Court is asked to pile inference on inference to impute dishonesty to both the Senate Judiciary Committee and the Board. This the courts have refused to do. *Federal Trade Commission* v. *Cement Institute*, 333 U. S. 683, 700–703; *United States* v. *Morgan*, 313 U. S. 409, 420–421; *Marquette Cement Mfg. Co.* v. *Federal Trade Commission*, 147 F. 2d 589 (C. A. 7);

*National Labor Relations Board* v. *Weirton Steel Co.*, 135 F. 2d 494, 497–498 (C. A. 3); *Donnelly Garment Co.* v. *National Labor Relations Board*, 123 F. 2d 215 (C. A. 8); *National Labor Relations Board* v. *Air Associates*, 121 F. 2d 586, 588–591 (C. A. 2); *Press Co.* v. *National Labor Relations Board*, 118 F. 2d 937, 940 (C. A. D. C.), certiorari denied, 313 U. S. 595. On the contrary, courts have indulged the presumption that administrators are "men of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances" (*United States* v. *Morgan*, *supra*, 313 U. S. at 421), and that they can resist any unfair attitudes expressed to them. *National Labor Relations Board* v. *Air Associates*, *supra*, 121 F. 2d at 588.

Petitioner points to testimony that, before the members' confirmation, three of the Attorney General's witnesses had had conversations with a Mr. Mandel, a former member of the Communist Party (R. 300), who was then employed by the subcommittee on Internal Security of the Senate Judiciary Committee (Br. 180–181). Gitlow had been a personal friend of Mandel's for nearly thirty years (R. 300); he testified that whenever he came to Washington he discussed matters of mutual interest with him (R. 295). Kornfeder had likewise known Mandel for thirty years (R. 347). Crouch too had known Mandel from their

Party days (Tr. 5798–5799). During Gitlow's testimony, panel chairman LaFollette questioned him as to whether he had discussed with Mandel the conduct of members of the panel (R. 295). Gitlow replied that he "would have discussed it with him" as a matter of course "because he is a friend of mine, over a long period of time, interested in the matters that I am interested in" (*ibid.*). A short while later in the hearing Mr. LaFollette stated that he resented the fact that the witness had discussed his conduct in the hearing room with Mandel; that it made him feel as if he were an elected "nisi prius judge" whose renomination was subject to the control of a "political boss". He added, however, that he realized that the fact of the conversations between the witness and Mandel did not "necessarily prove" that "there was an attempt by this device to intimidate me", and he stated that, in any event, the incident would not affect his conduct of the hearing and the carrying out of his "sworn * * * duty". He emphasized that he was speaking for himself only and that his "personal feelings" should not be imputed to his colleagues on the panel (R. 297–298). Later in the hearing, when an attempt was made to discover whether witness Kornfeder had also talked to Mandel about the panel members, Mr. LaFollette stated that, while he did not "retract from" his interrogation of Gitlow on that subject, he thought that that line of questioning had been

incorrect, and so he ruled against further pursuit of the subject (R. 347).

It is surely bare speculation to build from conversations between witnesses and a friend of thirty years' standing, who was employed by a subcommittee of the Senate Judiciary Committee, an attempt by the Judiciary Committee itself to intimidate Board members. The conduct of the members of the hearing panel as they conducted a proceeding then in progress was certainly a natural subject of conversation. As Gitlow said, he "would have discussed it" with Mandel as a matter of course "because he is a friend of mine" (R. 295). Mr. LaFollette himself, as we have seen, appreciated that the fact of these conversations was not proof of any attempt to intimidate him, and what is equally important, he observed that in any event he was not intimidated, and would continue to perform his sworn duty to conduct the hearings in an impartial manner. There is no indication whatever in this record of any word or act on the part either of Mandel, whom petitioner gratuitously describes as "McCarran's agent" (Br. 182), or of any committee member, designed to intimidate any member of the Board. Certainly, there is nothing in all this to show that any Board member was intimidated.[38]

[38] The statement of Mr. LaFollette which petitioner quotes at Br. 182–183 does not, when read in context, bear out petitioner's contention. Petitioner attaches a different

Petitioner has made no showing of prejudice which would invalidate the carefully considered order of the Board entered nearly two years after the members' final confirmation. Particularly is this so in view of the fact that judicial review of the Board's order was not limited to determining that there was some substantial evidence supporting it, but amounted in effect to *de novo* consideration of the evidence and the ascertainment that the order was supported by the preponderance of the evidence (see Op. 45, 75–

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meaning to the statement from that intended by Mr. LaFollette. The facts are as follows: One of the Attorney General's witnesses, Kornfeder, had been angered by charges and insinuations on the part of petitioner's counsel, Mr. Marcantonio, that he had committed certain crimes, and he had addressed certain remarks to Mr. Marcantonio (R. 341). Mr. LaFollette became provoked with the witness after a colloquy with him and referred to him as "contumacious" (R. 340–341). One of the counsel for the Attorney General thereupon made an apology in the witness's behalf, which Mr. LaFollette accepted (R. 341). A short while later, however, another colloquy occurred, in which Mr. LaFollette admonished the witness and stated that he would ask the Board to authorize him to request a contempt citation against the witness unless the latter apologized within two minutes (R. 342). Thereupon, another of the attorneys for the Attorney General attempted to apologize for the witness (*ibid.*). Mr. LaFollette then made an extended statement regarding the necessity of conducting an orderly hearing, in which he expressed the view that the panel had the power to order a contumacious witness from the hearing room and to strike his testimony from the record (R. 342–344). Panel member McHale stated that she concurred in Mr. LaFollette's statement (R. 344), but member Brown stated that,

76, R. 2126, 2152–2153). See *supra*, pp. 210–211. Cf. *National Labor Relations Board* v. *Air Associates, supra*, 121 F. 2d at 588; *Standard Distributors* v. *Federal Trade Commission*, 211 F. 2d 7, 11–12 (C. A. 2); *National Labor Relations Board* v. *Botany Worsted Mills*, 133 F. 2d 876, 882–883 (C. A. 3), certiorari denied, 319 U. S. 751.

B. PETITIONER'S MOTIONS TO DISQUALIFY MEMBERS McHALE AND BROWN FOR ALLEGED PERSONAL BIAS AND PREJUDICE WERE PROPERLY DENIED

Petitioner contends (Br. 183–185) that the Board erred in denying (R. 190–196, 209–211) its motions to disqualify members McHale (R. 187–190) and Brown (R. 196–199) for alleged bias and prejudice against it. The contention is without merit in either respect.

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while he agreed that orderly procedure must be maintained at all times, he could not, in the light of all the circumstances, share Mr. LaFollette's views with regard to the conduct of the particular witness then testifying (R. 344). Evidently provoked at this, Mr. LaFollette on the following day sought to resign as chairman of the panel (R. 346). In doing so he made a statement, which included the excerpt quoted by petitioner, in which he referred to the dissent of Mr. Brown of the day before as the reason for his resignation (R. 345–346). Mr. LaFollette was nevertheless retained as chairman (R. 346–347), and, in fact, overruled petitioner's motion to discontinue further proceedings because of this incident (R. 347). If this incident has any pertinence to the instant argument, it is to show the independence of mind of the panel members.

*1. With respect to member McHale*

On November 15, 1951, during the pendency of the hearings in this case, panel member McHale made a short speech (R. 193–196) at a club luncheon (R. 191). In the speech Dr. McHale referred briefly to the history of the Subversive Activities Control Act and the function of the Board as provided for in the Act, summarized the Act's registration provisions and the contents of the Attorney General's petition in this case, mentioned the number of exhibits thus far filed and the number of pages of testimony thus far taken, pointed out that the hearings were open to the public, and invited the members of her audience to attend (R. 191–192, 193–196). On the basis of this speech, petitioner moved that Dr. McHale be disqualified from further participation in the case on the ground that she had prejudged the issues (R. 187–190). The Board denied the motion (R. 190–192) on the ground that the speech, a copy of which appears in the record at R. 193–196, "fails to indicate bias, prejudice or prejudgment" (R. 192). The Board's memorandum opinion stated that the affidavit of bias and prejudice (R. 187–190) attached to petitioner's motion "consists of extracting expressions from Dr. McHale's speech and importing to them a meaning which, in our opinion, is unjustified when such words are read in the context of the speech as a

whole" (R. 192). We submit that this action was correct.

Dr. McHale's reference in her speech to the Hitler-Stalin Pact (R. 193–194), which petitioner claims involved a prejudgment of the issue of "non-deviation" (Br. 183), was merely an explanation of what had moved Congress to act, not an explanation of her own belief. Her references to legislative facts incorporated in § 2 of the Act (*e. g.*, the congressional finding that a world Communist movement exists (R. 194)), and to the contents of the pleadings (R. 195), as well as her explanation of the then present status of the case (R. 195–196) and of the consequences of an order directing an organization to register (R. 196), are a neutral account of publicly known facts. Her statement, "What the outcome will be is anyone's guess" (R. 196), scarcely shows prejudgment of the issues, and her reflection to the effect that "catch[ing] the rabbit" is necessary before one may have "rabbit stew" (R. 196) involved at most an observation that before petitioner could be ordered to register there had to be clear proof that it was a Communist-action organization as defined in the Act. This statement was admittedly true, and the fact that it was couched as a figure of speech does not establish that Dr. McHale did not consider such proof necessary. On the other hand, she doubtless felt that her audi-

ence might need to be reminded that the Act required proof that the "Communist Party" was a "Communist organization". There is no warrant for petitioner's contention that this statement by Dr. McHale "indicated her view that the hearing was merely a formality" (Br. 183).

Dr. McHale thus was not shown on the basis of her remarks to have been biased against petitioner, so as to be unable to accord it a fair hearing. Although each case must be decided on its own merits, we submit that the situation at bar does not approach that considered by this Court in the last *Morgan* case (*United States* v. *Morgan*, 313 U. S. 409), where, notwithstanding the "strong views" expressed by the Secretary of Agriculture in his letter criticizing the earlier adverse decision of this Court, it was stated at page 421:

> But, intrinsically, the letter did not require the Secretary's dignified denial of bias. That he not merely held, but expressed, strong views on matters believed by him to have been in issue, did not unfit him for exercising his duty in subsequent proceedings ordered by this Court. As well might it be argued that the judges below, who had three times heard this case, had disqualifying convictions. In publicly criticizing this Court's opinion the Secretary merely indulged in a practice familiar in the long history of Anglo-Amer-

> ican litigation, whereby unsuccessful litigants and lawyers give vent to their disappointment in tavern or press. Cabinet officers charged by Congress with adjudicatory functions are not assumed to be flabby creatures any more than judges are. Both may have an underlying philosophy in approaching a specific case. But both are assumed to be men of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances. Nothing in this record disturbs such an assumption.

Moreover, Dr. McHale was but one member of a unanimous Board which made its findings on the basis of overwhelming testimonial and documentary evidence and which issued a report carefully detailing that evidence. Even were petitioner's assumptions correct, therefore, they would hardly be material. Furthermore, what we said above (*supra,* pp. 269–270) applies with equal pertinency here. That is, the fact that the judicial review of the Board's findings by the court below—to which petitioner imputes no bias—amounted in effect to *de novo* consideration of the evidence and led to its decision that the Board's order was supported by a preponderance of that evidence (see Op. 49, 75–76, R. 2126, 2152–2153; cf. cases cited *supra,* p. 270) makes the question of Dr. McHale's freedom from bias irrelevant at this time.

*2. With respect to member Brown*

Board member Brown, as we have said, was one of the members of the hearing panel which heard the evidence and issued the recommended decision. The hearings ended on July 1, 1952 (R. 2), and panel members Brown and McHale issued their findings of fact and recommended decision on October 20, 1952 (R. 2). On November 16, 1952, more than four months after the taking of evidence had been concluded, and approximately one month after he and Dr. McHale had issued their findings and recommended decision, Brown appeared as a guest on a television-radio program (R. 206).

During this program, Brown summarized briefly the provisions of the Act administered by the Board, described the functions of the Board and the issues in the present proceeding, and related several of the findings contained in the recommended decision which he and Dr. McHale had issued (R. 207). He stated that a definite showing had been made under each of the eight evidentiary heads provided in the Act for the determination of a Communist-action organization, and announced his belief that petitioner would appeal from the Board's decision in the event that the Board should accept the panel's recommended decision and order petitioner to register (R. 207–208). He stated, in referring to the hearing panel's findings of fact and recom-

mended decision, that this was the first time that petitioner had been labeled for what it was, an instrumentality of a foreign government, and, in alluding to specific findings in the recommended decision, he related, in accordance with those findings, that petitioner had not deviated in its positions from those of the Soviet Union (R. 208). He stated specifically during the program that he could not speak for the Board, which had to make the ultimate decision in the case (R. 208).

Petitioner, on the basis of Brown's appearance and statements in the television-radio program as above described, moved that he be disqualified from further participation in the case (R. 196–198). The Board, after the filing of an affidavit by Brown (R. 206–208) in which he gave the details of his appearance and statements as above summarized, denied the motion (R. 209–211), observing, *inter alia*, that the program in question took place after Brown and Dr. McHale had issued their recommended decision (R. 210). We submit that this denial was correct. It scarcely amounts to bias and prejudice for Mr. Brown to have repeated publicly what he had already made a matter of record—that on the evidence he had heard he believed petitioner to be a Communist-action organization within the meaning of the Act. He simply repeated the substance of the panel's findings already made and published. Petitioner's argumentative characterization of

Mr. Brown's remarks (see Br. 183) is unwarranted. An expression of judgment on the basis of evidence already in and already evaluated does not show bias, and is not comparable to the general expressions of opinion announced before evidence was taken in *Federal Trade Commission v. Cement Institute;* 333 U. S. 683, 700–703, which this Court nevertheless held did not preclude the members of the Commission from hearing the evidence with open minds.[87]

## V

### THE COURT OF APPEALS DID NOT ABUSE ITS DISCRETION IN DENYING PETITIONER'S MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE BEFORE THE BOARD

Petitioner contends (Br. 212–216) that the court below erred in denying (R. 2077) its motion (R. 2053–2055) for leave to adduce additional evidence before the Board. The pertinent facts are as follows:

On August 11, 1954, while the case was pending before the Court of Appeals following submission on briefs and oral argument but before the rear-

[87] See also our observations, made with respect to the alleged bias of Dr. McHale (*supra*, p. 274), but having equal pertinency here, *viz*, that the question of one member's alleged bias loses relevance in the light of the unanimity of the Board's final findings and order, and the virtual *de novo* consideration given to those findings by the court below, which found them to be supported by the preponderance of the evidence.

gument (see *supra*, pp. 10–11), petitioner filed in the Court of Appeals a motion (R. 2053–2055) for leave to adduce additional evidence before the Board. The motion alleged that petitioner was in possession of newly discovered evidence that the testimony of three of the Government's witnesses (Paul Crouch, Manning Johnson, and Harvey Matusow), on which testimony the Board was alleged to have relied "extensively and heavily" in making its findings of fact, was perjurious (R. 2054). In a supporting affidavit (R. 2055–2064), it was pointed out that the Board, as reflected in its annotated Report, "supported its findings of fact with thirty-six separate references to the testimony of Crouch, twenty-five separate references to the testimony of Johnson and twenty-four separate references to the testimony of Matusow" (R. 2055). An appendix (R. 2065–2066) to the affidavit listed in tabular form the instances in which the Board made reference to the testimony of the witnesses in question and the subject-matter of the testimony in each instance. The affidavit recited a number of "illustrative" examples of "the importance which the [Board] attached to their testimony" (R. 2056). The balance of the affidavit (R. 2056–2064) was devoted to a statement of the reasons for the affiant's belief that the witnesses in question, all former

members of the Communist Party, had testified falsely. The support for the motion consisted in substance of assertions that the three witnesses had testified falsely on other occasions (R. 2059–2064).

In a memorandum in opposition to the motion (R. 2067–2076), the Board stated that (R. 2070–2071):

> Contrary to the impression which the petitioner seeks to convey by its moving papers, the testimony of Paul Crouch, Manning Johnson, and Harvey Matusow was not of decisive importance at the hearing. Their testimony can be ignored in toto and the ultimate determination of the Board will remain amply supported by evidence both testimonial and documentary in character. The case presented by the Attorney General is supported by the testimony of twenty[88] witnesses and by more than four hundred and sixty documents. It is apparent from the record and from the Annotated Report of the Board that the result reached would be the same without the testimony of Crouch, Johnson, and Matusow.

The memorandum then proceeded to analyze the "illustrative examples" cited by petitioner as alleged proof of the importance of these three witnesses' testimony to the Board's findings (R. 2071–2074). On the basis of this analysis it was

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[88] Of the twenty-two witnesses presented by the Attorney General, two, Carrington and Logofet, were "technical witnesses" (see R. 134–136 [2045–2048]).

pointed out (R. 2071) that, with but one exception,[89]—

> * * * even these "illustrative" examples, which it is reasonable to assume constitute the petitioner's principal showing, are amply supported by other credible evidence of record * * *.[90]

Similarily, with reference to the tabular listing of the instances in which the Board had referred

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[89] The single exception was Matusow's testimony regarding an instance of financial aid from the Soviet Union to petitioner in the year 1949 (R. 2074). It should be noted that the Board did not rely heavily on any of the "financial aid" evidence in reaching its ultimate factual conclusion that petitioner is a Communist-action organization (see fn. 65, *supra*, p. 217).

[90] It will suffice here to make specific reference to but one of the petitioner's "illustrative examples." According to petitioner, the Board "relied heavily on the testimony of Johnson for its findings that * * * the first and only allegiance of Communists is to the Soviet Union, and that in the event of war between the United States and the Soviet Union it would be the duty of every Communist to help defeat the United States" (R. 2056). As pointed out in the Board's reply memorandum, however, "In its Annotated Report, the Board devoted eighteen pages to the subject of allegiance, culminating in the finding that the leaders and members of the Communist Party 'consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union.' (Annotated Report, pp. 215–233 [R. 2016–2034]). This finding and the subsidiary findings pointed to by the petitioner are based upon extensive and varied testimonial and documentary evidence, as the briefest glance at the cited pages of the Annotated Report will show. That the contribution of Johnson's testimony is merely cumulative and corroborative and in no sense necessary to the findings cannot reasonably be disputed. It was not heavily relied on" (R. 2073).

For the other "illustrative examples" and the Board's analysis of them, see R. 2056, 2071–2074.

to the testimony of the witnesses in question (see p. 278, *supra*), the Board's memorandum pointed out that (R. 2075):

> Investigation of the individual references in the appendix demonstrates that in most instances they are accompanied by citations to the testimony of other witnesses and to documentary evidence in substantiation of the same point. In most instances, the citations to Crouch, Johnson, or Matusow could be stricken and ample authority would remain. * * * Beyond showing that the testimony of the three witnesses in question was used by the Board in its Report, the tabulation proves nothing.

The Board's memorandum concluded as follows (*ibid.*):

> It should be borne in mind that the conclusion of the Board that the petitioner is a Communist action organization, as defined in section 3 of the Internal Security Act of 1950, is arrived at on the basis of a number of subsidiary findings which comport with the criteria set forth in section 13 (e) of the Act. These subsidiary findings in turn depend upon a vast number of individual findings of fact. Were the testimony of Paul Crouch, Manning Johnson, and Harvey Matusow entirely absent from the record, a relative few of the myriad individual findings might be disturbed. The effect could be no greater.

> It is nonsense to maintain that the result would be in any way changed. The petitioner would still be found a Communist-action organization by overwhelming evidence. A hearing should not be reopened for the reception of evidence which could not change the result. *National Labor Relations Board* v. *J. S. Popper, supra* [113 F. 2d 602 (C. A. 3)]; *cf. United States* v. *Thompson, supra* [188 F. 2d 652 (C. A. D. C.)] [91]

On December 23, 1954, the motion for leave to adduce additional evidence was denied without opinion, in an order entered simultaneously with the judgment affirming the order of the Board (R. 2077).

Petitioner contends that the Court of Appeals' refusal to remand the cause to the Board for the adduction of additional evidence was a violation of § 14 (a) of the Act (Br. 212–216). Section 14 (a) provides in pertinent part:

> * * * If either party shall apply to the court for leave to adduce additional evi-

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[91] It was also pointed out in the memorandum that, under the authorities, where alleged newly-discovered evidence relates solely "to the issue of credibility and not to any fact at issue," a hearing should not be reopened for its reception (R. 2068); and that each of the three witnesses in question had been cross-examined at length at the hearing before the Board, mostly on collateral matters (R. 2070). Hence, it was argued, "[f]urther evidence of a collateral nature and further cross-examination on collateral matters would be cumulative and would accomplish nothing" (*ibid.*).

> dence, and shall show to the satisfaction of the court that such additional evidence is material, the court may order such additional evidence to be taken before the Board and to be adduced upon the proceeding in such manner and upon such terms and conditions as to the court may seem proper. * * *

Such applications are addressed to the sound judicial discretion of the court. This was emphasized by this Court in the very case relied on by petitioner, *viz, National Labor Relations Board* v. *Indiana & Michigan Electric Co.*, 318 U. S. 9 (at 16); see also *Southport Petroleum Co.* v. *National Labor Relations Board,* 315 U. S. 100, 104. Both these decisions so held with respect to the practically identical provision of the National Labor Relations Act. That the Court of Appeals did not abuse its discretion in denying the motion in this case is evident, we submit, from the facts as above outlined (*supra,* pp. 277–282). The Board had unanimously found, "[u]pon the overwhelming weight of the evidence in this proceeding," that petitioner "is substantially directed, dominated, and controlled by the Soviet Union, which controls the world Communist movement" and "operates primarily to advance the objectives of such world Communist movement" (R. 132 [2042])—a finding which brought petitioner within the definition of a "Communist-action organization" under § 3 (3) of the Act.

The only question before the Court of Appeals on the motion for leave to adduce additional evidence—even phrasing the issue in the language adopted by petitioner (see Br. 214)—was whether there was any reasonable possibility that the Board might come to a different conclusion if the case were remanded and further evidence taken.[92] That there was no such possibility was

[92] The motion may be analogized to a motion for a new trial on the ground of newly discovered evidence. Where the newly discovered evidence consists of evidence that a prosecution witness gave false testimony at the trial, a new trial should be granted only if the court is satisfied that the testimony was material and false and that "without it the jury *might* have reached a different conclusion." *Larrison* v. *United States*, 24 F. 2d 82, 87 (C. A. 7); *United States* v. *Johnson*, 142 F. 2d 588, 591 (C. A. 7), petition for certiorari dismissed, 323 U. S. 806; *United States* v. *Johnson*, 149 F. 2d 31, 44 (C. A. 7), reversed on other grounds, 327 U. S. 106; *Gordon* v. *United States*, 178 F. 2d 896, 900 (C. A. 6), certiorari denied, 339 U. S. 935; *United States* v. *Flynn*, 130 F. Supp. 412, 422 (S. D. N. Y.).

In the ordinary case—*i. e.*, where the newly discovered evidence consists of something other than alleged perjury—a stricter test is employed. In such cases, the decisions hold, the court should not order a new trial unless it is convinced that consideration of the new evidence by the jury at a new trial would *probably* result in a different verdict. *Brandon* v. *United States*, 190 F. 2d 175, 178 (C. A. 9); *Thompson* v. *United States*, 188 F. 2d 652 (C. A. D. C.); *Heald* v. *United States*, 175 F. 2d 878, 883 (C. A. 10), certiorari denied, 338 U. S. 859; *Weiss* v. *United States*, 122 F. 2d 675, 691 (C. A. 5), certiorari denied, 314 U. S. 687; *Johnson* v. *United States*, 32 F. 2d 127, 130 (C. A. 8); *United States* v. *Hiss*, 107 F. Supp. 128, 136 (S. D. N. Y.), affirmed, 201 F. 2d 372 (C. A. 2), certiorari denied, 345 U. S. 942; see *United States* v. *John-*

convincingly demonstrated by the Board's opposing memorandum, summarized above (pp. 279–282). Consequently, it was a proper exercise of judicial discretion for the court below to decline to remand the case for further proceedings which it knew could not affect the final result.

## VI

### THE BOARD WAS AT ALL TIMES PROPERLY CONSTITUTED SINCE THE ORIGINAL RECESS APPOINTMENTS OF ITS MEMBERS WERE VALID UNDER THE CONSTITUTION AND CONFIRMATION OCCURRED BEFORE THE EXPIRATION OF THE NEXT SESSION OF CONGRESS

Petitioner contends that the order of the Board requiring it to register is invalid on certain technical grounds relating to the constitutional recess-appointment power of the President (Br. 185–191). It is contended that three of the four members who signed the order had not been validly appointed to the Board during a portion

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*son*, 327 U. S. 106, 110, fn. 4. This is also the uniform rule in the states. See Brief for the United States in *Griffin* v. *United States*, No. 417, Oct. Term, 1948, p. 20, fn. 6, where the state cases are collected. In the *Griffin* case, the Government suggested that where the offense in question is of a serious type, and particularly in a capital case (like *Griffin*), the "probability" rule might place too heavy a burden on the defendant and that the proper rule should be that of "reasonable possibility" (Br. 21)—a suggestion which this Court apparently accepted (see *Griffin* v. *United States*, 336 U. S. 704, 709), as did the dissenting opinion explicitly (at 724).

of the time in which they sat on the case, though it is conceded that even these three, having eventually been duly confirmed, were lawful members during most of the hearings as well as when the order under review was issued (Br. 185, 189–190). We submit that none of the various arguments advanced has merit and, further, that even if one or more were sound it would make no difference in the circumstances of this case.

Petitioner's challenge relates to the recess appointments of Board members Peter Campbell Brown, Kathryn McHale, and David J. Coddaire.[93] These three individuals, who were among the Board's original members, commenced their service on the Board as recess appointees under appointments dated October 23, 1950. Thereafter, the President in due course submitted their nominations to the Senate for confirmation, and they were confirmed on August 9, 1951. Petitioner concedes that all three of these appointments were in all respects valid and proper from and after the latter date (Br. 185, 189), which was more than 20 months prior to the entry of the order under review (April 20, 1953).

Petitioner's challenge relates to the 9-month period between the original recess appointments and Senate confirmation. It is argued, first, that

[93] No question is raised as to the validity of the appointment of the fourth member of the Board who signed the order, Watson B. Miller.

the recess appointments were invalid *ab initio* (Br. 186–188), and, alternatively, that, assuming their original validity, they expired on January 2, 1951, with the expiration of the Second Session of the 81st Congress (Br. 188–189). Under the former view the appointees served illegally during the whole 9-month period between their appointment and Senate confirmation. Under the latter view there was a hiatus in their membership from January 2, 1951, until their confirmation on August 9, 1951. Under either view, it is urged, they were "usurpers" (Br. 189, 190, 191) at least between the two latter dates, during which period proceedings were conducted by the Board, including the beginning of the taking of testimony before a panel which included two of the members in question.

The court below found it unnecessary to pass upon the merits of these contentions (Op. 47–48, R. 2124–2125) since it determined that, regardless of the validity of the appointments of the panel-members when the hearings were commenced, the membership of the Board at the time it finally made its findings and conclusions and issued its order was unquestionably properly appointed and confirmed. Whether or not the panel was originally properly made up would not affect the validity of the final order, the court believed, since the evidence could have been taken

by a hearing examiner (§ 13 (c) of the Act.[94] This disposition of the issue would make it unnecessary to untangle the several complicated arguments propounded by the petitioner with respect to recess appointments. However, since this Court might prefer to dispose of this issue on the merits, we proceed to a detailed analysis of the issues and to show that the recess appointments were valid when made and did not expire prior to the final Senate confirmation.

The pertinent facts are as follows:

On September 23, 1950, the Second Session of the 81st Congress enacted the Internal Security Act by passing it over a Presidential veto (see 64 Stat. 1031) and adjourned on the same day pursuant to a concurrent resolution of both Houses to a day certain, namely, November 27, 1950 (96 Cong. Rec. 15726). On October 23, 1950, the President, by recess appointments, appointed five members to the Board, including Brown, McHale,

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[94] At most, petitioner only challenges the *de jure* status of the Board members prior to their confirmation. It is not disputed that they had at least *de facto* status throughout that period; that, in other words, they held valid offices under color of right thereto. Cf. *Hussey* v. *Smith*, 99 U. S. 20, 24; *Ball* v. *United States*, 140 U. S. 118, 128–129; *McDowell* v. *United States*, 159 U. S. 596, 601–602; *Starr* v. *United States*, 164 U. S. 627, 631; *Ex parte Henry Ward*, 173 U. S. 452, 454–456; *United States ex rel. Doss* v. *Lindsley*, 148 F. 2d 22 (C. A. 7), certiorari denied, 325 U. S. 858; *Cardoza* v. *Baird*, 30 App. D. C. 86; Morganston, *The Appointing and Removal Power of the President of the United States*, S. Doc. No. 172, 70th Cong., 2d sess., pp. 134–135.

and Coddaire. On November 27, 1950, the Second Session of the 81st Congress reconvened pursuant to the resolution of adjournment, and the President transmitted to the Senate his nominations of the Board members (96 Cong. Rec. 15785). On January 2, 1951, the Second Session of the 81st Congress adjourned *sine die* (96 Cong. Rec. 17121, 17138) without the Senate having acted on the nominations. On the following day, January 3, 1951, the First Session of the 82d Congress convened, and on February 12, 1951, the President resubmitted the nominations to the Senate for confirmation (97 Cong. Rec. 1228). On August 9, 1951, the nominations were confirmed (97 Cong. Rec. 9702). Throughout the foregoing period, proceedings relating to petitioner were being conducted before the Board, including the filing of the Attorney General's petition on November 22, 1950, the filing of petitioner's original and amended answers on February 14, and April 3, 1951, respectively, and the beginning of the hearings on April 23, 1951. The hearing panel was composed originally of Board members Brown, McHale, and one other, and eventually of Brown and McHale alone.[95] (*Supra*, p. 7.)

[95] As we have pointed out, the panel was reduced to two (Brown and McHale) when the third member, Mr. La Follette, failed to be confirmed by the Senate during the First Session of the 82d Congress. (*Supra*, pp. 7, 262–263.)

## A. THE RECESS APPOINTMENTS WERE VALID WHEN MADE

The "recess appointment" clause of the Constitution (Art. II, § 2, cl. 3), pursuant to which the Board members in question were originally appointed on October 23, 1950, provides:

> The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Petitioner's contention that the recess appointments in question were invalid from the beginning is based on three alternative arguments. First, it is claimed, no "vacancies" had "happened" on the Board within the meaning of the provision (Br. 186). Secondly, the vacancies, if they "happened" at all, did not happen during a "Recess of the Senate" (Br. 186–187). Thirdly, the vacancies were not "filled up"—*i. e.*, the appointments were not made—during a "Recess of the Senate" (Br. 187–188).

Preliminarily, it should be noted that neither the debates at the Constitutional Convention nor any of the contemporaneous materials shed any additional light on the terse language of the pertinent clause of the Constitution in any respect here relevant.

*1. "Vacancies" on the Board "happened" within the meaning of the recess appointment clause when the Board came into being upon the enactment of the Act*

When the recess appointments here challenged were made, the Subversive Activities Control Board had just been created by law, so that the positions to which the appointees were named had had no prior occupants. Petitioner argues that the power of the President to make recess appointments is limited by the language of the constitutional provision to the filling of vacancies resulting from the "death, resignation, promotion or removal" of prior occupants of the offices to be filled, and does not extend to the filling of newly-created offices (Br. 186). No vacancy "happens" in the constitutional sense, it argues, when an office is newly created by law.[96]

[96] The array of authorities presented by petitioner to support its position (Br. 186–187) fades on analysis. The two senatorial expressions relied upon by Story appear to be more concerned with the power of the President to create a new office during a Senate recess than with the power to fill offices created by Congress. The district court opinion, *Schenck* v. *Peay*, 21 Fed. Cas. 672 (E. D. Ark.), and the various constitutional authorities, seem to confuse this issue with that dealt with under the next heading, whether the vacancy must first occur during a recess. The opinion in the *Schenck* case relies primarily on Judge Cadwalader's opinion in *Case of District Attorney of United States*, 7 Fed. Cas. 731 (E. D. Pa.), which is the main support for petitioner's argument on the next point, but has no relevance to this issue. The two very early opinions of Attorneys General, the first of which is pure *dictum*, are discredited by the later opinions cited below (pp. 292–293).

It is obvious, however, that petitioner's construction would frustrate to an important degree the very purpose of the Constitutional provision, which is to enable the business of government to be carried on by temporary appointments during periods when the Senate is not available to act on nominations to office. Nor is it required by the common or dictionary meaning of the word "vacancy." "Vacancy," as used with respect to an office, means the state of the office "when vacated or vacant;" "vacant," in turn, means "[n]ot filled or occupied by an incumbent, possessor, or officer" (Webster's *New International Dictionary* (2d ed.)). Hence an office which, being newly created, has never had an incumbent is "vacant" until filled. *People* v. *Hylan,* 212 N. Y. 236 (1914); *Richardson* v. *Young,* 122 Tenn. 471, 551 (1909); *Condon* v. *Maloney,* 108 Tenn. 82, 101 (1901); *Walsh* v. *Commonwealth,* 89 Penn. St. 419 (1879); 12 Op. Atty. Gen. 455 (1868); 18 Op. Atty. Gen. 28 (1884); 19 Op. Atty. Gen. 261 (1889); Morganston, *The Appointing and Removal Power of the President of the United States,* S. Doc. No. 172, 70th Cong., 2d sess., p. 116.

The reasons which prompted the framers of the Constitution, out of a wise foresight, to confer on the President the power to fill vacancies in the Senate's absence by granting temporary commissions are as pertinent in the case of offices which lack incumbents because newly created as

in the case of those which lack incumbents because of the death, resignation, or removal of previous occupants. "I am unable to discriminate," wrote Attorney General Evarts in 1868, "between cases of continuing vacancy in the recess of the Senate, which originate during the session by the new creation of the office, and those which so originate by a lawful termination of an incumbency. Certainly the need of the official service in the public interest is presumptively as great in one case as the other, and the executive duty of the President, for the discharge of which this constitutional power is vested in him, is not qualified by the circumstance that the office is to be filled for the first time" (12 Op. Atty. Gen. 455, 457). Similarly, Attorney General Miller, in advising President Harrison in 1889 that he had the power to make a recess appointment to an office newly created by law, observed that "the word 'vacancy' in the Constitution * * * signifies the condition where an office exists, of which there is no incumbent. It is used without limitation as to how the vacancy comes to exist" (19 Op. Atty. Gen. 261, 263). To the same effect, see 18 Op. Atty. Gen. 28 (1884); 26 Op. Atty. Gen. 234 (1907); Morganston, *op. cit. supra*, p. 116.

*2. The vacancies happened during a "Recess of the Senate" within the meaning of the recess appointment clause*

Petitioner next argues that, since the vacancies on the Board arose simultaneously with the pas-

sage of the Act on September 23, 1950, while the Senate was still in session, they did not happen "during the Recess of the Senate;" hence, according to the argument, the President lacked power under the terms of Article II, § 2, clause 3 to fill the vacancies by recess appointments, even though, as we have pointed out (*supra*, p. 228), the Senate adjourned later that very day (Br. 186–187).

This prong of petitioner's argument is equally invalid. See 2 Watson, *The Constitution of the United States* (1910), pp. 988–990; 2 Tucker, *The Constitution of the United States* (1899), p. 741. The true meaning of the constitutional clause—the one which alone comports with its evident sense and spirit—is that the President may make recess appointments to fill vacancies which *happen to exist* during a Senatorial recess even though they may have come into existence while the Senate was in session. This construction has the support of Madison himself, who played so prominent a role in the drafting of the Constitution (4 *Letters and Other Writings of James Madison* (1865), p. 351). Madison's view was expressed in 1834. The same interpretation had been adopted even earlier, in 1823, by Attorney General Wirt, apparently without Madison's knowledge. In a cogently-reasoned opinion rendered for President Monroe, Wirt wrote (1 Op. Atty. Gen. 631, 633):

> Now, if we interpret the word "*happen*" as being merely equivalent to "happen to

exist," (as I think we may legitimately do,) then all vacancies which, from any casualty, happen to exist at a time when the Senate cannot be consulted as to filling them, may be temporarily filled by the President; and the whole purpose of the constitution is completely accomplished.

* * * In reason, it seems to me perfectly immaterial when the vacancy first arose; for, whether it arose during the session of the Senate, or during their recess, it equally requires to be filled. The constitution does not look to the moment of the origin of the vacancy, but to the state of things at the point of time at which the President is called on to act. Is the Senate in session? Then he must make a nomination to that body. Is it in recess? Then the President must fill the vacancy by a temporary commission.

This seems to me the only construction of the constitution which is compatible with its spirit, reason, and purpose; while, at the same time, it offers no violence to its language. And these, I think, are the governing points to which all sound construction looks.

The same conclusion was reached in 1832, in another carefully reasoned opinion, by Attorney General (later Mr. Chief Justice) Taney (2 Op. Atty. Gen. 525), and the view has since been repeatedly reaffirmed over the years. 3 Op. Atty. Gen. 673 (1841); 4 Op. Atty. Gen. 523 (1846); 7 Op. Atty. Gen. 186, 223 (1855); 10 Op. Atty.

Gen. 356 (1862); 12 Op. Atty. Gen. 32 (1866); 12 Op. Atty. Gen. 449 (1868); 12 Op. Atty. Gen. 455 (1868); 14 Op. Atty. Gen. 562 (1875); 15 Op. Atty. Gen. 207 (1877); 16 Op. Atty. Gen. 522 (1880); 16 Op. Atty. Gen. 538 (1880); 18 Op. Atty. Gen. 29 (1884); 19 Op. Atty. Gen. 261 (1889); 26 Op. Atty. Gen. 234 (1907); 30 Op. Atty. Gen. 314 (1914); 33 Op. Atty. Gen. 20 (1921). Attorney General Daugherty, in the last-cited opinion, was able to describe Attorney General Wirt's opinion of 1823, *supra,* as having been followed "with practically unbroken unanimity" [97] (33 Op. Atty. Gen. at 22). The executive interpretation is thus a firmly settled one, practically spanning the nation's history. It

[97] Only two opinions to the contrary, both very early, have been discovered: 2 Op. Atty. Gen. 333, 334 (1830); 4 Op. Atty. Gen. 361, 363 (1845). Neither makes reference to the earlier opinion of Attorney General Wirt, nor does either analyze the issue or advance reasons for the conclusion reached. The 1845 opinion was limited to cases of vacancies which are "known to exist during the session of the Senate" and which nevertheless are not filled in the ordinary manner, *i. e.*, nomination by the President and confirmation by the Senate (4 Op. Atty. Gen. at 363). It is evident that the rationale of the latter opinion would not apply to the case at bar, where the Senate adjourned on the very day on which the vacancies arose. Moreover, Attorney General Mason, who rendered the 1845 opinion, in effect reversed himself in a more elaborate opinion written in the following year (4 Op. Atty. Gen. 523, *supra*), in which he expressed "general concurrence with his three predecessors [*i. e.*, Wirt, Taney, and Mr. Legare, the author of 3 Op. Atty. Gen. 673, *supra*]" (12 Op. Atty. Gen. 32, *supra*, at 33).

rests, furthermore, as we have seen, on the most cogent of reasons.[98] Such an interpretation "on the part of the executive department, acquiesced in by the legislative department, while not absolutely binding on the judicial department, is entitled to great regard in determining the true construction of a constitutional provision the phraseology of which is in any respect of doubtful meaning." *The Pocket Veto Case,* 279 U. S. 655, 690.

This firmly settled executive interpretation has also received judicial support. *In re Farrow,* 3 Fed. 112 (C. C., N. D. Ga., 1880).[99] In that case Circuit Judge (later Mr. Justice) Woods pointed out that ten different Attorneys General, commencing with Attorney General Wirt in 1823 (*supra,* pp. 294–295) and continuing down to the then Attorney General Devens in 1880, had all agreed that the recess appointment power extends to the filling of vacancies which, while first occurring during a session of the Senate, continue to exist during the Senate's recess. He then considered the opposing view of District Judge Cadwalader, expressed in *Case of District Attorney of United States,* 7 Fed. Cas. 731 (E. D.

[98] As observed, moreover, by Attorney General Stanbery in 12 Op. Atty. Gen. 32, *supra,* if a "verbal construction" of the recess appointment clause were sound, a vacancy which occurred during a recess might "be filled by the President without the consent of the Senate whilst the Senate is in session; but no one maintains that position" (at 39).

[99] *Cf. In re Yancey,* 28 Fed. 445 (C. C., W. D. Tenn., 1886).

Pa., 1868), on which petitioner relies (Br. 187, fn. 110). Circuit Judge Woods pointed out that this was the sole authority to the contrary [100] and stated that it "ought not to be held to outweigh the authority of the great number which are cited in support of the opposite view," the practice of the executive department for nearly 60 years, "and the acquiescence of the senate therein" (3 Fed. at 115).

The reasonableness of this long-established executive practice and interpretation is peculiarly exemplified in this case, where the Senate adjourned later on the same day in which the vacancies arose. Obviously, it would have been a practical impossibility for the President to make nominations to fill the new offices and for the Senate to confirm the nominees prior to the hour set for adjournment.

*3. The appointments were made during a "Recess of the Senate" within the meaning of the recess appointment clause*

In the preceding point petitioner argued that the recess appointments in issue were invalid be-

[100] Indeed, as indicated in Judge Cadwalader's opinion, the only thing he appears actually to have decided was that, notwithstanding the numerous opinions by Attorneys General to the effect that the President has the power to make recess appointments under the circumstances in question, "the question, whenever directly litigated, will be quite open for judicial contestation" (7 Fed. Cas. at 744).

cause the vacancies did not *occur* during a Senatorial recess. In this point the argument is that the appointments were invalid because the vacancies were not *filled* during such a recess. The "Recess" referred to in the recess appointment clause, contends petitioner (Br. 187–188), refers exclusively to "the *sine die* recess between the annual sessions of Congress or between an annual and an extraordinary session" (Br. 188). That is to say, the term does not include "the interval between an adjournment of the Congress to a day certain and its next sitting date" (*ibid.*). This facet of petitioner's argument is also erroneous. Intrasessional adjournments to a day certain, if of substantial duration, as well as *sine die* adjournments between sessions, are recesses within the meaning of the constitutional clause. *Gould* v. *United States*, 19 Ct. Cl. 593, 595–596 (1884); *Case of District Attorney of United States*, 7 Fed. Cas. 731, 744 (E. D. Pa., 1868); 33 Op. Atty. Gen. 20 (1921).

It is true that there is language in Attorney General Knox's opinion in 23 Op. Atty. Gen. 599 (1901)—the sole authority cited by petitioner in support of its position (Br. 188)—to the effect that "the Recess" as used in the recess appointment clause refers only to *sine die* adjournments between sessions and does not extend to adjournments to a day certain within a session (23 Op. Atty. Gen. at 601). The only issue involved in that opinion, however, related to whether the

President had the power to make a recess appointment during a short holiday adjournment of the Senate,[101] the opinion concluding that he did not. However, a subsequent opinion by Attorney General Daugherty, which reviewed all the authorities to date, while not disagreeing with Attorney General Knox's decision on its facts (*i. e.*, that brief holiday or other very short adjournments are not recesses within the meaning of the constitutional clause), dissented from, and in effect overruled, the latter's broad generalization to the effect that *no* intrasessional adjournment to a day certain can constitute such a recess. 33 Op. Atty Gen. 20 (1921).

"It seems to me that the broad and underlying purpose of the Constitution," said this opinion, "is to prohibit the President from making appointments without the advice and consent of the Senate whenever that body is in session so that its advice and consent can be obtained. Regardless of whether the Senate has adjourned or recessed, the real question, as I view it, is whether in a *practical* sense the Senate is in session so that its advice and consent can be obtained. To give the word 'recess' a technical and not a practical construction, is to disregard substance for form" (33 Op. Atty. Gen. at 21–22). After reviewing the long line of rulings of the Attorney General, to

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[101] The adjournment was from December 19, 1901, to January 6, 1902 (23 Op. Atty. Gen. at 602).

which we have already referred (*supra*, pp. 294–296), holding that the recess appointment power extends to vacancies happening while the Senate is in session and still remaining unfilled at the close of the session (at 22–23), and after pointing out that the sound reason for this construction is the continuing necessity that vacancies be filled to the end that the laws may be enforced, the opinion observed that the same reasoning compelled the conclusion that the power in question extends to periods of substantial duration in which the Senate, having in fact adjourned to a fixed date, is not (though the "session" technically continues) "sitting" in any practical sense of the term so as to be able to receive and act on nominations to office (at 23). The opinion concluded that (at 25):

> [T]he essential inquiry, it seems to me, is this: Is the adjournment of such duration that the members of the Senate owe no duty of attendance? Is its chamber empty? Is the Senate absent so that it can not receive communications from the President or participate as a body in making appointments?
>
> In this connection I think the President is necessarily vested with a large, although not unlimited, discretion to determine when there is a real and genuine recess making it impossible for him to receive the advice and consent of the Senate. Every presumption is to be indulged in favor

> of the validity of whatever action he may take. * * *

The Attorney General, in thus giving the recess appointment clause a soundly practical construction, was on eminently good ground. See *Wright* v. *United States*, 302 U. S. 583, 589–590, 592, 597, where this Court emphasized the necessity of giving a practical construction to the analogous "pocket veto" clause of the Constitution.[102] Even District Judge Cadwalader—whose opinion in *Case of District Attorney of United States*, 7 Fed. Cas. 731 (E. D. Pa., 1868), is so strongly relied upon by petitioner with respect to the companion question of whether a vacancy occurring in a session but continuing into a recess may be filled by a recess appointment (see *supra*, pp. 297–298)—fails to support petitioner on the present point. "On every adjournment of congress," he said, "except such an occasional temporary one as does not suspend the course of business of the two houses, the interval until the next meeting should, I think, be deemed a recess" (at 744).[103]

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[102] It is significant that the three-day adjournment of the Senate which was in issue in the *Wright* case is referred to throughout the Court's opinion as a "recess".

[103] Our position finds further support in the Report of the Senate Judiciary Committee presented March 2, 1905, in response to a Senate Resolution calling upon it to construe the recess appointment clause. This Report (S. Rep. No. 4389, 58th Cong., 3d sess., reproduced in full at 39 Cong. Rec. 3823–

Reason and authority thus unite with the natural usage of the language in compelling the conclusion that an intrasessional adjournment to a day certain, if of substantial duration, constitutes "the Recess" within the meaning of the recess appointment clause.

B. THE RECESS APPOINTMENTS DID NOT EXPIRE ON JANUARY 2, 1951, WITH THE EXPIRATION OF THE SECOND SESSION OF THE 81ST CONGRESS

Each of the points discussed thus far (*supra*, pp. 290–303) has related to the initial validity of the recess appointments in issue. Petitioner, in its final contention (Br. 188–189), assumes *arguendo* the appointments' initial validity, and argues that they expired by operation of law on January 2, 1951, thus leaving a seven-month period—from January 3 to August 9, 1951, when the nominations were confirmed—during which, allegedly, the challenged members did not sit as of right. "[I]f," according to the argument, "the adjournment of Congress from September 23 to November 27,

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3824 and in 5 Hind's *Precedents of the House of Representatives*, § 6687), while not addressed to the precise issue here involved, emphasizes that the word "recess" should be given its "ordinary" or "common and popular" sense. See also *The Pocket Veto Case*, 279 U. S. 655, 680; cf. Cannon's *Procedure in the House of Representatives* (1953 ed.), House Doc. No. 562, 82d Cong., 2d sess., p. 4, where an adjournment for more than three days (which, under Article I, § 5, clause 4 of the Constitution, neither House may take without the consent of the other) is described as a "recess."

1950 was 'the Recess,' then November 27 must have been the beginning of its 'next Session,' " with the consequence, it is argued, that "the appointments expired on January 2, 1951 when the 'next session' ended with the *sine die* adjournment of Congress" (Br. 188).

This branch of petitioner's argument is also invalid. The sitting from November 27, 1950, to January 2, 1951, was a continuation or resumption of the same session—the Second Session of the 81st Congress—which had been interrupted by the two-month recess commencing September 23, 1950. Gilfry, *Senate Precedents*, 1789–1913, p. 30; 5 Hind's *Precedents of the House of Representatives*, §§ 6676–6686. The "next Session" was the First Session of the 82d Congress. That session began on January 3, 1951 (97 Cong. Rec. 3, 5) and did not end until October 20, 1951 (97 *id.* 13732, 13783). During it, on August 9, 1951, as we have seen, the Senate duly confirmed the regularly submitted nominations of the members whose tenure petitioner challenges (97 *id.* 9702). Since, according to the terms of the constitutional clause, recess appointments do not expire until "the End" of the "next Session," the recess appointments here in issue remained in full force at all times up to the point in this "next Session" when confirmation occurred, at which point the appointees commenced to serve under their regular or permanent appointments, thus leaving no

gap in their tenure. *Gould* v. *United States*, *supra*, 19 Ct. Cl. 593, 595–596; 23 Op. Atty. Gen. 599, 604 (1901); *cf.* 20 Op. Atty. Gen. 503 (1892).

There can be no doubt that the framers of the Constitution contemplated that a session of Congress could be interrupted by Congress' adjourning or recessing to a fixed date, and that on that day the same session would resume. This is clear from Article I, § 5, clause 4, which provides that "Neither House, *during the Session of Congress*, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting" [emphasis added]. It is a common occurrence for Congress, with the concurrence of both Houses, to adjourn for substantial periods of time "during the Session," with provision for reconvening after the recess. See 5 Hind's *Precedents of the House of Representatives*, §§ 6676–6686. This is precisely what the Second Session of the 81st Congress did in this case. For petitioner's argument to have merit, the reconvening of that Session on November 27, 1950, would have to be treated as if it were a special or extraordinary session of Congress, which under the Constitution (Article II, § 3) the President alone has the power to convene.

Petitioner's instant contention is refuted by the very opinion of the Attorney General on which it relied for its previous argument (see

*supra*, pp. 298–303) that an intrasessional adjournment is not a "recess" under the recess appointment clause, *viz.*, Attorney General Knox's opinion in 23 Op. Atty. Gen. 599 (1901). "If an adjournment during a session is a recess within the meaning of the clause of the Constitution in question," Attorney General Knox pointed out, "then the commission of an appointee of the President would extend in this case to the end of the Fifty-seventh Congress, as the Constitution provides that it shall extend to the end of the *next* session, not the session witnin which the recess occurs. The only theory to defeat such a conclusion would be that the reassembling of the Senate after each adjournment constitutes a new session, a position wholly untenable in view of the constitutional provision as to adjournments *during the session*" (at 604).

The sole authority which petitioner is able to cite in support of its present contention (Br. 188–189) is a *dictum* by District Judge Cadwalader in *Case of District Attorney of United States*, 7 Fed. Cas. 731, 744 (E. D. Pa., 1868). Judge Cadwalader stated that he was "incline[d] to think" that the recess appointment in question, *if* it had been valid initially (but he thought it had not, though his view on that point too was *dictum*, see fn. 100, *supra*, p. 298), would have expired when the Senate, having adjourned to a day certain within the session, reconvened and again adjourned on the same day to a still later date

within the session, *if*, further, the original resolution of adjournment had been worded differently from the way in which it was in fact worded. The tenuousness of this case as an authority needs no elaboration. We submit, moreover, that it cannot stand analysis in the light of the unambiguous terms of the Constitution. The Constitution, as we have pointed out (*supra*, p. 305), and as recognized by Attorney General Knox (*supra*, p. 306) and the Court of Claims in the *Gould* case (*supra*, pp. 304–305), clearly contemplates the possibility that a Session of Congress may recess temporarily from time to time to a specified date and reconvene on the date agreed upon, without thereby fragmentizing the Session into a number of particular "sessions."

## CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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OCTOBER 1955.

U. S. GOVERNMENT PRINTING OFFICE: 1955

Office - Supreme Court, U. S.
FILED
SEP 21 1955
HAROLD B. WILLEY, Clerk

IN THE

# Supreme Court of the United States

**October Term, 1955**

**No. 48**

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner,*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

## BRIEF OF NATIONAL LAWYERS GUILD AS AMICUS CURIAE

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# Supreme Court of the United States

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Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

## BRIEF OF NATIONAL LAWYERS GUILD AS AMICUS CURIAE

### The Interest of the National Lawyers Guild

The National Lawyers Guild is a national bar association formed in 1937, as it then stated,

> "to bring together all lawyers who regard adjustments to new conditions as more important than the veneration of precedent, who recognize the importance of safeguarding and extending the rights of workers and farmers upon whom the welfare of the entire nation depends, of maintaining our civil rights and liberties and our democratic institutions, and who look upon the law as a living and flexible instrument which must be adapted to the needs of the people."

Since its formation the National Lawyers Guild has consistently sought to arouse the talents and energies of the

legal profession in the solution of the urgent problems facing American democracy. In this task it has attempted to make a contribution on numerous controversial issues of domestic and foreign policy; and it has on many occasions undertaken the defense of unpopular causes where it conceived important legal principles to be at stake. Occupying as it has a position somewhat to the left of center, it has experienced at first hand some of the official and unofficial pressures that have sought, particularly in the last few years, to curb the activities of liberal groups in this country.

The National Lawyers Guild therefore appreciates the opportunity, made possible by the consent of the Solicitor General and counsel for petitioner, to present its views on the far-reaching issues involved in this case. It does so from the standpoint, not of the Communist Party which is ably represented here, but of liberal lawyers deeply concerned with the impact of the legislation under review upon the civil liberties of the whole nation. It will attempt to present to the Court certain considerations from the vantage point of attorneys who have participated in the defense of those civil liberties and who have seen modern repressions at work.

Our views will be restricted to two of the most significant constitutional issues: (1) the validity of the registration provisions of the Internal Security Act under the First Amendment, and (2) the validity of those provisions under the self-incrimination clause of the Fifth Amendment.

## Summary of Argument

### I(A)

The registration provisions of the Internal Security Act operate to destroy organizations required to register thereunder by branding the organization and its members as part of a movement dedicated to "treachery, * * *

espionage, sabotage, terrorism". Because the stigma is affixed through official proceedings, wherein limited review by the courts creates the impression of judicial sanction, the effect of the branding is intensified. The stigma attaches not only to the organization, but also to individual members, both of "Communist-action" and "Communist-front" organizations, since the names and addresses of all Communist-action members and of all "Communist-front" donors of funds (which includes dues-paying members) must be disclosed for public record.

In addition to the stigma, members of registered organizations become, in effect, public nominees for criminal prosecution under the Smith Act, under Section 4a of the Internal Security Act and under other laws. Members of registered organizations also suffer numerous other financial deprivations such as blacklist from various types of employment, denial of passports, etc., and are subjected to a great many non-governmental sanctions and pressures.

It is unlikely that any registered organization could survive and retain its members much less secure new members in the light of these sanctions.

Penalties for failure to register and for false registration are a serious source of danger to leaders and members of the organization. Every action of a registered organization involving a financial transaction is to be revealed under the law and made available to a hostile press and public; and every person who actively participates in a "Communist-action" organization finds his conduct recorded for inspection by every government authority with subpoena power. What appears thus to be a simple disclosure regulation, similar to lobbying and newspaper registration requirements, becomes in context—particularly in the light of the criteria of membership set forth in Section 5 of the Communist Control Act—a tangle of legal traps.

The object of this Act is to prevent and to punish conduct not subject to existing law—those activities in support of

the world Communist movement which are carried on through traditional and legitimate methods of peaceful political action.

The impact of the registration provisions not only suppresses rights of free speech and association of organizations required to register but reaches beyond those organizations to encompass and restrict the First Amendment freedoms of the whole liberal movement. For the standards of what constitutes a "Communist-front" organization are so broad that any organization whose policies do not differ sharply from those of the Communist Party on any public issue has reason to fear possible application of the Act. And the standards of membership are so vague that few individuals will risk joining voluntary associations which engage in any sort of political activity.

## I(B)

The issue presented to the Court is whether the Government has power, in spite of the First Amendment, to adopt measures which prevent a political association from engaging in the usual types of political activity because the organization is or may be tainted with other illegitimate activity or is controlled by a tainted organization.

The requirement to register is made without proof of illegitimate activity and the disabilities resultant from registration are imposed on all activities—legitimate or otherwise—of the organization. In thus preventing peaceful political association, the Act clearly violates the First Amendment under the doctrine of *DeJonge* v. *Oregon*, 299 U. S. 353 and *Herndon* v. *Lowry*, 301 U. S. 242.

The principle of the *DeJonge* case does not rest upon any application of the clear and present danger test. Neither there nor in the *Herndon* case did the Court rely on or even mention that test. The reason is that any consequences arising from the legitimate activity repressed

here, as in the *DeJonge* case—the holding of peaceful meetings, the support of candidates in elections, the issuance of leaflets and books containing normal political discussion—cannot be "an evil that Congress has a right to prevent." If such normal political conduct could be considered as giving rise to an "evil" then there would be no meaning left to the First Amendment. Consequently the findings of Congress, the Board and the lower Court with respect to clear and present danger are wholly irrelevant to the issue now before the Court. *A fortiori* any test of "reasonableness" is inapplicable under the *DeJonge* rule.

Apparently the two main reasons behind the suppression of the legitimate activities of "Communist-action" and "Communist-front" organizations, are that these organizations are said to operate to "advance the objectives" of the world Communist movement and that they are "dominated or controlled" by a foreign government. To the extent that advancing the objectives of the world Communist movement is pursued through peaceful and democratic means, such action is protected by the First Amendment. The Government can properly concern itself only with the methods and not with the goals of political action.

The kind of foreign control envisaged by the Act and found by the Board in this case cannot operate to change the *DeJonge* rule. The character of the "foreign control" which stamps an organization as a "Communist-action" group is illustrated by the standards embodied in Section 13(e) which authorizes the Board to rely on such matters as the extent to which activities of an organization "do not deviate from those of such foreign government" and allows the Board to make and offer as relevant such findings as it did here that "a substantial number of respondent's present leaders * * * have been to the Soviet Union on numerous occasions * * * and have been * * * trained in the Soviet Union on Russian strategy and policies" (Bd. Rep't., p. 20).

To say that by reason of "foreign control" of such a character a domestic organization can be restrained by the Government from pursuing legitimate political activity, would strike at the heart of the First Amendment and deny its freedoms to any organization with international affiliations, such as the Roman Catholic Church and Zionist organizations.

## I(C)

The registration provisions are invalid under the First Amendment for an additional reason—that they are not drawn narrowly enough to meet the specific abuses Congress sought to correct. Legislation impinging on First Amendment rights must meet the specific abuse and may not "sweep within its orbit" a mass of other matters with which Congress has no power to concern itself. *Schneider* v. *State*, 308 U. S. 147, and others.

## I(D)

The legislation now before the Court infringes upon freedom of expression to a degree never before approached by an Act of Congress. The Court must decide whether sweeping restrictions operating to harass free expression of the liberal movement will be sustained because they are ostensibly directed at the Communist movement. The issues and the times call for firm adherence to the fundamental purpose the First Amendment was designed to serve.

## II

The Act violates the Fifth Amendment privilege against self-incrimination by requiring individual members of a "Communist-action" organization to profess membership in an organization which, by legislation ranging from the Smith Act to the Internal Security Act to the statute outlawing the Communist Party, has again and again been branded a criminal conspiracy by the Congress.

It is clear that upon a proper claim of privilege disclosure of membership in the Communist Party cannot be compelled. *Quinn* v. *U. S.*, 349 U. S. 155, and others. That the Act bars the use of such disclosure as evidence in subsequent criminal proceedings does not relieve the unconstitutionality of the registration requirements because the immunity thus offered falls short of the reach of the privilege. *U. S.* v. *Bryan*, 339 U. S. 323, *Counselman* v. *Hitchcock*, 142 U. S. 457.

The question is at issue now and is not prematurely raised, for unless the constitutional infringement is here asserted, the occasion for asserting it may never arise. While the privilege is personal, so is freedom of association and expression, and the Court recognized the standing of a voluntary association to assert those personal rights of its membership. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123. The issue is timely, for when should the privilege be asserted by the individual who claims it? If the organization fails to register, the individual has 60 days in which to register himself. If within that time he fails to do so, or to file a claim of privilege, he may be deemed to have waived the privilege. If within that time he files a claim of privilege, he will have, in effect, directed attention to his possible membership and supplied at least a lead to possible criminal involvement and exposure to countless legal, social and economic sanctions. Where legislation, on its face, involves clear violation of a constitutional guarantee, the earliest reasonable appropriate occasion for reviewing that legislation is the timely occasion to do so.

# ARGUMENT

## POINT I

**The registration provisions of the Internal Security Act, on their face and as applied in this case, violate the constitutional right to freedom of expression as embodied in the First Amendment.**

### A. The Operation of the Registration Provisions

In considering the validity of the registration provisions under the First Amendment it is first necessary to analyze in some detail the actual operation of those provisions, not only as they affect the Communist Party but as they have an impact upon freedom of political expression generally. We will not undertake to summarize the pertinent provisions of the Act—they are fully set forth in petitioner's brief—but will proceed at once to discuss three fundamental aspects of their functioning: (1) the effect upon organizations required to register; (2) the extent to which they curtail the legitimate activities of organizations required to register; and (3) their impact upon the liberal movement generally and upon freedom of expression throughout the whole country.

It should be made clear that we are not, for the moment, concerned with the alleged justification for the registration provisions. Those issues are discussed hereafter. Our present purpose is to show how the structure and operation of the Act works in terms of present political realities.

#### 1. In their actual working the registration provisions operate to destroy or at least hopelessly cripple, any organization required to register.

(a)

The first and overwhelming fact is that any organization forced to register under the Internal Security Act is offi-

cially branded as a disloyal, traitorous and alien group, its members marked as political and social outcasts. By the terms of the Act such an organization and each member is stigmatized as part of a movement dedicated to "treachery, deceit, infiltration * * *, espionage, sabotage, terrorism" (§ 2(1)); which exercises its "control over the people through fear, terrorism, and brutality" (§ 2(2)); whose objective is to set up a totalitarian dictatorship which will be "subservient" to a foreign power (§ 2(6)); and whose followers "repudiate their allegiance to the United States, and in effect transfer their allegiance" to a foreign country (§ 2(9)). This is not simple registration as a lobbyist, or as a spender of campaign funds, or as the owner of a newspaper, or even as a taker of bets. It is registration under a brand that evokes the most bitter emotional response and results in the severest popular sanctions.

Moreover, the branding is accomplished through official proceedings that add greatly to its impact. Formal charges are filed by the Department of Justice; a highly publicized hearing is held, at which dramatic testimony of informers and undercover F. B. I. agents is produced; formal findings are issued by a governmental agency labelled "Subversive Activities Control Board"; the decision is reviewed by the courts in a proceeding which, though limited, creates an impression of judicial approval and adds the prestige of judicial sanction. Once the organization has registered all communication with the public must be stamped with the official brand, thus constantly recreating and reinforcing the original stigma in the public mind.

Furthermore, this process of branding as a public enemy is directed not only against organizations but against individuals. In the case of a "Communist-action" organization the Act requires a listing in the Department of Justice files, open to public inspection, of each member with his address (§§ 7(d), 9). In the case of "Communist-front" organizations the same result is accomplished through the requirement in the Attorney General's regulations that the

source of all funds be given, including the names and addresses of all donors; this compels the listing of all dues payments and hence of all members.[1] Thus every individual member of an organization required to register finds his own name publicly recorded with the Department of Justice as a traitor to his country.

The Act is thus designed to place a badge of infamy upon specified organizations and individuals. Such official branding, by the powerful and authoritative state, has proved an overwhelming sanction in the past. It is perhaps even more effective in modern society. Present day systems of mass communication, pressures for conformity, and methods of opinion manipulation make the ancient punishment of public infamy one of the state's most destructive controls over political expression.[2]

It is scarcely likely that any organization which seeks the support of public opinion in the arena of political controversy could withstand such an attack today. This is particularly true of the alleged "Communist-front" organizations which do not have the degree of resistance to state attack that a more battered and hardened "Communist-action" organization might be expected to have. But even a "Communist-action" organization could hardly be expected to survive except as an underground group.

**(b)**

The registration provisions involve more than stamping with a badge of infamy. An integral part of the scheme imposes other consequences which make membership in a registered organization intolerable.

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[1] 28 Code of Fed. Regs. § 11.203; Form ISA-1, Item 4.

[2] For an account of the use of infamy as an official sanction against political and other dissent, see Mitchell Franklin, *The Encyclopédiste Origin and Meaning of the Fifth Amendment*, 15 Law. Guild Rev. 41 (1955). An early acount of the force of public opinion in the United States appears in De Tocqueville, Democracy in America (Bradley ed., 1945) vol. I, pp. 263-70.

In the first place, members of registered organizations become obvious and exposed candidates for criminal prosecution. Already the government has procured scores of indictments under the Smith Act for conspiracy and, except in isolated instances, obtained convictions. Recently the government has obtained indictments and convictions under the Smith Act for "knowing" membership in the Communist Party. Moreover any member of a registered organization would run a risk of prosecution under Section 4(a) of the Internal Security Act—a provision which makes it unlawful, subject to a prison sentence up to ten years—"to combine, conspire, or agree with any other person to perform any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship." And the danger of prosecution is greatly enhanced by Section 5 of the Communist Control Act of 1954, which establishes startlingly broad standards for proof of membership or participation in the Communist Party (68 Stat. 775).

Members of registered organizations become, in effect, publicly nominated for criminal prosecution under these or other laws. Their names are prominently displayed, their guilt has already been officially announced; the pressures for invoking criminal action are aroused and focused upon them. At least so most members could reasonably believe and fear.

Thus continued membership in a registered organization becomes an immediate hazard. Only resignation, or perhaps recantation, offers hope of salvation. New membership is unthinkable.

(c)

Registration also brings with it a further series of official deprivations. No member of a registered organization may, because of that membership alone, hold any non-elective government position (§ 5(a)). No member of a "Communist-action" organization may hold any employ-

ment, whether related to classified material or not, in any defense facility (§ 5(a)); members of "Communist-front" organizations must disclose such membership in applying for a job in a defense plant (§ (a)) and, under present security systems, would almost certainly be denied employment.[3] No members of a registered organization may apply for or use a passport (§ 6); he is thus denied the right to travel beyond the borders of the United States. If recently naturalized, he may be subject to denaturalization (§ 25); if an alien he is excludable, deportable and ineligible for naturalization (§§ 22, 25).

Moreover, registration exposes an individual to countless other Federal, state and local laws, regulations, restrictions and harassments directed against "subversive activities." Any person holding membership in a registered organization automatically becomes an obvious target—an easy mark—for one or more Federal, state or local investigating committees. He would almost certainly be barred from teaching in public schools or state universities. If drafted, he would be subject to ignominious disabilities. If a tenant in a Federally assisted housing project, he would, so long as the Gwinn Amendment stands, be subject to eviction. He would run serious risks of being denied admission to, or ousted from, a profession. In some states he would be denied unemployment compensation. In Indiana he could not become a professional boxer. And so on.

It is quite true that a member of an organization might be subjected to these restrictions and harassments even if the Act did not provide for registration. But registration intensifies and magnifies the whole process. It focuses public attention on the individual and makes application of the restrictions automatic, inevitable and overwhelming.

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[3] See, *e.g.*, Subversive Activities Control Act of 1950, Report of the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws to the Committee on the Judiciary, U. S. Senate, 84th Cong., 1st Sess. (1955) p. 5.

(d)

Nor would the difficulties confronting a member of a registered organization end with official sanctions. He would be equally subject to restrictions and pressures of private individuals and groups. Many an employer would refuse him a job. No work in the movie, radio, television industries, or in many industrial plants, would be open to him. Few, if any, private schools or universities would tolerate him. Many organizations would deny him admission or expel him. His social life in the community, and that of his wife and children, would be strained and tense, or worse.

It is quite true, here also, that these restrictions and pressures exist apart from the registration provisions. But again the registration provisions, with their brand of a scarlet letter would train an official spot-light upon individuals which would enormously increase their vulnerability. Or at least—and the result is the same—most persons would reasonably feel so.

(e)

Another serious source of danger to leaders and members, and prospective leaders and members, of organizations required to register grows out of the penalties imposed for failure to register, false registration, and the like. On their face these provisions may seem nothing more than routine enforcement measures. But taken in context they constitute a tangle of legal traps, ready to be sprung by zealous prosecuting officials.

The leadership of an organization compelled to register, for example, finds itself in a precarious position. If the organization, by a mere majority vote, decides not to register then the president, vice-president, treasurer and every member of the governing board become subject to a swift and relatively simple prosecution, culminating in prison terms up to five years for each day the failure to

register continues.[4] If the organization decides to register then the above officers must furnish within thirty days after final order, and annually thereafter, elaborate, detailed and exact information on every sum received and expended by the organization for the past year, all evidences of debt, and an account of all liabilities.[5] A "Communist-action" organization must furnish a complete list of all members during the preceding year with their addresses and aliases (§ 7(d)). Every organization must also "make and keep current all bookkeeping and other financial records relating to registrant's activities, including cancelled checks, bank statements, and records of income and disbursements, showing names and addresses of all persons who have paid moneys to the registrant or who have received moneys from the registrant, the specific amounts so paid or received, the date on which each item was paid or received and the purpose for which any item was expended."[6] A "Communist-action" organization must in addition "make and keep current such books and records as will disclose the names and addresses of the members of the registrant, the officers and employees of the registrant, and the names and addresses of persons, other than members, officers or employees, who actively participate in the activities of the registrant."[7]

The registration forms provided by the Department of Justice give prominent display to the Federal statute which provides up to five years' imprisonment for anyone who "knowingly and wilfully falsifies, conceals or covers up * * * a material fact, ~~or makes any~~ false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any

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[4] Internal Security Act, § 7(b); 28 Code of Fed. Regs. § 11.205.

[5] Form ISA-1, Instruction 6 and Items 4-10.

[6] 28 Code of Fed. Regs. § 11.204(a).

[7] 28 Code of Fed. Regs. § 204(b).

false, fictitious or fraudulent statement or entry." [8] Voluntary associations in the political field, possibly with the exception of the Communist Party, notoriously operate in a loose and amateurish fashion. The probability of discovering mistakes in the elaborate data required to be filed or kept is high. True, the statutes punish only "knowing" or "willful" errors. But these terms are broadly construed by the courts and in any event present an issue for the jury, very likely an unfriendly one. Nor can the leadership of a registered organization count upon forbearance or mercy from the Department of Justice.[9] As a result, the leadership finds itself extremely vulnerable to criminal prosecution with cumulative penalties. Faced with such possibilities it takes a most courageous or indifferent person to assume responsibility for the leadership of any organization which might at some time be faced with an order to register.

Similar dangers face persons who are or contemplate becoming members of organizations likely to be compelled to register. Every member of a "Communist-action" organization is liable to cumulative penalties if he fails to register individually after the organization itself refuses to register or does not register his name (§ 8). Since it is most unlikely the Communist Party would register, this provision subjects all its members to an immediate prosecution in which the only issue would be the question of membership. Such procedure enables the government to avoid the long trials which have characterized Smith Act prosecutions and to conduct prosecutions of alleged Communist Party members on a mass production basis. When one takes into account the hopelessly broad and vague standards of Section 5 of the Communist Control Act, detailing the type of evidence upon which a jury may find

[8] 18 U.S.C. § 1001, reprinted on Form ISA-1. See also Internal Security Act § 15(b).

[9] Note, for example, the five unsuccessful proceedings against Harry Bridges, the abortive prosecution of Owen Lattimore, and the groundless indictment of Val Lorwin.

Communist Party membership, the risks to any member of a registered organization become apparent.

(f)

The registration provisions of the Internal Security Act impinge not only upon the leadership and members of organizations subject, or possibly subject, to the Act, but also upon all relations of the organization with the community in which it attempts to function. As already stated, a registered organization must file an itemized account of all funds received, including the date, the source from whom received, and the amount; a list of all payments, to whom each was made, the amount, and the purpose for which it was made; and a statement of all evidences of debt and all liabilities. This information must be kept up to date by annual reports. It is open to public inspection at the Department of Justice. In addition, books and records must be kept, including the names and addresses of all persons "who actively participate" in the activities of a "Communist-action" organization. These are available to the Department of Justice, legislative investigating committees, or any public authority with subpoena power.

The result is that every action of a registered organization involving a financial transaction—in effect most important actions it takes—is revealed to a hostile press and public. The name of every individual or group contributing financial support, or having any financial dealing, is mercilessly exposed to all the public and private pressures that generate around unpopular causes. In addition, every person who can be said to "actively participate" in the affairs of a "Communist-action" organization finds his conduct recorded for inspection by every governmental authority with subpoena power. These facts should be considered particularly in the light of the vague provisions of Section 4(a), subjecting to criminal prosecution any person who "substantially contributes" to the establishment

of a totalitarian dictatorship, and of Section 5 of the Communist Control Act, establishing criteria for proof of "membership" or "participation" in the Communist Party.

Under such circumstances, no matter what the leadership and members did, a registered organization would find itself effectively throttled. Financial support would be largely cut off. Meeting places would be hard to find. Speakers would be reluctant to appear. Even business dealings—such as obtaining the services of a printer—would be seriously curtailed. No political organization could function under such conditions. Inevitably it would find itself isolated and impotent.

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From all the above our only conclusion can be that the registration provisions of the Internal Security Act, though ostensibly framed as a simple disclosure regulation, operate in practice to destroy, or at the least permanently and hopelessly cripple, any organization compelled to register. The government's argument that they constitute mere disclosure of information, similar to lobbying or newspaper registration, must be regarded as disingenuous.

**2. The registration provisions are designed and operate to eliminate the normal and legitimate activities carried on by organizations compelled to register.**

The second basic feature of the registration provisions of the Internal Security Act is that they are primarily designed and operate to suppress, not illegitimate political activity, but the normal and legitimate activity customarily carried on by political associations.

It is necessary at this point to indicate briefly what we mean by "illegitimate" and "legitimate" political activity. We are concerned with methods for achieving political goals, not with the goals themselves. Certain methods, or types of activity, are clearly illegitimate as contrary to the

basic principles of the democratic process. Such activity includes treason, sabotage, espionage, creating insubordination in the armed forces, corruption of public officials, the use of force and violence, and similar conduct. In view of *U. S.* v. *Dennis*, 341 U. S. 494, we may add, though we disagree, advocacy of force and violence. On the other hand certain types of activity, which may be carried on by the same organization as engages in illegitimate activity, are clearly recognized as legitimate and proper within the democratic framework. Such activity includes all the normal operations of a political association in attempting to persuade by peaceful means a majority of the community to its point of view. At times the dividing line between legitimate and illegitimate activity may be unclear or debatable. With that we are not concerned at this point. The important fact is that the two types of activity are broadly distinguishable and may be carried on by the same organization.

The Communist Party, alleged to be a "Communist-action" organization, has been charged in Section 2 of the Act and elsewhere with engaging in certain illegitimate activity, principally advocacy of the use of force and violence. We are not concerned here with the validity of that charge and, for the purposes of our argument, it may be admitted. So far as appears from Section 2 and other sources it is not asserted that "Communist-front" organizations engage, or at least normally so, in any form of illegitimate activity. Be that as it may, the fact is clear from the record, and is not open to dispute, that organizations subject to the Act do engage in substantial and important legitimate activity. They hold meetings, write and distribute pamphlets, attempt to buttonhole legislators, and pursue a thousand other activities of the kind that is characteristic of voluntary associations in a democratic society.

The registration provisions operate to suppress this legitimate political activity. Moreover, that suppression is not merely an incidental effect of an effort to eliminate illegitimate activity, but rather is the direct and primary objective of the legislation.

(a)

In the first place, as just pointed out, the Act operates to destroy, or hopelessly cripple, any organization compelled to register. The effect is not to punish, or eliminate, some specific illegitimate activity—indeed the "Communist-front" organizations are not even charged with such activity—but to end the life of the organization altogether or to reduce it to impotence. Thus, as the Act goes into operation, a large and significant sector of political activity, carried on by perfectly legitimate methods, is wiped out.

(b)

Equally important, registration is required of an organization, not upon a showing that it has engaged in any form of illegitimate activity, but under standards which are fully applicable to an organization engaging only in wholly legitimate activity.

An organization must register as a "Communist-action" organization if the Board finds that the organization is (1) "substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement"; and (2) "operates primarily to advance the objectives of such world Communist movement" (§ 3(3)). Plainly direction, domination or control of an organization by a foreign government or foreign organization does not mean that the organization is engaging in illegitimate activity. It may or it may not be, depending upon what it does. But surely much legitimate activity is carried on in the United States under the direction, domination or control of foreign governments and foreign organizations.[10]

[10] The significance of "foreign control" as a ground for suppressing what is otherwise legitimate political activity is a question discussed *infra*, p. 39.

As to the second half of the standard—advancing the objectives of the world Communist movement—Section 2 asserts that such objectives are "to establish a Communist totalitarian dictatorship in the countries throughout the world" (§ 2(1)). Plainly this could be done by wholly legitimate methods.

It is true that Section 2 also asserts that the objectives of the world Communist movement are to be attained "by treachery, deceit, infiltration into other groups * * *, espionage, sabotage, terrorism, and any other means deemed necessary" (§ 2(1)). But these are explicitly designated as means, not objectives; not all of them (e.g. deceit and infiltration) are necessarily illegitimate activity; and it is recognized, by adding "and other means", that the objectives are sought by legitimate as well as illegitimate activity.

From all this it is plain that an organization can be ordered to register as a "Communist-action" organization without any proof whatever that it has engaged in any form of illegitimate activity.

This conclusion is confirmed by an analysis of Section 13(e). In this subsection the framers of the Act set forth eight categories of evidence the Board shall take into consideration in determining whether an organization is a "Communist-action" organization. The eight categories, while not designated as exclusive, were certainly intended to be the principal grounds, and sufficient by themselves, for such a finding. There is no reference in these eight categories to the use of force or violence, espionage, sabotage or similar illegitimate conduct. None of them contain even a suggestion that such illegitimate activity must be found before registration can be compelled.

What has just been said of "Communist-action" organizations is *a fortiori* true of "Communist front" organizations. The Act defines a "Communist-front" organization as one which is (1) "substantially directed, dominated, or controlled by a Communist-action organization," and (2) "pri-

marily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement" (§ 3(4)). Under this standard an organization could be found to be a "Communist-front" without any showing that it had engaged in any illegitimate activity. Nor does Section 13(f)—which lists four categories of evidence which the Board shall consider in finding an organization to be a "Communist-front"—contain anything which requires a finding of such activity.

(c)

The application of the registration provisions by the Subversive Activities Control Board and the Court of Appeals in this case confirms the fact that the existence of illegitimate political activity is not a prerequisite to ordering an organization to register, even as a "Communist-action" organization. The Board first finds, substantially in the terms of the Act, that the objectives of the world Communist movement are "the establishment of Communist dictatorships of the proletariat in all countries throughout the world" (Bd. Rep't., p. 9). But it expressly states that these objectives are sought "by any means whether legal or illegal" (Bd. Rep't., p. 6); thus acknowledging that legal methods to obtain the objectives are or may be employed.

The remaining findings of the Board—set forth in great detail—are not primarily concerned with whether the Communist Party has or has not used "illegal means", or, in our terminology, engaged in illegitimate political activity. The findings, grouped under the eight categories of Section 13(e), are directed towards establishing foreign control and advancement of the world Communist movement, irrespective of whether the methods are legitimate or illegitimate. References are made to the advocacy of force and violence, to false swearing, and to other illegitimate conduct. But these are subordinate factors in the result. In essence, the Board finds that the Communist Party is a "Communist-action" organization and orders it to register,

not because it has engaged in specified illegitimate activity, but because it finds the Communist Party to be under foreign control and operated generally to advance the world Communist movement.

The Court of Appeals treats the issue in the same fashion (Op. 11-12, 39, 41-42, 56-57, 60-61).

(d)

Further proof that the registration provisions are designed to prevent normal and legitimate political activity appears from an examination of the disabilities imposed by the Act upon registered organizations. These sanctions are applicable to any activity of the organization, quite apart from its character as legitimate or illegitimate. Thus under the labelling provision, all mail disseminated by a registered organization must be marked on the outside with the Communist label, and any radio program so designated, regardless of whether it contains seditious or other illegitimate material. All communication is swept under the ban. Similarly all employment in defense plants is denied and all passports refused.

(e)

Finally, it should be emphasized that suppression of legitimate political activity is not merely incidental to, or a necessary part of, the suppression of illegitimate conduct. Quite the contrary, the elimination of legitimate political activity is the primary purpose of the registration provisions.

For the punishment and control of all serious forms of illegitimate activity adequate laws existed prior to the passage of the Internal Security Act. Treason, espionage, sabotage, insurrection, the use of force and violence, or conspiracy to commit any of them, were all subject to severe criminal penalties. Even advocacy of force and violence, and conspiracy so to advocate, were punishable

under the Smith Act. These laws were all enforceable and enforced. They provided protection against all major forms of illegitimate political conduct. If any gaps existed they could readily have been filled by specific legislation. For such purposes the registration provisions were unnecessary.[11]

Furthermore, a system of registration is hardly an effective or appropriate method for dealing with espionage, sabotage, the use of force and violence, or the like. Apart from questions of self-incrimination, the device of registration is wholly unsuitable for coping with such conduct. Congress could scarcely have thought that it was. The object of the registration provisions was to get at conduct not subject to existing law. It was directed toward suppressing those activities of organizations found to be supporting the world Communist movement which were carried on through traditional and legitimate methods of peaceful political action.

**3. The impact of the registration provisions carries far beyond the Communist Party and its immediate environs: it seriously restricts freedom of expression throughout the whole liberal movement and indeed the entire population.**

Up to this point we have discussed the registration provisions primarily as they apply directly to organizations ordered to register. But it is even more important to consider the impact of these provisions as they affect the whole liberal movement and, beyond that, the entire population. Even the briefest analysis makes clear that the registration provisions gravely impair the essential rights of free association and free expression throughout the country. Many of the factors here have already been pointed out, but certain matters should be emphasized.

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[11] For a summary of the applicable legislation see Thomas I. Emerson and David Helfeld, *Loyalty Among Government Employees*, 58 YALE L. J. 1, 27-8 (1948); Arthur E. Sutherland, Jr., *Freedom and Internal Security*, 64 HARV. L. REV. 383, 386-8 (1951).

In the first place, the standards as to what constitutes a "Communist-front" organization—both in Sections 3(3) and 13(f)—are so broad that any association or individual dealing with problems with which the Communist Party is also concerned, and not differing sharply from the Communist Party position on that problem, operates under the shadow of the Act and has reason to fear its possible application. "Direction, domination or control" by the Communist Party can be spelled out of the active participation in an organization of a relatively few individuals whose affiliations and views are not known to the members, or whose views differ on other issues than those which the organization is formed to promote. Or it may be inferred from the absence of difference between the Communist Party position and that of the organization on those matters with which the organization is concerned. The standard of "primarily operated to give aid and support" to the world Communist movement embraces almost any action which conforms to the current Communist Party position, or supports the constitutional rights of the Communist Party, or even is opposed to the orthodox government position on such matters as the recognition of Communist China. Indeed, an organization may find itself in trouble by advocating the same position that the government supports, as for example, in upholding the rights of Negroes and other non-political minorities.[12] These standards, moreover, are applied under the relaxed rules of the administrative process, with only limited judicial review.

The impact of the broad standards is accentuated by the severity of the sanctions imposed. The dreadful effect upon a citizen of being officially branded as disloyal and a traitor, the disabilities imposed upon members of registered organizations, the dangers of being trapped in the criminal enforcement machinery, all operate to deter individuals from relations with associations dealing in con-

[12] See, *e.g.*, Board Report, p. 77, quoted *infra*.

troversial matters. Likewise, the effect of the Act in exposing individuals to the fierce public and private pressures that have marked our political life for the past decade drastically discourges both freedom of association and individual expression.

The result is that few individuals will care to run the risks involved in participating in controversial issues from a point of view opposed to government policy or consistent with a specific objective also endorsed by the Communist Party.

In the same way voluntary associations engaging in political activity—without which an individual citizen cannot hope to function effectively, and without which a democratic society cannot hope to maintain itself—are badgered, hampered and perhaps even destroyed. Leaders, particularly leaders of moderate temperament, will be hard to find. Individuals will fear to take the risk of joining unless they know all the other members, agree with every policy, and know in advance what action the association will take. Members will be forever suspicious of other members. The association itself must carry on a continuous investigation of all its members and conduct constant purges of left-wing elements. It must weigh every action or policy in the light of possible accusations sure to arise if other organizations adopt a similar policy on the same issue. If an association is even charged by the Department of Justice with being a "Communist-front" organization it will immediately lose all influence and probably soon disintegrate. If an association is ordered to register and dissolves it will be a long time before other members and leaders will be bold enough to form another organization in the same field.

The impact of the registration provisions on the right of association is vividly illustrated by an article in the conservative *U. S. News and World Report*, published at the

time of passage of the Act, giving the following advice to its readers:

"If in Doubt, Don't Join!

"For the person who wants to keep out of trouble in the future, this appears to be good advice:

"Be very careful about organizations joined. Avoid membership in anything that might turn out to be labeled a 'Communist-front' or a 'Communist-dominated' organization. Be equally careful about contributing to organizations. Make sure that any organization getting money from you may not have any possibility of a Communist tie.

"Watch out that your name is not on the list of sponsors of an organization not well known to you. It may even be important to make sure that your name is not on the mailing list of any organization that could turn out to be Communist controlled. The American habit of joining organizations needs now to be restrained." (U. S. News and World Report, September 22, 1950, p. 20.)

It may be suggested that the picture we have given is overdrawn and that administration of the Act will not be pressed to the point here indicated. But experience with similar legislation points the other way. There are forces in the administration of any law of this kind—the need to arouse public opinion, the vested interests and ambitions in the machinery of prosecution, the political pressures engendered—which tend irresistibly to push such legislation to its outermost limits. Furthermore, it is not even necessary that the dangers be real; it is enough that they are felt so.[13]

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[13] For an excellent description of the dangers to freedom of expression growing out of the registration provisions, see Zechariah Chafee, Jr., *The Registration of "Communist-Front" Organizations in the Mundt-Nixon Bill*, 63 Harv. L. Rev. 1382 (1950). See also President Truman's message vetoing the bill which, as passed over his veto, became the Internal Security Act, 96 Cong. Rec. 15629-32; Note, *The Internal Security Act of 1950*, 51 Col. L. Rev. 606, 607 (1951).

Mr. Justice Frankfurter, referring to the conviction of the Communist Party leaders under the Smith Act, observed:

> "* * * it is self-delusion to think that we can punish them for their advocacy without adding to the risks run by loyal citizens who honestly believe in some of the reforms these defendants advance. It is a sobering fact that in sustaining the conviction before us we can hardly escape restriction on the interchange of ideas." (*Dennis* v. *U. S.*, 341 U. S. 494, 549.)

What is true of the Smith Act is immeasurably more significant in the Act now before the Court. This aspect of the Act's operation entails the gravest consequences of all. The present case technically involves only the Communist Party. Actually it reaches to the roots of the democratic process.

**B. It is not within the power of government under the first amendment to prohibit a political association from engaging in the normal and legitimate forms of political activity. This is true even though such association engages in other activities that are illegitimate, or even though such association is controlled by an organization that engages in illegitimate activity.**

The first constitutional issue that emerges from our analysis is a clear-cut and basic one. We have seen that the registration provisions, far from merely requiring the disclosure of information, would in practice operate to destroy or seriously cripple any organization ordered to register. We have also seen that the effect, and in fact the purpose, of these provisions is to eliminate all the normal and legitimate political activities of these organizations. The legislation is particularly crucial because of the effect it would have upon freedom of expression generally.

The issue presented to the Court, therefore, is this: Does the government have power, in view of the First Amendment's prohibition against infringement of freedom of political expression, to adopt measures which prevent a political association from engaging in all the usual types of political activity? Does such power arise from the fact that the organization is tainted with other, illegitimate, activity, or is controlled by a tainted organization?

**1. On its face the Act compels registration regardless of whether the organization has engaged in any illegitimate activity whatsoever, or is controlled by an organization that does. Such a requirement plainly violates the First Amendment.**

Nothing in the standards laid down by the Act for ordering registration requires a finding that the organization has engaged in any illegitimate activity, or is controlled by an organization that does. The objective of establishing a totalitarian dictatorship does not, as we discuss in more detail later, make all activity directed to that end illegitimate. Similarly, as we also discuss later, direction of an organization from abroad does not necessarily make all its activities illegitimate. Hence the requirement of registration can be imposed upon an organization whose only activity has been entirely within the framework of democratic procedures. This is strikingly true of organizations which may be found to be "Communist-front" organizations.

It should be emphasized, also, that the restraints imposed by the registration provisions do not relate only to one aspect of a political association's activities, such as its use of campaign funds. They operate to suppress *all* political activity, in any form, by the organization.

On their face, therefore, the registration provisions simply prohibit normal political activity. The sweep of these provisions is so broad, and their effect upon free expression so devastating, that the legislation must be declared on its face squarely in conflict with the First Amendment.

**2. Even if we assume that an organization required to register must be shown to have engaged in illegitimate activity, or to be controlled by another that does, it is still clear that the government cannot prevent that organization from engaging in legitimate activity.**

Although the Act itself does not require a showing of illegitimate activity, the arguments in support of the registration provisions rest upon the ground that this element is present. Consequently we will assume, for purposes of argument, that the Communist Party is engaging in certain forms of illegitimate political action, principally advocacy of the use of force and violence. We will assume, also, that certain other organizations are "directed, dominated or controlled" by the Communist Party in the narrowest sense of those terms.

Taking these assumptions, it remains clear that the government cannot, in spite of the illegitimate activity, prohibit those activities of a political association which are normal and legitimate. This principle, which is implicit in democratic theory and essential in democratic practice, has been fully accepted and applied by this Court in prior cases.

The leading case is *DeJonge* v. *Oregon*, 299 U. S. 353. DeJonge was indicted and convicted for violation of the Oregon Criminal Syndicalism Law. This statute defined criminal syndicalism as "the doctrine which advocates crime, physical violence, sabotage or any unlawful acts or methods as a means of accomplishing or effecting industrial or political change or revolution." It went on to proscribe a series of offenses, including the advocating or teaching of criminal syndicalism, and presiding at or assisting in conducting any meeting of a group which advocated or taught the doctrine. Specifically, DeJonge was charged with assisting in the conduct of a meeting called by the Communist Party, alleged to be an organization advocating criminal syndicalism.

The meeting in question was a public one, conducted in an orderly manner. Its announced purpose was to protect against the conduct of the police in a local strike then in progress. Speeches were made on this and similar subjects. There was no advocacy or teaching of criminal syndicalism.

On the other hand, the meeting was called, organized and conducted by the Communist Party. The Court assumed, for purposes of the case, that the Communist Party was an organization that taught and advocated criminal syndicalism in violation of the Oregon statute. The first speaker "dwelt on the activities of the Young Communist League." DeJonge, the second speaker, was a member of the Communist Party "and went to the meeting to speak in its name." Communist literature, not advocating force or violence, was distributed at the meeting. DeJonge urged the purchase of this literature and also "asked those present to do more work in obtaining members for the Communist Party." (299 U. S. at 359.)

The case thus presented the precise issue with which we are here concerned: Could the state validly prevent the Communist Party, which was guilty of advocating "crime, physical violence, sabotage or [other] unlawful acts or methods," from engaging in the normal political activity of holding an orderly meeting on an issue of public importance? This Court unanimously held not, and reversed the conviction of DeJonge.

Chief Justice Hughes, in a memorable opinion, laid down the doctrine in the plainest terms. Referring to the rights guaranteed by the First Amendment, he said:

> "These rights may be abused by using speech or press or assembly in order to incite to violence and crime. The people through their legislatures may protect themselves against that abuse. *But the legislative intervention can find constitutional justification only by dealing with the abuse. The rights themselves must*

*not be curtailed.* The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press, and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government." (299 U. S. at 364-365; italics added.)

Speaking of the particular right there at issue—freedom of assembly—Chief Justice Hughes went on:

"It follows from these considerations that, consistently with the Federal constitution, peaceable assembly for lawful discussion cannot be made a crime. The holding of meetings for peaceable political action cannot be proscribed. Those who assist in the conduct of such meetings cannot be branded as criminals on that score. The question, if the rights of free speech and peaceful assembly are to be preserved, is not as to the auspices under which the meeting is held but as to its purpose; not as to the relations of the speakers, but whether their utterances transcend the bounds of the freedom of speech which the Constitution protects. If the persons assembling have committed crimes elsewhere, if they have formed or are engaged in a conspiracy against the public peace and order, they may be prosecuted for their conspiracy or other violation of valid laws. But it is a different matter when the State, instead of prosecuting them for such offenses, seizes upon mere participation in a peaceable assembly and a lawful public discussion as the basis for a criminal charge." (299 U. S. at 365.)

It is true that the statute in the *DeJonge* case proscribed legitimate political activity by direct criminal sanctions. But it will hardly be suggested that the same repression can be lawfully accomplished by any other state sanction. As Chief Justice Vinson said in *American Communications Association* v. *Douds*:

> "We have been reminded that 'It is not often in this country that we now meet with direct and candid efforts to stop speaking or publication as such. Modern inroads on these rights come from associating the speaking with some other factor which the state may regulate so as to bring the whole within official control." (339 U. S. 382, 399, quoting Justice Jackson concurring in *Thomas* v. *Collins*, 323 U. S. 516, 547.)

And later Chief Justice Vinson added, in words peculiarly applicable to this case:

> "But as we have noted, the fact that no direct restraint or punishment is imposed upon speech or assembly does not determine the free speech question. Under some circumstances, indirect 'discouragements' undoubtedly have the same coercive effect upon the exercise of First Amendment rights as imprisonment, fines, injunctions or taxes. A requirement that adherents of particular religious faiths or political parties wear identifying arm-bands, for example, is obviously of this nature." (339 U. S. at 402.)

No other case in this Court, so far as we are aware, has raised the issue as precisely as the *DeJonge* case. But in numerous other decisions this Court has taken particular pains to enforce the First Amendment's protection of legitimate political activity in situations where other activity was involved which was illegitimate and not subject to constitutional protection.

Thus in *Herndon* v. *Lowry*, 301 U. S. 242, Herndon was convicted under a Georgia insurrection statute which prohibited "any attempt, by persuasion or otherwise, to induce others to join in any combined resistance to the lawful authority of the State." The evidence showed that Herndon, a Communist Party organizer, had procured members for the Communist Party in Atlanta, and that he had in his possession Communist literature which stated that the Communist Party was based "upon the revolutionary theory of Marxism," referred to the need for "overthrow of * * *

class rule in the Black Belt" as necessary for the "self-determination" of the Negroes, and contained similar references to the "revolutionary struggle for power." The Supreme Court reversed the conviction, Justice Roberts saying:

> "We are of opinion that the requisite proof is lacking * * *. His membership in the Communist Party and his solicitation of a few members wholly fails to establish an attempt to incite others to insurrection. Indeed, so far as appears, he had but a single copy of the booklet the State claims to be objectionable; that copy he retained. The same may be said with respect to the other books and pamphlets; some of them of more innocent purport. In these circumstances, to make membership in the party and solicitation of members for that party a criminal offense, punishable by death, in the discretion of the jury, is an unwarranted invasion of the right of freedom of speech." (301 U. S. at 259, 261.)

Other cases in which this Court has protected legitimate political activity, carefully separating it from illegitimate activity, include *Stromberg* v. *California*, 283 U. S. 359; *Schneider* v. *State*, 308 U. S. 147; *Hague* v. *C. I. O.*, 307 U. S. 496; *Thornhill* v. *Alabama*, 310 U. S. 88; *Taylor* v. *Mississippi*, 319 U. S. 583; *Schneiderman* v. *U. S.*, 320 U. S. 118; *Thomas* v. *Collins*, 323 U. S. 516; and *Kunz* v. *New York*, 340 U. S. 290. Compare *Milwaukee Publishing Co.* v. *Burleson*, 255 U. S. 407, with *Donaldson* v. *Read Magazine*, 333 U. S. 178, and *Summerfield* v. *Sunshine Book Co.*, 221 F. 2d 42 (D. C. Cir.) cert. den. 349 U. S. 921.

All of these cases involved infringement of the right to engage in one particular form of legitimate political activity. The present case *a fortiori*, involves curtailment of the right to engage in all forms of legitimate activity.

In *American Communications Association* v. *Douds*, 339 U. S. 382, the Court took occasion to reaffirm the doctrine of the *DeJonge* case. The *Douds* case involved the validity

of the non-Communist affidavit of the Taft-Hartley Act and the Court, by a narrow margin, upheld that particular restriction upon Communist Party membership. But even the majority was careful to point out—and the implication was clear that otherwise its decision would have been different—that the provision did not prevent all other forms of legitimate activity by the Communist Party. Chief Justice Vinson wrote:

> "Section 9(h) touches only a relative handful of persons, leaving the great majority of persons of the identified affiliations and beliefs completely free from restraint. And it leaves those few who are affected free to maintain their affiliations and beliefs subject only to possible loss of positions which Congress has concluded are being abused to the injury of the public by members of the described group." (339 U. S. at 404.)

And Chief Justice Vinson later, pointing out the "crucial" fact that "the sole effect of the statute upon one who believes in overthrow of the Government by force and violence * * * is that he may be forced to relinquish his position as a union leader" (339 U. S. at 408), expressly adopted as an "apt statement of that principle" the words of Justice Jackson's concurring opinion:

> "The Act does not suppress or outlaw the Communist Party, nor prohibit it or its members from engaging in any aboveboard activity normal in party struggles under our political system. It may continue to nominate candidiates, hold meetings, conduct campaigns and issue propaganda, just as other parties may. No individual is forbidden to be or to become a philosophical Communist or a full-fledged member of the Party. No one is penalized for writing or speaking in favor of the Party or its philosophy. Also, the Act does not require or forbid anything whatever to any person merely because he is a member of, or affiliated with, the Communist Party. It applies only to one who becomes an officer of a labor union." (339 U. S. at 408, 434).

The registration provisions, of course, do precisely what the Court held it was "crucial" that the Taft-Hartley Act did not do.

It should be particularly noted that the principle of the *DeJonge* case does not rest upon any application of the clear and present danger test. The Court in the *DeJonge* case did not rely upon or even mention that test. Nor was it invoked in this connection in the *Herndon* case. The reason is that any consequences arising from the legitimate activity repressed here, as in the *DeJonge* case—the holding of peaceful meetings, the support of candidates in elections, the issuance of leaflets and books containing normal political discussion—cannot be "an evil that Congress has a right to prevent." If such normal political conduct could be considered as giving rise to an "evil," then there would be no meaning left to the First Amendment. Consequently the findings of Congress, the Board and the lower court with respect to clear and present danger are wholly irrelevant to the issue now before the Court. For that reason we do not attempt to discuss clear and present danger or undertake to distinguish the *Dennis* case on this point.

*A fortiori*, any test of "reasonableness," as employed in the lower court and urged by the government here, is inapplicable under the *DeJonge* rule. Surely Congress cannot restrict or suppress all the basic rights of lawful political expression on the part of any group under a theory that the restrictions are "reasonable".

Finally, it should be added that the principle of the *DeJonge* case is compelled by the fundamental theory of the First Amendment and is essential to the effective realization of that theory in a practical democracy.

In broad terms the question, as presented to the Court under the assumptions we are now making, is whether First Amendment freedoms must be extended to groups whose ultimate aims or some of whose immediate methods are antidemocratic. The answer in democratic theory is that they

must. It is true that Milton, the first to expound the modern theory of free speech, would have withheld its benefits from Roman Catholics.[14] But that qualification has been abandoned by most later advocates of the doctrine. A classic statement of the prevailing view is that of Justice Holmes:

> "If in the long run the beliefs expressed in proletarian dictatorship are destined to be accepted by the dominant forces of the community, the only meaning of free speech is that they should be given their chance and have their way." *Gitlow v. N. Y.*, 268 U. S. 652, 673.

The reasoning is that everyone in a democratic community should have equal rights to persuade others to his view, so long as he stays within the framework of democratic procedures. This does not prevent punishment of conduct in violation of that process; but it does require everyone to have access to those procedures. Only thus can a democratic society function and retain its vitality. All in such a society have a right to speak and a right to hear all points of view. The radical views of those who feel and act militantly are as important as the moderate views of those who would preserve the status quo. The suppression of any point of view not only hinders peaceful social change but gives no outlet to the militant group other than attempted violent destruction of the society which seeks to curb it.

Extension of the right of free expression to anti-democratic groups is likewise essential from a practical point of view. After all, who is to decide whether a particular group is anti-democratic or not? How are we to be sure the label will not be applied to all groups considered radical—Socialists, economic planners, and others? There are always strong pressures in a political community to carry such restrictions far beyond any original intention. They become weapons in a partisan political struggle, too readily

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[14] John Milton, *Areopagitica* (Everyman's Library, 1927), p. 38.

and too often invoked, and ultimately the rights of all minorities are in jeopardy.

Suppression of the right of any group to freedom of expression cannot fail to exert an unhealthy effect upon the operation of a democratic community. It undermines the moral strength of what should be held as a fundamental principle and reduces that principle to a rule of political manipulation. By a kind of Gresham's law, it drives out of circulation real freedom of expression and lessens its value to all.

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The application of the *DeJonge* principle to the case at bar cannot admit of doubt. The fact that the Communist Party may advocate the use of force and violence, or engage in other illegitimate activity, cannot provide grounds for requiring it to register, thereby repressing "peaceable assembly and a lawful public discussion," or other legitimate activity. As to "Communist-front" organizations their only connection with illegitimate conduct is that they are found to be "substantially directed, dominated or controlled" by the Communist Party. *A fortiori*, they cannot under the *DeJonge* rule be driven by government restrictions to impotence or collapse.

**3. The justifications for the registration provisions advanced in the Internal Security Act and by the government in argument here are wholly inadequate as reasons for not following the foregoing principles in this case.**

There remains only to consider, briefly, whether certain justifications advanced in support of the Act give any reason for not applying the accepted rule in this case.

So far as appears, the framers of the Act had in mind two major reasons for attempting to suppress the legitimate activities of "Communist-action" and "Communist-front" organizations. Both are embodied in the definitions or standards of Section 3(3) and 3(4). One is that these

organizations operate to "advance the objectives" of, or give "aid and support" to, the world Communist movement. The other is that "Communist-action" organizations are "substantially directed, dominated or controlled" by a foreign government or organization, and "Communist-front" organizations are "substantially directed, dominated or controlled" by a "Communist-action" organization. We will discuss these in turn.

**(a) Advancing the Objectives of the World Communist Movement**

The objective of the world Communist movement, according to Section 2 of the Act, is the establishment of totalitarian dictatorships in various countries of the world, including the United States. To the extent that this objective is pursued through peaceful and democratic means—that is, by legitimate political activity—such action is protected by the First Amendment from government interference. This is simply one aspect of the proposition, already discussed, that rights under the First Amendment must be extended to anti-democratic groups.

The government is properly concerned with *methods* of political action. Thus, it has power to prevent any person from employing anti-democratic methods to obtain political goals. But it has no power to restrict political activities merely because they are directed toward achieving certain forms of political organization, however abhorrent. It cannot interfere with persons seeking to establish, by democratic methods, a form of government that is parliamentarian, socialist, communist, fascist or any other—democratic or not.

Hence the fact that organizations are "advancing the objectives" of, or giving "aid and support" to, the world Communist movement cannot be a justification for suppressing the legitimate activities of these organizations.

### (b) Foreign Control

We need not attempt to decide under what circumstances, if any, the existence of "foreign control" might empower the government to impose upon political expression restrictions which would otherwise be prohibited by the First Amendment. For it is clear, we submit, that the kind of "foreign control" envisaged by the Internal Security Act and found by the Board in this case cannot operate to change the *DeJonge* rule or justify suppression of all normal political activities.

The Act employs the terms "directed, dominated or controlled," and the Board couches its findings in the same language; but it is essential to consider carefully how those terms are used and how they are being applied. The character of the "foreign control" which stamps an organization as a "Communist-action" group becomes apparent from an examination of the standards embodied in Section 13(e). These authorize the Board to rely on such matters as the extent to which the activities of an alleged "Communist-action" organization are performed "to effectuate the policies" of a foreign government; the extent to which its views "do not deviate from those of such foreign government"; the extent to which it sends "representatives to any foreign country for instruction or training in the principles, policies, strategy, or tactics" of the world Communist movement; and the extent to which it "reports" to a foreign government. . . .

Similarly the Board in reaching its finding of "direction, domination and control" relied upon such matters as that "a substantial number of Respondent's present leaders * * * have been to the Soviet Union on numerous occasions on Party business and have been indoctrinated and trained in the Soviet Union on Russian strategy and policies" (Bd. Rep't, p. 20); that "among the major activities of Respondent are teaching, advocacy, and agitation in opposition to what Respondent calls United States imperialism" (Bd.

Rep't, p. 44); that "the *Daily Worker* is the counterpart in the United States of the Soviet Union organ *Pravda*" (Bd. Rep't, p. 61); that "Respondent has campaigned for and championed reforms such as shorter working hours, non-militarization of youth and Negro rights" (Bd. Rep't, p. 77); that Respondent exchanged "greetings" with other Communist parties (Bd. Rep't, pp. 95-98); and that the "use of Party names or aliases for the purpose of concealing membership and activities in the CPUSA has been a widespread and continuous practice" (Bd. Rep't, p. 109). Scores of similar findings form an integral part of the Board's conclusion. It is to be noted, however, that the Board found no evidence of financial support from abroad since 1940, except the receipt of some book plates and English translations from International Publishers (Bd. Rep't, p. 88).

Of course, the degree of "foreign control" exercised over a "Communist-front" organization—where the "control" operates indirectly through a "Communist-action" organization—is even more remote and unsubstantial.

To say that by reason of "foreign control" of such a character a domestic organization can be prevented from engaging in legitimate political activity would strike at the heart of the First Amendment. Such a doctrine would give the government power to curb the legitimate activity of almost any organization with international affiliations. For most such organizations have relations with foreign counterparts and attempt to carry out policies determined at the international level. It would authorize government control even over organizations formed to support the United Nations or its subsidiary groups. It would furnish the basis for state power over religious organizations with international affiliations, such as the Roman Catholic Church and the Zionist organizations whose rights also depend upon the First Amendment. It would apply in other areas—to scientific, cultural, recreational and vocational groups—thus in effect authorizing the repression of

any free expression and association on an international scale. And it would endanger organizations with no international affiliation of their own but which were influenced by or worked together with groups having an international character.

Surely the protection of the First Amendment cannot be so limited. To do so would be especially unfortunate at a time when relations between international groups are crucial to a solution of the grave problems that confront the world.

The fact is that any reason for interfering with First Amendment rights of organizations under "foreign control" is completely absent in the case of voluntary associations operating within the United States. Such associations are masters of their own decisions. Neither they nor their members are subject to any physical or police control from abroad. The organization operates under American laws, in an American environment, subject to everyday American customs, ideas and traditions and it must secure the approval of American public opinion. Apart from financial contributions—a special issue, but not one involved here—the kind of "control" exercised by a foreign government or organization is ideological in character. The American association or individual can always withdraw. What is designated by the Act as "control", therefore, is in reality little more than ideological influence. Again, this is particularly true of so-called "Communist-front" organizations.

For these reasons, we submit, the argument based on "foreign control" cannot alter or qualify the principle of the First Amendment that political associations cannot be refused the right to engage in legitimate activity.

**C. The registration provisions are invalid under the First Amendment because they are not narrowly drawn to meet the problem Congress ostensibly undertook to solve.**

Even if we assume the power of Congress to compel the Communist Party and organizations under its control to register with the Department of Justice, the Act in its present form is invalid as not being narrowly drawn to meet the specific abuses Congress purported to correct. It is well-settled law that legislation impinging upon rights protected by the First Amendment must be narrowly framed to meet the specific abuse and must not "sweep within its orbit" a mass of other matters with which the Congress has no power to concern itself. *Lovell* v. *Griffin*, 303 U. S. 444; *Schneider* v. *State*, 308 U. S. 147; *Thornhill* v. *Alabama*, 310 U. S. 88; *Cantwell* v. *Connecticut*, 310 U. S. 296; *U. S.* v. *C. I. O.*, 335 U. S. 106; *Burstyn* v. *Wilson*, 343 U. S. 495.

The principle is vital to the maintenance of the protections afforded by the First Amendment. Citizens in a modern democratic nation, dependent as they are for their livelihood and welfare upon government and private authority, and vulnerable as they are to the pressures of orthodox opinion, are readily affected by official action directed at freedom of expression. Most of us shrink—more than we should perhaps—from tangling with government power, pitting our resources against the government in a criminal prosecution, or staking our reputation and career upon the outcome of an official proceeding. It is not easy, in our complicated society, to draft legislation which meets precisely a current abuse and does not infringe upon rights and privileges which the government is bound to leave alone. But the legislature must conform to a strict standard and it is the function and obligation of the courts to hold it to that standard.

We submit that Congress has not met that standard in this legislation. We refer the Court to the analysis of the registration provisions set forth above, particularly that part showing the effect of the legislation upon the liberal movement and upon freedom of opinion generally. At this point we note simply a few outstanding features of the Act:

(1) The standards established for determining what organizations must register are so loose as to include numerous organizations only remotely or coincidentally related to the Communist Party (§§ 3(3), (4), 13(e), (f)).

(2) The standards for membership in the Communist Party, which determine who must register publicly with the Department of Justice on pain of cumulative penalties, and for participation in the Communist Party, which determine who must be recorded on the books of the Communist Party, are so vague as to include numerous individuals only casually related to the Communist Party (§ 5 of the Communist Control Act).

(3) All these standards must be considered, not only as they may eventually be refined by the courts, but as they infringe on freedom of expression through raising a reasonable possibility of subjecting an individual or an organization to governmental action.

(4) The severity of the deprivations imposed by the Act make individuals reluctant to run the risk of incurring or even testing them.

(5) The deterrent effect of the drastic criminal provisions by which the registration provisions are enforced is bound to prevent many individuals from joining or assuming leadership in an organization likely to be the object of a proceeding to force registration.

(6) Although Congress insists that the purpose of the registration provisions is only to disclose the source of propaganda activities, the requirement that every member of a registered organization (including "Communist-front" organizations) be named in the open files of the Department of Justice subjects numerous individuals to exposure and stigma that is unnecessary to achieve the announced purpose.

(7) The impact upon voluntary associations makes their operation in controversial fields hazardous and ineffective.

For these and other reasons stated previously we urge the Court to strike down the registration provisions as not complying with the rule that such legislation must be narrowly drawn and not operate to hamper or destroy vital rights protected by the First Amendment.

**D. Conclusion on the First Amendment.**

The importance of the issues raised under the First Amendment can hardly be overstated. The legislation now before the Court infringes upon freedom of expression to a degree never before approached by an act of Congress. The Court must decide whether legitimate activities of voluntary associations can be curtailed and suppressed because the association is otherwise tainted or is influenced by a tainted organization. It must decide whether sweeping restrictions operating to harass free expression of the liberal movement and indeed the whole population will be sustained because they are ostensibly directed at the Communist movement. The case raises a further question of increasing significance in America—the extent to which a growing mass of non-criminal, indirect sanctions can be employed by government to vex and obstruct unorthodox but legitimate political activity.

We respectfully submit that the issues and the times call for a firm adherence to the fundamental purposes that the First Amendment was designed to serve.

## POINT II

**The Act is invalid as violative of the privilege against self-incrimination.**

The Internal Security Act, in its preamble, states it is designed to "protect the United States" through the device of "requiring registration of Communist organizations". Accordingly, the registration and reporting provisions to be found in Sections 7 and 8 of the Act are the heart of the legislation. They specify, *inter alia,* that, within designated periods of time (Section 7(c)), Communist-action organizations must register on forms prescribed by the Attorney-General (Section 7(a), (b)), such registration to be accompanied by a statement to contain, among other items of information:

> "* * * the name and last-known address of each individual who was a member of the organization at any time during the period of twelve full calendar months preceding the filing of such statement" (Section 7(d) (4)).

It is further prescribed that:

> "It shall be the duty of each Communist-action organization registered under this section to keep, in such manner and form as the Attorney General shall by regulations prescribe, accurate records of the names and addresses of the members of such organization and of persons who actively participate in the activities of such organization" (Section 7(f) (2)).

The principal duty to supply the described information apparently falls upon the organization. If the organization fails to do so:

> "* * * it shall be the duty of the executive officer (or individual performing the ordinary and usual duties of an executive officer) and of the secretary (or individual performing the ordinary and usual duties of a secretary) of such organization, and of such officer or officers of such organization as the Attorney General shall by regulations prescribe, to register for such organization, to file such registration statement, or to file such annual report, as the case may be" (Section 7(h)).

And if an organization is found to be a Communist-action organization, but it does not register as such, or if registered, fails to report all its members, then any individual whose membership in such organization is not reported for either of these reasons is obliged to register within a designated period of time with the Attorney General as a member of the organization (Section 8(a), (b). Failure by the individual member so to register is punishable by a maximum fine of $10,000 and/or maximum imprisonment of five years, and "each day of failure to register, whether on the part of the organization or any individual, shall constitute a separate offense" (Section 15(a) (2).[15]

The briefs of the parties, and the opinions below, have discussed fully those matters pertaining to the validity of the disclosures the Act compels of an organization and its officers. We direct our attention to that phase of the Act which compels individual members of an "action" organization to disclose such membership because we consider that this feature of the Act most flagrantly infringes Fifth Amendment guarantees in that it would compel individuals to profess membership in an organization which, by legislation ranging from the Smith Act to the Internal Security Act to the statute outlawing the Communist Party, has

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[15] It is not clear from the Act whether this penalty follows merely upon failure of a member to register in the described circumstances, or whether, after such failure, a final order directing the individual to register under Section 13 is required and prosecution under Section 15 is limited to instances of refusal to register in the face of such an individual registration order.

again and again been branded a criminal conspiracy by the Congress.

It is settled beyond dispute that, upon a proper claim of privilege, disclosure of membership in the Communist Party cannot be compelled. *Quinn* v. *United States*, 349 U. S. 155; *Emspak* v. *United States*, 349 U. S. 190; *Blau* v. *United States*, 340 U. S. 159. In view of the nature of organizations required to be registered as a Communist-action group under the Act (see Sections 2, 3(3), 4, 13(e)), it is likewise clear that, again upon a proper claim of privilege, an individual could not be compelled to disclose his membership in such an organization. That the Act bars the use of such disclosure as evidence against the individual in a subsequent criminal proceeding (Section 4(f)) does not obviate the Act's incompatibility with the constitutional privilege against self-incrimination since the limited immunity offered by the Act falls short of the reach of the privilege. *United States* v. *Bryan*, 339 U. S. 323; *Counselman* v. *Hitchcock*, 142 U. S. 547.

And so, on the most clearly settled principles, it appears that the key registration aspect of the Act seeks to compel a self-disclosure of criminality which the Fifth Amendment prohibits. The Board urges that this violation is, however, not properly now at issue because it is here raised by petitioner and not by a member to whom the privilege is personal,[16] and, further because it is premature since the occasion for self-disclosure may never arise if the organization or its officers choose to list the membership.

The privilege is, of course, personal. *Rogers* v. *United States*, 340 U. S. 367. But so is freedom of association and expression; yet this Court recognized the standing of an unincorporated association, as the aggregate of its mem-

[16] The statute under review proceeds from the basic proposition that members of a proscribed organization necessarily share its views and characteristics; yet respondent here denies petitioner's standing to assert constitutional rights of its membership.

bers and their rights, to assert those personal constitutional rights of its membership. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123. Moreover, since the privilege of the petitioner's members is violated by the Act, petitioner has standing to do so even apart from its status in law as the aggregate of its membership; the proposed injury to a constitutional right of petitioner's members because of membership, interferes with present and future membership in the petitioner organization thereby investing petitioner with standing to complain of that injury. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, *supra*; *Truax* v. *Raich*, 239 U. S. 33; *Pierce* v. *Society of Sisters, etc.*, 268 U. S. 510; *Hitchman Coal & Coke Co.* v. *Mitchell*, 245 U. S. 229.

The timeliness of presently determining the constitutionality of the self-disclosure feature of the Act appears not only from the nature of the disclosure required by the Act but, more urgently, from the probability that if that determination is not made now, it may never be made.

If the Congress had passed a statute requiring each citizen to file with the Department of Justice on the first of each year a complete disclosure of all federal offenses committed by him during the preceding year, it could hardly be seriously urged that the citizen's exclusive remedy was to claim his privilege on the return date; the hypothetical statute, as the Act here, on its face calls for an incriminating disclosure and the formality of the claim of individual privilege is timely satisfied when the legislation is challenged. This is not a case where the question on its face is innocuous or where a non-incriminating answer might be possible in some individual case. If this were so, it might be necessary to await the individual claim of the privilege and consider the application of the Act in context. But here the question on its face and the *only* answer solicited are incriminating; in the circumstances the claim of privilege is not only unnecessary, but, as well, a gratuitous injury to the one required to claim his privilege as a condition to testing the statute.

Moreover, wherever the self-disclosure requirement of the Act becomes operative, the member is confronted with great difficulties as to when, if ever, if not now, he may claim the Act offends the privilege. Section 8 requires individual membership registration within 60 days after the Communist-action organization of which he is a member is declared by final order to be such an organization where it fails to register (Section 8(a)), or, where it registers but does not list an individual's membership, within 60 days of the member's knowledge of its registration and its failure to list his membership (Section 8(b)). If, within these preseribed periods, the member fails to disclose his membership or to file a claim of privilege, he may be deemed to have waived the privilege thereafter. Cf. *Roger* v. *United States, supra.* If, on the other hand, he files a claim of privilege within the specified time, although not individually requested to designate membership, he will have, in effect, directed attention to his possible membership and thereby, at the least, supplied a lead to his possible criminal involvement, and, at the most, exposed himself to the many legal, social, and economic sanctions imposed today upon a claim of privilege. Indeed, in view of the purposes of this legislation, a claim of privilege, which the respondent argues is indispensable to considering the constitutional question here treated, would probably make unnecessary any further action by the Justice Department against the claimant, thereby making it impossible according to the respondent's position, ever to obtain an adjudication by a member of whether the Act violates his guarantee against self-incrimination. In sum, if that feature of the Act requiring self-disclosure by members is not tested against the Fifth Amendment now, it may never be (Cf. *Barrows* v. *Jackson*, 342 U. S. 249, 257); or, if delayed until some time when the member may or must claim his privilege, great doubts remain as to when he may or must do so and challenging the Act is conditioned on unnecessary and serious injury to the claimant.

As Mr. Justice Frankfurter pointed out in *Joint-Anti-Fascist Refugee Committee* v. *McGrath, supra,* at 156:

> "If the ultimate impact of the challenged action on the petitioner is sufficiently probable and not too distant, and if the procedure by which that ultimate action may be questioned is too onerous or hazardous, 'standing' is given to challenge the action at a preliminary stage. *Terrace* v. *Thompson,* 263 U. S. 197; *Santa Fe Pac. R. Co.* v. *Lane,* 244 U. S. 492; see *Waite* v. *Macy,* 246 U. S. 606. It is well settled that equity will enjoin enforcement of criminal statutes found to be unconstitutional 'when it is found to be essential to the protection of the property rights, as to which the jurisdiction of a court of equity has been invoked.' E.g., *Philadelphia Co.* v. *Stimson,* 223 U. S. 605, 621. And if the determination challenged creates a status which enforces a course of conduct through penal sanctions, a litigant need not subject himself to the penalties to challenge the determination. *LaCrosse Telephone Corp.* v. *Wisconsin Employment Relations Board,* 336 U. S. 18; *Shields* v. *Utah Idaho Central R. Co.,* 305 U. S. 177."

No doubt the resolution of constitutional problems should be deferred until required by the necessities of a case. But where, as here, the legislation on its face, and in its essentials, involves clear violation of a constitutional guarantee, the earliest reasonably appropriate occasion for reviewing that legislation is the timely occasion therefor (cf. *Thornhill* v. *Alabama,* 310 U. S. 88); especially where, as here, awaiting the ultimate refinement of the issue causes confusion and injury.

## CONCLUSION

In the decade just ended American freedom suffered severe curtailment. Rights and privileges deemed well established at the beginning of the decade became insecure or non-existent. The result has been grave hurt to the country and the people.

At home, a new look was being given to the face of our democracy in the name of national security. Criticism was muted, opposition was practically silenced and the drive to conformity succeeded so far as to make applicable Mr. Justice Jackson's observation that the freedom to differ on "things that do not matter much" is "but the shadow of freedom." (*West Virginia State Board of Education* v. *Burnette*, 319 U. S. 624, 642.) An entire generation of the young, normally the promise of the future progress, was frightened into intellectual and political sterility, presenting the paradox of naturally rebellious youth more conservative than their elders. Mutual hatreds and suspicions were generated and national self-confidence was undermined. And all of this at a time when fresh thought, robust challenge and new, creative approaches were needed if domestic disaster and an atomic holocaust were to be averted. At one stage the picture became so dark that former Ambassador George J. Kennan felt forced to warn:

> "We can make no greater mistake, than to imagine that the tendencies which in other countries have led to the nightmare of totalitarianism will, as they appear in our midst, politely pause—out of some delicate respect for American tradition—at the point where they begin to affect our independence of mind and belief." (Convocation Address at Notre Dame University, New Republic, June 1, 1953.)

Abroad, America's moral prestige and standing declined precipitately. Our intentions and professions began to be

questioned. This brave, kindly, generous deeply pacific, democratic people began to look to the outside world as frightened, harsh, belligerent and on the primrose path to authoritarianism. Even to our best friends the junior Senator from Wisconsin became the symbol of a people the world once admired for its love of freedom.

There are signs that a revulsion is setting in against the extravagances of the past decade, and that a morning-after mood is developing. The outrages that have been perpetrated in the name of national security are being exposed. Congressional investigations, not into belief and association, but into the functioning of the measures and practices that have produced these outrages are taking place. The most sensitive are filled with shame and remorse at the follies that have been committed, and there is a fairly widespread determination to put a halt to them and make amends.

The Courts are playing a part in this national soul-searching. The decisions in *Quinn, Emspak, Lattimore, Schachtman, Nathan, Lamont, Sheiner* and others show a determination to restore constitutional rights and privileges to their former vigor. But so long as the obnoxious measures remain unrepealed and the practices unrepudiated there is the danger that their sponsors may resort and revert to them. This case presents this Court with the opportunity of eliminating one of the most obnoxious.

No western democracy has outlawed the Communist Party, though in some of them it polls upwards of twenty per cent of the national vote. The whole world is watching to see whether our recovery from the past decade's follies is genuine and lasting or whether the most powerful of the democracies is still so unsure of itself that it feels compelled to turn on its finest heritage and suppress a group whom the New York Times as long ago as August 22, 1950 called a "puny band". For, as the Chief Justice said at the American Bar Association Convention on August 21, 1955:

"But we now live in a different kind of world, an ideological world which disagrees violently on the proper relationship between the individual and the state, and in which there is a constant struggle for the minds and hearts of people.

We, and other free countries, are endeavoring to demonstrate that freedom and dignity for all constitute the only sound basis for world peace.

In such a gigantic struggle, where the eyes of a critical world are constantly upon everyone, the power of example is far more forceful than that of precept.

If the world is made to see that the provisions of our Constitution guaranteeing human rights are living things, enjoyed by all Americans, and enforceable in our courts everywhere, it will do much to turn the tide in our favor and therefore toward peace." (New York Times, Aug. 22, 1955.)

To the limits of its resources the National Lawyers Guild, which has itself been made to feel the lash of official disapproval, has in the course of the years defended the constitutional and civil liberties of a variety of people. In doing so the Guild has always believed that it was defending the Constitution, the Bill of Rights and our traditional freedom. To us, freedom is stripped of meaning if those whose views and hopes differ from ours are not allowed to urge their own. The right to think and speak freely is not only a precious good in itself, but has great social utility. Even ideas and projects which are ultimately proved false and wrong can be useful goads to true and right action. Mr. Justice Douglas' aphorism reaches the very heart of this case:

"We must be willing to meet an idea at the level of argument and counter argument, not at the police level of suppression." ("The Spoken Word", Columbia University Radio Program, as reported in the New York Times, October 24, 1954.)

With deepest sincerity we suggest that this Court can do much to restore freedom at home and our moral prestige and standing abroad by reversing the judgment below.

Respectfully submitted,

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1955

No. 48

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,

*Petitioner;*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

## BRIEF FOR AMERICAN CIVIL LIBERTIES UNION, *AMICUS CURIAE*

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## BRIEF FOR AMERICAN CIVIL LIBERTIES UNION, *AMICUS CURIAE*

### Interest of Amicus

The American Civil Liberties Union, appearing herein with the consent of both parties filed with the Clerk of this Court, is a nationwide nonpartisan organization devoted solely to the protection and advancement of the Constitutional rights fundamental to the democratic way of life. It has no other program, either political, economic, social, or philosophical.

Amicus' primary concern with the instant case is that this Court's validation of the order here involved would cause a contraction in freedom to exchange political opinions in America, particularly on international issues, and a loss in the cognate freedom to associate for the purpose of political expression. The instant order and statute not only would establish a precedent lessening the protection of the First Amendment guarantee for all Americans, but would, here and now, spread a restraint far beyond petitioner and its members, over the rights of expression and association of Americans generally.

The case now before this Court has, to amicus, an enhanced importance because it believes there has been a widespread disregard of First Amendment principles in Governmental practices in the past few years, which has for one reason or another escaped judicial scrutiny. Judicial guidance back to First Amendment principles by invalidation of the instant order would be most opportune and salutary; it would help revive the traditions and patterns of free thought, free expression, and free association which in day by day practice are being transformed and corrupted from their constitutionally-intended design.

Amicus recognizes that the Communist Party, petitioner herein, has a dual nature, engaging publicly in the forms of expression and association usual to political parties and organizations, but also engaging covertly in anti-democratic methods in aid of the aims of Soviet Russia, to the extent even, it appears, of securing the commission of espionage against the United States. Amicus, believing the Government must take vigorous measures against the latter type of activities, is of course concerned solely with protection of the rights of petitioner in the first role, because of the effect of restraints in this area on principles and practices affecting freedom of expression and association for all Americans.

Amicus is also fully aware that private groups and individuals may, in their exercise of their freedom of ex-

pression and association, find it advisable privately to adopt restrictions against petitioner and its members. Indeed, amicus has since 1940 barred from all positions in its organization persons who are members or accept the discipline of the Communist Party. However, amicus emphasizes, particularly in connection with the instant case, that preservation of a distinction between the Government's sphere and the individual's is one of the essential points of difference between democracy and totalitarianism. What we are here seeking to maintain is the right of the individual to come to his own independent determinations in the field of opinion and political association, free from Government direction and control.

## Statement of the Case

The facts, proceedings, and statutes here involved are set forth in detail in the briefs of the parties. Here they will be briefly summarized so far as relevant to the instant argument.

### The Statute

The Subversive Activities Control Act of 1950 [1] provides for the establishment of the Subversive Activities Control Board (hereinafter called SACB) with the duty of determining, upon petition of the Attorney General of the United States, whether an organization is a "Communist-action organization" as defined in the Act (Section 13). A "Communist-action organization" is defined as "any organization in the United States * * * which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement as referred to in section 2 of this title." (Section 3(3)(a).)

---

[1] 64 Stat. 987, 50 U. S. C. 781 ff., hereinafter termed The Act.

The "world Communist movement", on which the above definition hinges, is described at length in section 2. In its most important passages section 2 states:

> (1) There exists a world Communist movement which, in its origins, its development, and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in the countries throughout the world through the medium of a world-wide Communist organization.
>
> (2) The establishment of a totalitarian dictatorship in any country results in the suppression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and results in the maintenance of control over the people through fear, terrorism, and brutality
>
> • • •
>
> (5) The Communist dictatorship of such foreign country, in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment of, and utilizes, in various countries, action organizations which are not free and independent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.
>
> (6) The Communist action organizations so established and utilized in various countries, acting under such control, direction, and discipline, endeavor to carry out the objective of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most power-

ful existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a political party which operates as an agency by which people govern themselves * * *.

(9) In the United States those individuals who knowingly and willfully participate in the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement * * *.

(11) The agents of communism have devised clever and ruthless espionage and sabotage tactics which are carried out in many instances in form or manner successfully evasive of existing law.

"In determining whether any organization is a 'Communist-action organization'," as defined in Section 13, with reference back to Section 2, the Board is directed to "take into consideration" among other things, and did in the instant case place major emphasis on, "the extent to which its views and policies do not deviate from those of such foreign government (Russia)" (Section 13(e)(2)).

An organization found to be a "Communist-action organization" by SACB must register, in registers "kept and maintained in such manner as to be open for public inspection" (Section 9(b)), the names and addresses of all officers and members during the preceding year, the sources of all moneys received and the purposes for which expended, and a list of printing presses and similar machines in which the organization has an interest (Section 7).

Further, the Act provides that any publication disseminated by the organization through the mails or any instru-

mentality of interstate or foreign commerce, must bear on its wrapper as well as its text the notation "Disseminated by _____, a Communist organization", and all broadcasts are to be preceded by the announcement: "The following program is sponsored by _____, a Communist organization", with the name of the organization in place of the blank (Section 10).

The Act also has a provision on tax deductions and exemptions for an organization found to be a "Communist-action organization" (Section 11); and it imposes specific disabilities on its members with respect to employment in the Government or defense facilities (Section 5); passports (Section 6); and if they are aliens, exclusion, deportation, naturalization and denaturalization (Sections 22, 25).

**Proceedings**

Upon the Attorney General's filing of a petition with the SACB on September 23, 1950 (R. 143), a SACB panel commenced hearings on April 23, 1951 to determine whether the Communist Party of the United States was a "Communist-action organization" (R. 1). On April 20, 1953 SACB issued its order requiring petitioner to register as a "Communist-action organization", accompanied by its findings and opinion, as required by Section 13(g) of the Act (R. 138, 1). Pursuant to Section 14 of the Act, the Communist Party petitioned the United States Court of Appeals for the District of Columbia to set aside the SACB order (R. 2078). On December 23, 1954 that Court entered its opinion and judgment approving the SACB order against petitioner (R. 2078); and this Court, pursuant to Section 14(a) of the Act and 28 U. S. Code 2154, granted the petitioner's petition for a writ of certiorari to review that judgment and opinion.

## Question to Be Argued

Because amicus believes that the most far-reaching effects from the civil liberties standpoint, of validation of the instant order would be experienced in the First Amendment area of freedom of thought, expression, and association, this brief will be devoted exclusively to the argument that the registration order against petitioner, and the provision of the Act for registration of "Communist-action organizations" as here interpreted, violate the First Amendment to the Constitution.

## Summary of Argument

A. While force and violence has been found to be the covert and ultimate pattern of the Communist Party, it must be borne in mind that the Party's contact with the public is as a political organization expressing non-revolutionary and non-violent opinions on the social and political issues of the day.

The registration requirement now before the Court is unprecedented in purpose and effect relative to previous legislation dealing with the Communist Party, which had restrained either harmful acts or advocacy of forceful overthrow of the government. In contrast, as the legislative history of the instant statute unmistakably shows, the registration requirement is primarily intended to affect petitioner and its members in their public political functioning, restricting them in their expression of the non-revolutionary opinions on everyday political issues which they customarily address to the public, and in their associations for the purpose of such expression.

The Government's public stigmatization, through the registration order, of petitioner and its members as traitor-

ous, obviously would deter and discourage people outside the Communist Party from giving consideration or even a hearing to their views notwithstanding the non-violent character of the opinions disseminated to the public. Thus, the registration order diminishes a crucial component of the First Amendment right to expression: the right to address listeners, so far as they are willing, without Government control or interference. The governmental stigmatization would also affect the First Amendment rights of petitioner, its members, and the public generally, by discouraging any association in or with the Communist Party, and thus also of expression through it; and again, the impact would be primarily in the area of association for the purpose of expressing non-revolutionary, political opinions. For the people influenced by the Government stamp of treason on the organization and its members would tend to be those who might, without this Governmental intervention, be interested in the peacable political opinions expressed by the Party and its members; persons in sympathy with violent overthrow of the Government or overtly pro-Soviet aims would hardly be influenced against the Party or its members by the "Communist-action" designation.

B. The decisions of this Court realistically recognize that Governmental imposition of a stigma is an exertion of Governmental force and coercion, and that such an exercise of Government power must meet the tests of the First Amendment. The fact that the opprobrious designation may be true does not make it any the less a Governmental restraint within the purview of the First Amendment.

C. The Government's burdening and restricting the freedom to associate and to express opinions, though the opinions do not in themselves create a danger, is contrary to fundamental First Amendment principle. This Court emphasized in *DeJonge* v. *Oregon*, 299 U. S. 353, that freedom of expression depends for its preservation on the principle that the Government has power to control expression only

if its content is outside the bounds of speech protected by the Constitution. The salient consideration in Governmental restriction of expression is the content, not the source. The rationale of the registration requirement here at issue is in direct contradiction to the *DeJonge* precept, for it is intended to and does diminish the right of expression and association of a Communist regardless of his subject, and in particular negates his freedom of expression through discouraging consideration or even a hearing of any of his opinions. This subversion of the *DeJonge* doctrine has a large significance because it means a rejection of our basic Constitutional tenet that truth will be sifted from error by a free debate of ideas. Instead of confidence in the free exchange of ideas as the way to truth, this Act assumes that exposure to error is likely to be fatal to the discovery of truth and that the American public cannot, without Government identification of the false prophets, determine whether ideas are false or true.

D. The provisions of section 10 of the Act for the labeling of petitioner's publications and their wrappers with a label reflecting the SACB findings as to its opprobrious nature, and for a similar announcement prior to any broadcast by petitioner, further effectuate the purpose of attaching a public stigma to petitioner's expressions of nonrevolutionary opinion on everyday political topics; it is these topics with which its publications and broadcasts deal. The label and announcement thus imposed by governmental edict, are intended to and would cause petitioner's literature and broadcasts to be shunned, on the basis of their source and regardless of their content, and thus contrary to First Amendment principle.

E. Besides impinging on First Amendment rights by imposition of a public stigma that particularly affects peaceable political expression and association, the registration order also restrains freedom of expression by reason of the basis on which it was made. For "one of the chief items

of evidence in the case," according to the Court below (R. 2148), was the evidence of petitioner's expression of non-violent non-revolutionary opinions on international issues that were similar to opinions expressed by Soviet Russia. The source of the similarity of views was held irrelevant, or even whether the petitioner's views were adopted before or after adoption of a similar view by Russia.

Imposition of the stigma and penalties of the Act in large part on the basis of a mere coincidence of views on current political questions with those of Soviet Russia, would clearly tend to influence all organizations in this country to limit their expression of views that do or might coincide with Russia's. Furthermore, independent, individual expression on current international questions would be similarly restrained, for, as a result of this order and the definition of membership, expression of views akin to those of Russia would subject an individual to the risk of being held a member of petitioner. Many of these views are not uniquely the product of Communism, and might be regarded as meritorious on non-Communist premises. Thus, by indicating that views coinciding with Russia's are forbidden territory, this order tends to seriously impede the free expression and free scrutiny of ideas by non-Communists with respect to crucial international issues.

F. In its effect on freedom of political expression, the instant registration requirement is markedly dissimilar from all previous registration statutes. Thus, the foreign agent's registration statute applies to representatives of friendly and esteemed governments no less than the hostile or disfavored, and the lobbyists' registration is required of the most respected groups along with the less reputable. Any stigma attaching to the registrant would arise from the circumstances, not from deliberate Governmental selection and designation. And any reflection attaching to a registrant under those acts could hardly compare with the odium arising from the instant order, for the very reason that those registration systems did not include a procedure

for findings by which the Government would deliberately set about creating a stigma. The purpose and effect of registration as a "Communist-action organization" or its member, and thus as an organization or person treacherously destroying our government, is virtually to close the marketplace of opinion to expressions by the organization and its members; on the other hand, the effect of registration as a lobbyist or foreign agent is, in general, to leave unimpaired the communication of their opinions, and merely circulate in addition information as to the source of the opinions to aid in their evaluation.

G. The purported justification for the restraints imposed by the registration requirement on non-revolutionary political expression and association appears to be that through such peaceful expression and association petitioner may lead people to engage in subversive acts of violence against the Government, sabotage, or espionage. Thus, this measure does not restrain incitement to violence, nor is it even advocacy of violence that is being restrained. Rather, it cuts off expression and association that merely *may* lead to endorsement of violence which in turn *may* lead to action—an area of expression so far back in the continuity leading to the possibility of violence that it has heretofore been given absolute protection. This Act takes the unprecedented position that the total right to political expression and association can be controlled and crippled merely because one phase of a persons's or organization's activity is found to be dangerous.

Such an unprecedented reaching-back into the area of peaceable expression and association would be permissible only if the Goverment could show a danger of violence, espionage or sabotage so great and threatening that ordinary measures could not be trusted and usual respect for First Amendment rights could not be accorded. No such threat has been shown; nor has there been any demonstration that narrower and more direct means, operating nearer the point of danger are inadequate.

The lower court's view that the order might be justified as a means of averting the danger of foreign control or foreign interference with our governmental processes, entirely ignores the extent of petitioner's political strength and influence, which is so insubstantial as to make this danger chimerical.

H. The constitutional infirmity of the registration order under the First Amendment inheres in the statutory provision under which the order was issued, and renders the provision for the registration of "Communist-action organizations" and all the statutory provisions dependent thereon invalid.

## ARGUMENT

**The registration order against petitioner, and the statutory provision for registration as here interpreted, violate the First Amendment to the Constitution.**

**A. The purpose and effect of the registration order is to impose a restraint on the First Amendment rights of petitioner and its members to engage in peaceful expression of non-revolutionary opinions and in association for the purpose of such expression.**

1. The Peaceful Non-violent Phase of Petitioner's Activity.

To understand the purpose and effect of the registration provision, it is necessary to have in mind one of the basic facts Congress had in contemplation in enacting it: that the Communist Party's contact with the public is as a political organization expressing non-revolutionary and non-violent opinions on the issues of the day. While force and violence has been judicially found to be its covert and ultimate pattern, this aspect of its program does not enter into the views it presents to the public when it supports candidates for election, takes a position on legislation, holds public meetings, circulates petitions or engages in other of its propaganda activities. Indeed, the actual extent to which a belief in overthrow of the government by force and violence has taken hold even in the convictions of the rank-and-file of the membership has not been established by the Report of the Subversive Activities Control Board here in issue, or otherwise. Cf. *Galvan* v. *Press*, 347 U. S. 522, 526-528.

That the Party acts in its public appearances "as a political organization" is a matter of common knowledge, recognized in the decisions of this Court (*American Communications Ass'n* v. *Douds*, 339 U. S. 382, 404). As Mr. Justice Jackson said in a more detailed analysis: "(T)hose Communist Party activities visible to the public closely re-

semble those of any other party * * *. There are, however, contradictions between what meets the eye and what is covertly done * * *" (*ibid*, at p. 423; Jackson, J. concurring and dissenting, each in part).[2]

Regardless of what is being covertly done, it appears that the last years in which the Communist Party in this country made any open or direct declaration relative to force, violence, or overthrow of the government was 1934 or 1935 (Court of Appeals Opinion, R. 2140-2141). Instead, its public expressions relate to the various social and political issues of the day, such as labor relations, race discrimination, and most notably and most emphasized by the Court below, international affairs, such as relations with China, war in Korea, or control of atomic weapons (R. 2145-2146; see SACB Report, R. 82-84).

2. Purpose and Effect of Registration in Relation to First Amendment Rights.

It is clear from the Congressional reports and debates on this Act, and we do not believe it can be controverted, that the primary purpose of the registration provision was to curtail and restrict the effectiveness of petitioner and its members when they seek to express themselves on these everyday non-revolutionary political issues, and attempt to associate for the purpose of such expression. No previous legislation had been so designed; previously only harmful acts or advocacy of forceful overthrow of the government had been restrained. See *Douds*, 339 U. S. at p. 404; and *Dennis* v. *United States*, 341 U. S. 494, 502, where

[2] The Party's public role as an organ for the expression of non-violent political opinion has been recognized over a period of years. See *Schneiderman* v. *United States*, 320 U. S. 118, 157; *Ex parte Fierstein*, 41 F. 2d 53 (C. A. 9th, 1930); *Strecker* v. *Kessler*, 95 F. 2d 976 (C. A. 5th, 1938), aff'd on other grounds, 307 U. S. 22; Ward, Communist Party and The Ballot, 1 (1941) Bill of Rights Review (publication of the American Bar Association), 286; Note, 52 (1942) Yale Law Journal 108, 128. See SACB Report as to petitioner's role as a "domestic political party," R. 132.

this Court pointed out that in the legislation there in issue "Congress did not intend to eradicate the free discussion of political theories, to destroy the traditional rights of Americans to discuss and evaluate ideas without fear of governmental sanction".

(a) *Legislative History*

The Senate Report on the bill which became the instant Act pointed out: "The purpose of registration is— (a) to expose the Communist movement and protect the public against innocent and unwitting collaboration with it * * *",[3] and "The proposed bill represents * * * a registration statute calculated to effect disclosure of the identity and propaganda of individual Communists and Communist organizations."[4] Besides making clear that the registration requirement was designed primarily for its effect on the public and on Communist propaganda, the Report also makes clear that the propaganda the draftsman had in mind was those opinions on everyday political issues on which the Party customarily addressed the public. For the Report points out, in justification for the Act's purpose of exposure, that "the present line of the Party * * * is to avoid wherever possible the open advocacy of violence"[5] Illustrating the intended effect of registration on the public and its purpose of impeding the expression of non-revolutionary political opinion and peaceful political association by Communists, Senator Ferguson, who submitted the Senate Report, pointed out on the floor that genuine liberals should appreciate the registration provision because it

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[3] Senate Report No. 1358, 81st Cong., 2nd Sess., on S. 2311, p. 3. The other purpose of registration is stated as "(b) to expose, and protect the public against, certain acts which are declared unlawful." The Report then specifies the acts made unlawful by the statute, such as the communication of defense secrets.

[4] *Ibid*, p. 7.

[5] *Ibid*.

would help them prevent Communist infiltration of their organizations.[6]

(b) *Effect of Registration.*

That the major purpose of the registration provision is to impede peaceable association and exchange of opinion by and with Communists, is indeed evident from the nature of the requirement. Though section 2 of the Act speaks of secret acts of espionage and sabotage as characteristic of the world Communist movement, this Government's informing the public that the Communist Party is a "Communist-action organization" as defined in the Act, and of the identity of its officers, members, and contributors, is obviously not calculated to prevent these surreptitious criminal acts. Nor is such public exposure and opprobrious designation intended for the use of government officials in denying Communists employment or subjecting them to other restraints,[7] nor will it help the FBI in surveillance of those members or helpers who are engaged in covert and dangerous activity.

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[6] 96 Cong. Rec. 14535. See also Senator Ferguson's statement that the purpose of registration is "to protect the public at large against innocent collaboration with communism and against its treachery * * *. No longer can there be dupes"; and his repeated explanations that the purpose was disclosure to the public (*Ibid.* and 96 Cong. Rec. 14439-14440). See statement of Senator Mundt, another draftsman of the Act (see 96 Cong. Rec. 14575) and the Act "will alert Americans to the fact that Communist propaganda is spewed out to them from Communist sources" (96 Cong. Rec. 14598) and that the American people will be "alerted" to the danger from Communists by the Act itself, even before issuance of a SACB order: 96 Cong. Rec. 14497. See also statement of Senator Holland, one of the active proponents of the Act, as to the purpose of exposing the identity of Communists to the public: 96 Cong. Rec. 14491-14492.

[7] It is evident that the registration is in no way essential for the operation of the other sections of the Act; indeed, as petitioner has pointed out and as was pointed out in the Presidential veto, the limitations imposed on the Party with respect to tax exemption, and its members with respect to employment, etc., by the other sections of the Act, were already in effect before its passage.

The major effect of the registration device would be the intended effect: imposing a restraint on peaceable expression on everyday political topics by petitioner and its members, and on peaceable association for such expression. Indeed, stigmatization of petitioner as a "Communist-action organization" and of its members would tend to exclusively affect this area of expression and association. For persons in sympathy with violent overthrow of the government or overtly pro-Soviet aims would hardly be influenced against the Party or its members by the "Communist-action" designation; people who would be influenced by the Government stamp of treason on the organization and its members would tend to be those who would in its absence be attracted or influenced by the Communists' expressions of opinion on everyday political topics.

The rights of peaceable expression and association would suffer the impact of the Governmentally-imposed stigma from a number of directions. The petitioner's right to gain adherents for the expression of political opinions, and of those who are members to have likeminded persons join with them for such expression, would obviously be affected by the fact that the members as well as the organization would be subjected to the stigmatizing registration; and conversely, this penalty on membership would curtail and restrain the freedom of any persons to associate in the Communist Party and through it to express themselves on the numerous political issues with which the Party deals.[8] Again, the stigma affects the right of the Communist Party and its members to address the public on such political issues, by deterring and discouraging people from giving them an audience or responding to their views; and conversely it curtails the freedom of non-members to hear and

[8] Once it is established that the First Amendment rights of one of the parties before the Court are affected, it is appropriate for this Court to consider the full effect of the Act in appraising whether it it a reasonable limitation on First Amendment freedom. See, i.e., *Bridges* v. *California*, 314 U. S. 252, 268; *Schneider* v. *State*, 308 U. S. 147, 161.

consider petitioner's and its members' views, through fear of associating with or responding to Government-stigmatized persons and thus likewise themselves running the danger of Government disapprobation. The restraint bears down on a crucial aspect of First Amendment rights when it interferes with the public's willingness to hear and consider the views of petitioner and its members; for "the right of free speech is guaranteed every citizen that he may reach the minds of willing listeners."[9] Here the "channels of communication"[10] are blocked off by a weapon perhaps as effective as physical interference.

It may be granted that the registration order will to some extent affect the functioning of the Party and its members in all respects. However, considering that the effect of registration on everyday peaceful political expression and association is not incidental or accidental, but rather a major legislative purpose; that the direct and immediate and most pronounced impact of registration will be in that sphere; and the established doctrine that particularly in a measure affecting First Amendment rights its entire reach must be considered in determining its constitutionality,[11] — for all these reasons, the registration requirement must be tested for constitutionality as a measure affecting the rights of peaceful political expression and association.

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[9] *Kovacs* v. *Cooper*, 336 U. S. 79, 87.

[10] *Saia* v. *New York*, 334 U. S. 558, 560. In that the effect of the registration provision is to limit the audience for the views of petitioner and its members, the restraint is similar in operation to the more conventional type of restriction heretofore imposed on free expression. See, i.e., *Saia*, where the interference with the right of free speech took the form of limiting the audience through limiting the use of loudspeakers; *Niemotko* v. *Maryland*, 340 U. S. 268; *Kunz* v. *New York*, 340 U. S. 290: limiting the possibility of an audience by limiting the place of meeting.

[11] See cases cited supra note 8; and *Douds*, 339 U. S. at pp. 390, 393, 399-400.

### 3. Doctrinal Recognition that Stigma Imposed by Registration Order is Restraint of First Amendment Rights.

While the Court of Appeals was willing to assume the registration requirement imposed a restraint on First Amendment rights (R. 2088), it then failed to appreciate its true significance (R. 2109-2110). The registration provision here in issue is far from a mere requirement for information or an accounting. Rather, it is a deliberate and intentional use of what appears to be a new governmental weapon, new at least in the United States: Governmental imposition of a public stigma. And certainly the stigma provided by the Act—of involvement in treachery, violence, destruction of all liberty—is a most odious one, undeniably effective to accomplish the intended restraints on peacable expression and association.

This Court has already realistically recognized the legal injury the Government inflicts by imposing a stigma such as here in issue, for its effect is "to cripple the functioning" of the affected organization.[12] Governmental condemnation is a signal for public scorn and an implicit indication of Governmental approval of whatever penalties the public chooses to inflict through private power; and it carries with it a shadowy threat of other possible sanctions by the condemning and puissant Government. The fact that in stigmatizing, the Government causes the injury through a reaction to its act on the part of third persons—that is, through the public's response—does not lessen the Government's responsibility for the injury, or free it

[12] *Anti-Fascist Committee* v. *McGrath*, 341 U. S. 123, 139 (Opinion of Burton, J.); 159, 161 (Opinion of Frankfurter, J.); 186 (Opinion of Jackson, J.).

from the necessity for compliance with constitutional standards.[13]

Nor does the fact that the designation might be true make it any the less an interference with First Amendment rights. See this Court's opinion in *Rumely* v. *United States*, 345 U. S. 41, 44, 48, recognizing implicitly that an exposure by a Congressional committee, though truthful, affects First Amendment rights. The Court of Appeals' *Rumely* decision had spelled out the nature of the interference with First Amendment rights, pointing out that "to publicize or report to the Congress the names of purchasers" of Rumely's literature would have curtailed purchases, because the "realistic effect of public embarrassment is a powerful interference with the free expression of views." 197 F. 2d 166, 174 (C. A. D. C.)[14] The armband worn by government command in Hitler Germany was no less an injury because persons forced to wear it were in fact Jewish, and had theretofore been known as such. As this Court said in *Douds*:

> "Under some circumstances, indirect 'discouragements' undoubtedly have the same coercive effect upon the exercise of First Amendment rights as imprisonment, fines, injunctions or taxes. A requirement that adherents of particular religious faiths or political parties wear identifying armbands, for example, is obviously of this nature" (339 U. S. at p. 402).

It would seem a monstrous constitutional doctrine that the Government could impose a stigma, deliberately for the purpose of, and with the clear effect of, interfering with First Amendment rights, without compliance with the First

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[13] *Ibid*, at p. 141 and cases there cited (Opinion of Burton, J.) 175 (Opinion of Douglas, J.). Compare *Brown* v. *Board of Education*, 347 U. S. 494, where the state interference with Fourteenth Amendment rights was through segregation marking Negro children, to themselves and others, as inferior.

[14] See previous opinion to same effect, *Barsky* v. *United States*, 167 F. 2d 241 (C. A. D. C.), cert. den. 334 U. S. 843.

Amendment, and the decisions of this Court do not permit such a result.[15]

**B. The restraint imposed on peaceful expression and association by the registration order violates the First Amendment doctrine enunciated in this Court's *De Jonge* decision.**

The preceding discussion has shown that the First Amendment right to free association, so important to effectuate the right of expression on political issues,[16] and the right of expression itself, are curtailed and restrained by the Governmental stigmatization of petitioner and its members through the registration requirement. We have further shown that this restraint affects all exercises of the rights of expression and association by petitioner and its members and that it was intended to, and does, especially affect non-revolutionary expression on everyday political issues, and association for the purpose of such expression.

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[15] It is to be noted that a requirement to register in order to exercise First Amendment rights is, even without the imposition of a stigma, a prior restraint upon, and an interference with First Amendment rights. See *Thomas* v. *Collins*, 323 U. S. 516; compare *Schneider* v. *State*, 308 U. S. 147, 164; *Murdock* v. *Pennsylvania*, 319 U. S. 105, 122 (dissenting opinion); *Electric Bond and Share Co.* v. *S.E.C.*, 303 U. S. 419, 441; see also *United States* v. *Harriss*, 347 U. S. 612, 625-626. Though here the registration requirement was not explicitly imposed on the right to make a speech or distribute literature, it was imposed on an organization whose chief public function lay in this field, and for the purpose of affecting this function.

See pp. 33-34, *infra*, as to the complete inappositeness here of the *Harriss* holding that the registration provision there at issue, though affecting First Amendment rights, was constitutional.

[16] The right to join organizations is part of the right to assembly protected by the First Amendment. See *Douds*, at p. 400; see also *Garner* v. *Los Angeles Board*, 341 U. S. 716, 728 (Frankfurter, J. concurring in part). And the right to freedom of assembly is "cognate" to, and "inseparable" from the right to free expression. *De Jonge* v. *Oregon*, 299 U. S. 353, 364; *Thomas* v. *Collins*, 325 U. S. 516, 530-531.

For the Government to so burden the freedom to associate and express opinions, though the opinions do not in themselves create a danger, is a direct contradiction of the fundamental First Amendment principle expressed in *DeJonge* v. *Oregon*, 299 U. S. 353, 362:

> "The question, if the rights of free speech and peaceable assembly are to be preserved, is not as to the auspices under which the meeting is held but as to its purpose; not as to the relations of the speakers, but whether their utterances transcend the bounds of the freedom of speech which the Constitution protects." [17]

Thus, this Court's unanimous opinion by Chief Justice Hughes emphasized that the salient consideration in the exchange of opinion and in the Government's power to restrict it, is *what* is said, not who says it. Restraint of speech must be based on its content rather than its source, on the character of the idea, rather than the speaker. In direct contradiction, the rationale of the registration provision at bar is to diminish the right of expression and association of a Communist regardless of his subject, and in particular to negate his freedom of expression through discouraging consideration or even a hearing of his opinions.

This subversion of the *DeJonge* doctrine has large significance, because it means a rejection of our basic tenet that truth can be sifted from error by the "power of reason as applied through public discussion." [18] "(T)he basis

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[17] The holding was that DeJonge could not constitutionally be held guilty of a crime merely because he assisted (through making a speech) at a meeting held under the auspices of the Communist Party. The question of whether criminal syndicalism had been advocated at the meeting had been ruled to be outside the issues of the case by the state courts. In speaking of the relevance of the "purpose" of the meeting, the Court was not referring to its possible hidden purpose, but to the content of the particular meeting: whether it involved the advocacy of syndicalism, or merely of peaceful political methods.

[18] *Whitney* v. *California*, 274 U. S. 357, 375, Brandeis, J. dissenting.

of the First Amendment is the hypothesis that speech can rebut speech, propaganda will answer propaganda, free debate of ideas will result in the wisest governmental policy."[19] This Act expresses no confidence in the free exchange and free scrutiny of ideas as the way to truth. On the contrary, the draftsmen here assumed that exposure to error is likely to be fatal to the discovery of truth; they assumed that the "power of reason" was not sufficient to determine the merit of ideas, and that the American public cannot, without Government identification of the false prophets, determine whether ideas are false or true. This Act assigns to the Government, not to the individual's power of reason, the function of protecting the people from being misled.

Recent experience has shown the prescience of this Court in emphasizing the indispensability of the *DeJonge* doctrine for the preservation of free exchange of opinion. Thus, the focus by Congressional investigating committees on the sole question of whether the person expressing an idea is or was a Communist, has lead to abandonment of evaluation of the merit of ideas and instead to considering only whether they are evidence of Communist sympathy.[20] There is a consequent fear, recognized even by our more conservative observers,[21] to express or respond to any idea, regard-

[19] *Dennis*, 341 U. S. at p. 503.

[20] See, i.e., Senate Report No. 2050, entitled Report on Institute of Pacific Relations, submitted by Committee on the Judiciary (82nd Cong., 2nd Sess.) esp. pp. 192-217, dealing with Owen Lattimore; Hearings of House Committee on Un-American Activities, July 21, 1953, on Bishop G. Bromley Oxnam, printed in U. S. News and World Report for August 7, 1953, pp. 40-48, 100-142.

[21] See letter from former United States diplomatic officials, stating that fear of ideas "is playing an important part in American life," N. Y. Times, Jan. 17, 1954, sec. IV, p. 8E, col. 7; and see Secretary of State Dulles' reference to the authors of the letter as "a distinguished group of former diplomats whom I highly respect.", N. Y. Times, Jan. 20, 1954, p. 9, col. 1; and see Oakes, *This the Real, the Lasting Damage*, New York Times Magazine, March 7, 1954, p. 9.

less of its merits, that may be regarded as evidence of Communist sympathy. Only "100% Americanism" seems safe. For, when the Government assumes the new role of telling the citizenry whom to distrust, as it does by the instant registration provision, it undermines the citizen's self-reliance and intellectual courage to determine whom he should trust as well. As in the establishment of any system of censorship, there is a "pervasive" effect upon the whole institution of free thought, and independent individual determination of whom and what is to be credited or discredited.[22]

Thus, as indicated in *DeJonge*, the Government can, without ostensibly condemning one set of ideas and approving another, accomplish this same constitutionally forbidden result by merely condemning and stigmatizing the proponents of a disapproved viewpoint. By restraining expression on the basis of *who* rather than *what*, the Government extends its power to repress past its Constitutionally permissible scope, and can effectually restrain the expression of views other than those that "transcend" Constitutional limits (see *DeJonge* quotation, *supra*).

Certainly, knowledge of whether a person is a Communist, or of his various motivations, biases, and preconceptions may be valuable in appraising the validity of his ideas, and the benefit of associating with him. But in a democracy, the function of obtaining or using this knowl-

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[22] See *Thornhill* v. *Alabama*, 310 U. S. 88, 97-98, as to the "pervasive * * * restraint on the freedom of discussion imposed by the threat of censorship."

The pervasive effect of the registration requirement was indicated by Seth W. Richardson, first chairman of the SACB. In praise of the Act, he said that as a result of its passage and even before the Board issued any orders, he thought "individuals will have a tendency to shy away from joining organizations that *might* be subversive for fear of having to own up to such affiliations by signing the Justice Department register." U. S. News and World Report for November 3, 1950, p. 33 (italics added).

edge cannot be transferred from the hands of the citizen to the Government. As Mr. Justice Jackson said in a succinct statement of democratic faith: "It is not the function of our Government to keep the citizen from falling into error."[23] Absent circumstances of extraordinary danger, which we shall show do not here exist (*infra*, pp. 36-40), the citizen is to rely upon the exercise of his own reason and the exchange and clash of ideas in the marketplace, for his protection against the false and misleading. The Government cannot take on the function of directing him in the realm of ideas and associations; it cannot impede peacable expression and association on the basis of its source by imposition of a stigma, as was here attempted.

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Denial of tax exemption to the petitioner and of deductibility for income tax purposes of contributions to it; prohibition of Government or defense facility employment or the issuance of a passport for a member; and special provisions with respect to alien members, also come into play as a direct result of the registration order (§§ 11, 5, 6, 22-25; see Court of Appeals' Opinion, R. 2083, 2109). These provisions involve other constitutional doctrines and factual considerations in addition to those of concern in this brief. However, from the perspective of the First Amendment and as attachments to the registration requirement which has the primary purpose and effect of interfering with peaceful political expression and association by and through the Communist Party (*supra*, pp. 14-18), these provisions must be viewed as increasing the interference with First Amendment rights effected through the stigma of registration as a "Communist-action organization". These ancillary provisions help cripple the organization in all its operations, including and in particular its public peaceful political phase; set up powerful deterrents to membership

[23] *Douds*, 339 U. S. at p. 942 (Jackson, J., concurring and dissenting, each in part).

for any purpose, including the purpose of peaceful political expression; and discourage any contact with the organization or its views, including those on everyday political questions, because the drastic penalties on membership would cause people to avoid any possibility of suspicion of membership.

**C. The requirement of Section 10 for the labeling of publications and broadcasts also restrains freedom of expression in a manner contrary to the *DeJonge* doctrine.**

Under § 10 of the Act a direct and immediate consequence of the registration order is that petitioner must label all publications and their wrappers as well as precede all radio or television broadcasts with the notice that they are "disseminated" or "sponsored by ....., a Communist organization." Like the registration requirement itself, the purpose and effect of this provision is to restrict the petitioner's right, and the right of petitioner's members through the organization, to address the public on the political issues which, as we have pointed out, are the customary subjects of its public expressions. Again, as by the registration requirement itself, the Government is interfering with the right of petitioner and its members to an audience on non-revolutionary political topics through the technique of attaching a public stigma to their expressions of opinion. For, the label and announcement required by section 10 reflect and epitomize the findings of the SACB as to the opprobrious character of the organization and its connection with the world Communist movement, described in highly condemnatory terms in section 2 of the Act.

To reinforce the purpose that the literature and broadcasts not only should be discredited but should be completely shunned, the *wrapper* of the publication is to bear the opprobrious label and the announcement is to *precede* the broadcast. This device would tend to produce returns

of the mail unopened, in an attempt—perhaps futile—to avoid the contagion of the stigma.[24]

The labeling and announcement requirement is a graphic effectuation of the rationale of the registration provision itself: that the Government should avert and prevent the people's exposure, or at the very least response, to what the Government has determined is likely to be misleading in the realm of political ideas. Section 10 is again a flagrant contradiction of the *DeJonge* principle that the right to express opinions freely—necessarily including the right to wage an independent fight in the marketplace for an audience—can be restricted, so far as the Government is concerned, only on the basis of what is said and not on the basis of who says it. We have already discussed the general importance of the *DeJonge* principle to the preservation of free exchange and free scrutiny of ideas. And it is apparent that the particular effect of the stigmatizing device provided in Section 10 would be that the opinions expressed in labeled literature or broadcasts would take on the stigma of the organization, with the result that non-Communists would not feel free to express those or similar opinions, nor would these Governmentally stigmatized ideas be evaluated on their merits by the public, regardless of who expressed them. When it is borne in mind that many of the views expressed by the Communist Party on current issues could honestly commend themselves to non-Communists on entirely different basic premises from those motivating the Communists, it is apparent that the restraint resulting from Section 10 on the freedom of non-Communists to express and consider ideas would cover broad areas of political thought.

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[24] Thus, the labeling requirement not only operates as, but resembles in form, a prior restraint on expression. Cf. *Donaldson* v. *Read*, 333 U. S. 278.

It is apparent that the instant requirement of an opprobrious identification, deliberately required *before* the communication of opinion, is different in its effect on free expression from a general system for simple factual identification of authors or sponsors. See further comparison of instant measure with other types of registration and identification measures, *infra*, pp. 31-33.

**D. The registration order, with the resulting stigma, deprivations, and penalties, was based largely on the expression of non-revolutionary political opinions, and restrains the expression of such opinions.**

"One of the chief items of evidence in the case", according to the Court of Appeals (R. 2148), establishing that petitioner is a "Communist-action organization", is the evidence on which the Board relied under § 13(e)(2) respecting "the extent to which its [petitioner's] views and policies do not deviate from those of such foreign government [the Soviet Union] * * *." This evidence, which was according to the Court's own statement a major cause for the imposition of the stigma and penalties of the Act, consisted of the Party's non-revolutionary political opinions on the issues of the day. Thus, the Court catalogued as important subjects on which the Party had expressed its views "the Truman doctrine; the Marshall Plan, ECA, the North Atlantic Pact, control and inspection of atomic energy, the seating of Yugoslavia in the United Nations Security Council, the representation of China in the United Nations, the peace treaty with Japan, the William Oatis case, and the Korean War" (R. 2145). The Court also cited the Party's changing views as to World War II and the post-war Eastern European governments; "the blockade of Berlin in 1948"; and "of current significance" its views on Korea including the view "that the Syngman Rhee government is a reactionary 'puppet regime'" (R. 2146).

Not only were political viewpoints thus treated as a basis for imposition of penalties, but, of great significance to free expression, the Board and in turn the Court held that under § 13 they were to consider, and in fact did consider as a "chief" item of evidence, *mere coincidence* of petitioner's views on these political issues with those of the Soviet Union. It was not necessary, they held, to consider the origin of each position, with respect to who proposed it or how it was adopted; indeed, it was not deemed relevant under the statute even whether the cited views of

the Party were adopted before or after their endorsement by the Soviet Union (SACB Report, R. 81-86;[25] Court's Opinion, R. 2146). Finally, the Court held any degree of coincidence of views with the Soviet Union can be given weight under the statute (R. 2122).

The fact that *any* degree of coincidence of views with Russia's can be treated as significant is apparent on the face of the statute; but this wide-open criterion assumes major importance from the standpoint of free expression because of the interpretation herein that *mere coincidence* of views with the Soviet Union is the factor to which the statute refers. Even if this were a statute requiring a showing that each coincidence of view originated in Russian policy, expression of coinciding views by non-Communists as well as Communists would be restrained; because of the natural apprehension that the subtle question of motive might be mistakenly appraised.[26] But the instant Act as here interpreted and applied is much more blatant; there are no subtleties here. Coincidence of view, without any regard to origin or even chronology, and even though incomplete and partial, can be a major factor in evoking the stigma and penalties of the Act.

Not only is mere coincidence of views with Russia's treated as "one of the chief items of evidence" in upholding the instant order. Further, the Party's non-revolutionary views on international questions are highlighted in the total picture of petitioner's current program. For this aspect of its activities was established by direct evidence, rather than depending in any part on inference from the past or from general concepts and relations, and it relates to immediate rather than ultimate aims (see Court of Appeals' Opinion, indicating the degree of inference involved in

[25] The SACB Report in some instances mentions that Russia's view on an issue was adopted prior to the Party's similar view, but on many issues gives no consideration to this question.

[26] *Douds*, 339 U. S. at p. 437 (Jackson, J., concurring and dissenting, each in part).

other items of proof, and the ultimate character of other goals, R. 2138-2143, 2147, 2148-2152). Thus, in any organization's practical consideration of how to conduct its current operations in order to avert the stigma and penalties of the Act, it would necessarily regard avoidance of expression of views similar to Russia's as highly important.

Besides limiting freedom of expression by organizations, and by individuals through their organizations, equally or more the instant order also discourages independent individual expression of views similar to those that are or may be voiced by Russia, no matter how honestly held. For under the Act a person's support of any of petitioner's viewpoints is evidence of his membership in petitioner;[27] and with the emphasis in the instant case on petitioner's views on international questions, and on the mere coincidence thereof with Russia's, the potential importance of this type of opinion in the determination of membership is augmented. Thus, to avoid the serious deprivations and penalties the Act imposes on members, individuals would be under a constraint to forego expression of views similar to petitioner's or Russia's on all international issues.

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[27] Section 5 of the Communist Control Act of 1954 (68 Stat. 775, 50 U. S. C. 481) provides in part: "In determining membership or participation in the Communist Party * * * the jury * * * shall consider evidence * * * as to whether the accused person * * * (11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to * * * anyone * * * in behalf of the objectives of the organization; (12) Has indicated by word * * * writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization; (13) Has in any other way participated in the * * * objectives or purposes of the organization * * *."

These criteria of membership are applicable in prosecutions under § 15(c) of the instant Act, which provides for a maximum of a $10,000 fine and imprisonment for not more than 5 years for individuals violating §§ 5, 6, or 10. No administrative finding or order that an individual is a member is prerequisite as a preliminary to such a prosecution. See Court of Appeals' discussion of procedure for imposition of sanctions and penalties on members, R. 2106-2107, particularly note 48.

The instant Act, as here interpreted, is the first legislative enactment in which coincidence of views on international questions with Russia's has been made a basis for stigma, penalty, and deprivation. Many of these views—on Korea, atomic control, war—are not uniquely the product of Communism, and might be regarded as meritorious on non-Communist premises. Thus, it is impossible to treat views coinciding with Russia's as forbidden territory, and still maintain for non-Communists a free examination of ideas. The restraint extended by this Act therefore impedes the ascertainment of truth on the crucial international issues of our time. As Zechariah Chafee pointed out, these crucial issues "cannot be wisely decided unless individuals and opinion-forming organizations on one side are left as free to present their views as those on the other side." [28]

In operating as a restraint on the expression of views that are similar to those that are or might be expressed by the Soviet Union, the instant order obliterates "the First Amendment's command that the opportunities for free public discussion be maintained." *Douds*, at p. 400.

**E. The instant registration requirement is, from the standpoint of free expression, wholly distinguishable from registration devices heretofore used.**

The Court of Appeals, paying scant attention to the unique characteristics of the instant registration requirement, noted that registration was also required of "lobbyists * and foreign agents,** and even of doctors, lawyers, restaurants and barbers, who are required to register and obtain licenses" (R. 2109-2110). While the latter occupa-

[28] Chafee, *The Free and the Brave* (published by American Civil Liberties Union, 1950), p. 33.

* "60 Stat. 841 (1946), 2 U. S. C. A. § 267. See United States v. Harriss, 347 U. S. 612, 98 L. Ed. ___, 74 S. Ct. 808 (1954)." (Footnote by the Court, numbered in opinion 55.)

** "52 Stat. 632 (1938), as amended, 22 U. S. C. A. § 612." (Footnote by the Court, numbered in opinion 56.)

tional registration and licensing requirements are wholly dissimilar in rationale and effect from the instant one, we recognize that the required registrations of lobbyists and foreign agents are to some degree analogous in that they too relate to the communication of opinion. Amicus submits, however, that those measures do not restrain free expression to any extent comparable with the instant registration; indeed, amicus has not opposed the statutes requiring registration of lobbyists and foreign agents.

The great distinction between all previous registration requirements and the instant one lies in the fact that under this Act the Government stamps particular groups and persons with such a mark of opprobrium, odium, and danger to the State, that opinion emanating from them would be universally despised and shunned. Under the lobbyists' and foreign agents' acts, on the other hand, representatives of the most reputable groups and most esteemed foreign powers must register along with those of the ill-reputed. It is true that if the disclosure required by these acts would identify the registrant in an unpopular role, he might refrain from his intended propaganda activities in order to avoid registration; or if he did register, the disclosure might greatly diminish the influence of his expressions of opinion on some of the public. But the stigma, if any, would arise from the circumstances, not from deliberate Governmental selection and designation. And the odium attaching to a registrant under those acts could hardly compare with that arising from the instant order, for the very reason that those registration systems did not include a procedure for findings by which the Government would deliberately set about creating a stigma. One need only compare the fear and complete rejection that would be likely to greet receipt in the mail of a publication displaying that it was "disseminated by the Communist Party, a Communist organization", with the response under ordinary circumstances to mail that merely showed it was sent by a person registered as an agent of a foreign government.

It is the governmentally-imposed stigma, not registration as such, which is the root of the violation of the First Amendment in the instant case. It is through the stigma, not through registration as such, that the instant registration requirement throws a restraint over freedom of expression and contradicts the *DeJonge* doctrine that there must be a free circulation of ideas regardless of source, so long as they do not transcend Constitutional limits. The effect of registration as a lobbyist or foreign agent is, in general, to leave the communication of their opinions unimpaired, and merely add a knowledge of the source of the opinions to aid in their evaluation. The instant act, however, stands for the proposition that the Government can, by fastening a severely maiming and ostracising stigma on a group of persons engaged in political propaganda, effectively close the market place of opinion to the expression of their views.

From the standpoint of the effect on free expression, it is also important that none of the previous registration requirements were imposed on the basis of, and thereby restrained, the expression of political viewpoints, which was a major basis of the instant order (supra, pp. 28-31).[29]

The lobbyist registration act is also significantly distinguishable from the instant one on the very basis on which this Court upheld it in *Harriss*. That Act, this Court held, was directed to a legitimate concern of Congressmen in their representative function: determination of whether appeals addressed to them reflect actual public sentiment or are artificially stimulated (347 U. S. at p. 625). Thus, the lobbyist registration is addressed to informing a limited group, Congressmen, in a special situation where it is consistent with the First Amendment for the Government to

[29] Thus, those who are required to register under the lobbying act are defined in specific and objective terms as those who "solicited, collected, or received" contributions, with a major purpose of influencing legislation, "through direct communication with members of Congress." *United States* v. *Harriss*, 347 U. S. 612, 623.

concern itself with the source of opinion rather than merely its content.[30]

The registrations required by such statutes as those administered by the Securities and Exchange Commission are again in a class apart, somewhat like the registration of restaurants and barbers cited by the Court of Appeals. Those disclosures relate to the sale of commodities; they do not affect trade in political ideas. Labeling under those statutes is analogous to that under the Pure Food and Drug Act, but the Government is here asserting the power to attach invidious labels in the field of political expression.

**F. The restraints imposed on First Amendment freedoms by the registration order are not constitutionally justified as a means of averting danger to the state.**

We have demonstrated the extensive restraint the registration order imposes on the expression of everyday non-revolutionary political opinions, and on association for the purpose of such expression through (1) the stigma the order spreads over all expression or association by the Communist Party and its members (supra, pp. 15-21); (2) the specific deprivations imposed on Party members as a consequence of the order, which increase the cost of expression through, or association with, the Party (supra, pp. 25-26); (3) the particular stigma imposed on the Party's broadcasts and publications, notwithstanding their non-violent political content (supra, pp. 26-28); and (4) issuance of the order in large part on the basis of the Party's expression of non-revolutionary political opinions similar to those expressed by Russia (supra, pp. 28-30). We have also demonstrated that the restraint imposed by the

[30] Neither this Court nor the Courts of Appeals had occasion to consider the constitutionality of the foreign agents' registration act. In *Viereck* v. *United States*, 318 U. S. 236, the agent had registered and the Court only considered what the statute intended the registration statement to cover. This Court held that the act only applied to propaganda the agent was shown to have put out directly on behalf of his foreign principal, rather than all the propaganda he disseminated.

registration requirement on the First Amendment rights of peaceful expression and association was deliberate and purposeful, and that its repercussions extend far beyond the petitioner, its members, and those who might want to become associated with petitioner. For, in addition to its effect on these groups, this unprecedented attack on expression and association, based on its source rather than its content, tends to change the whole perspective of the American people towards the free exchange of opinion.

It is apparent that the purported justification for this unprecedented restraint on peaceful expression and association requires close judicial scrutiny. To restrain innocent expression as part of an attack on culpable, has never been countenanced under the First Amendment; a ban on expression must be limited to the dangerous matter. See *Donaldson* v. *Read*, 333 U. S. 178.[31] Even outside the pivotal First Amendment area, the Government cannot restrain the innocent along with the dangerous, except in time of extreme national emergency when the peril is great and is so imminent that it is reasonable to think there is no feasible alternative method of averting it. See and compare *Hirabayashi* v. *United States*, 320 U. S. 81; *Korematsu* v. *United States*, 323 U. S. 214; and *Ex Parte Endo*, 323 U. S. 283.

Thus, we submit that the serious import of the instant order cannot be exaggerated. Its validation would create an entirely new precedent drastically diminishing the security of our Constitutional right to peaceful political expression and organization. If the total right could be suppressed merely because one phase of a person's or organi-

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[31] "Having concluded that the original order was broader than necessary to reach the fraud proved, the Postmaster General not only possessed the power but had the duty to reduce its scope to what was essential for that purpose." 333 U. S. at p. 184. See further exposition of this principle in *Sunshine Book Co.* v. *Summerfield*, 221 F. 2d 42 (C. A. D. C.), cert. den. 349 U. S. 921. See also *Winters* v. *New York*, 333 U. S. 507, 509, 512; *Saia* v. *New York*, 334 U. S. 558, 562, 564.

zation's activity was found to be dangerous, there would be an elastic, easily available, and generally applicable weapon for cutting off the political expression and association which is the most significant aspect of the First Amendment.[32] And besides its repugnance to First Amendment principles, this Act's treatment of petitioner and its members as evil for all purposes, strikes one as repugnant to the general philosophy we are trying to preserve. For, stamping any group of people as pariahs, hemming in their freedom in all their expressions and activities, violates the fundamental pattern of a government of toleration, of restricted rather than totalitarian power, that enacts only those restrictions necessary to deal with perceptible dangers, and otherwise respects the rights of all within its jurisdiction.

What is the danger which is alleged to warrant an Act and order so contradictory of our basic principles of Government?

1. Relation of order to danger of Government's overthrow, espionage or sabotage.

Section 2 of the Act, stating the "necessity for legislation," states the danger as the establishment of "a Communist totalitarian dictatorship in the countries throughout the world * * * by * * * the overthrow of existing governments" (§ 2(1), (6)). The legislative declaration conceives, correctly, of overthrow as the antithesis of peaceful persuasion, referring to the fact that the world Communist movement promotes the objective of overthrow "by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system * * *" (2(6)). Section 2 also refers to the danger of "clever and ruthless espionage and sabotage tactics" (2(11)). The

[32] Freedom of political expression and association is synonymous with our very form of government and is the most vital aspect of First Amendment freedom: *Winters* v. *New York*, 333 U. S. 507, 517, 518; *Stromberg* v. *California*, 283 U. S. 359, 369.

Court of Appeals, in upholding the Act and the order, conceived of the major justifying danger as an effort to overthrow the Government (R. 2121). What is the relation between these dangers and the restraint imposed by the registration provision which was intended to affect, and does primarily affect the right of expression and association for peaceful political purposes in and with the Communist Party and the rights of Communists to express themselves on ordinary social and political questions? How does the purported danger of overthrow, sabotage, or espionage necessitate the restraint of expression on issues unrelated to dictatorship, overthrow, sabotage or espionage? How is the petitioner's use of the normal "democratic processes" referred to approvingly in the Act, a danger?

It is apparent that the purported Congressional justification for restraining peaceful expression and association as a means of preventing overthrow, sabotage, and espionage, is the possibility that through such expression and association for peaceful political purposes the Party will lead people eventually to engage in these subversive acts. Thus, this measure does not restrain incitement to violence, nor is it even advocacy of violence that is being restrained. Rather, this Act restrains expression much further back on the continuity leading to the possibility of violence. It cuts off expression and association that merely *may* lead to endorsement of violence which in turn *may* lead to action, —an area of expression so far removed from action that it has heretofore been deemed entitled to absolute protection. See *Taylor* v. *Mississippi*, 319 U. S. 583, 589, 590; *Stromberg* v. *California*, 283 U. S. 359, 369. Thus, again, the basic rationale of this Act is revealed: its rejection of the value of individual reason and the play of opinion as salutary forces for distinguishing truth from error.[33] Yet it is our constitutional faith that by these forces people

[33] See, supra, pp. 22-23.

can, and for the most part will, protect themselves from being misled into disloyal concepts and activities.[34]

We submit that this unprecedented reaching back into the area of peaceful expression and association, interfering broadly and deeply with First Amendment rights would be permissible only if the Government could show a danger of violence, espionage, or sabotage so great and threatening that ordinary measures could not be trusted and usual respect for First Amendment rights could not be accorded. No such threat has been shown, nor has there been any demonstration that narrower and more direct means, operating nearer the point of danger, are inadequate.[35] Indeed, that more direct means, less injurious to First Amendment principles, are in use is known to this Court. See *Dennis* v. *United States*, 341 U. S. 494, and pp. 581-582 (Douglas J. dissenting). No need has been shown for cutting down peaceful expression and association for all, in order to meet the threat of violence from a few.

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[34] Even in the case of those who are attracted sufficiently by the Party's expression of peaceful political sentiments actually to become Party members, it is clear, not only in theory but in fact that there is no inevitability about their acceptance of disloyalty. It is common knowledge, supplied in the main by many witnesses before Congressional committees in recent years, that persons attracted by the peaceable objectives of the Communist Party frequently broke with it when an attempt was made to lead them to other Party aims. See i.e., testimony of Robert Gorham Davis, Daniel J. Boorstin, and Granville Hicks, Hearings before the House Committee on Un-American Activities (83rd Cong., 1st Sess.) [Communist Methods of Infiltration (Education)], pp. 5, 59, 107-108.

[35] Particularly when a prior restraint on expression is involved, "the state has a heavy burden to demonstrate" that it is justified by "exceptional" circumstances. And in any First Amendment case, it is only a "narrow exception to freedom of expression which a state may carve out to satisfy the adverse demands of other interests of society". *Burstyn* v. *Wilson*, 343 U. S. 495, 504. As to the Government's burden to demonstrate the justification for a measure restraining expression and as to the Constitutional requirement that the restraint must be narrowly drawn, see also *Kovacs* v. *Cooper*, 336 U. S. 77, 88; *Thomas* v. *Collins*, 323 U. S. 516, 530; *American Federation of Labor* v. *Swing*, 312 U. S. 321, 325; *Cantwell* v. *Connecticut*, 310 U. S. 296, 311; *Schneider* v. *State*, 308 U. S. 147, 161, 162; *United States* v. *Carolene Products Co.*, 304 U. S. 144, 152, n. 4.

This Court's decision in *Dennis*, cited by the Court of Appeals (R. 2089), does not support the validity of the instant provision and order. There the measure only applied to the advocacy of force and violence; not only was it more directly related to the purported danger, but, in consequence its effect on First Amendment freedoms was far less, nor did it contradict the fundamental First Amendment precept expounded in *DeJonge*. Still less is the *Douds* decision, also cited by the Court of Appeals (R. 2091), apposite. There again the measure was a relatively narrow one tailored to directly counter a specific danger of injurious acts.

Thus, assuming the dangers stated in § 2 of the Act exist,[36] and even assuming the voluminous findings of the Board are true, the registration requirement is not a rational and justifiable remedy for these dangers in the light of the First Amendment. The reams of paper that have been filled in making this order and the methodical procedure that has been maintained, are no substitute for appreciation and preservation of the principles of freedom.

2. Danger of Foreign Political Control of Our Government.

Aside from the danger of overthrow of the government, the Court of Appeals also seemed to find justification for the Act in the evil of foreign control or interference in our

[36] While we can assume, for the purposes of our argument, the validity of the findings of § 2, we would like to note our disagreement with the view of the Court below on the status of these findings. When this Court indicated in *Galvan* v. *Press* that the Congressional findings were valid because they were not "baseless", we submit it did not mean they were valid simply because based on "extensive investigation", as the Court below assumed. (See 347 U. S. 522, 529; opinion of Court below, R. 2132.) Rather we believe this Court meant they were not "baseless" in the sense that they had factual support. And it is to be noted that in *Galvan* this Court was applying the most minimal standard of judicial review, for it was there considering the validity of a classification of aliens for deportability, with respect to which Congress has an extraordinary measure of discretion. See *Galvan*, 347 U. S. at pp. 530-531.

government, regardless of the element of violence (R. 2085-2087). Certainly we would not quarrel with the Court's premise that foreign control of our political life is an evil with which Congress may deal. But we most emphatically quarrel with the Court's complete failure to consider how substantial a danger of "foreign control of our governmental affairs" (R. 2086) the petitioner presents.

In *Dennis*, this Court justified its disregard of the paucity of strength and influence of the Communist Party on the ground that an attempt at overthrow of the government is a danger regardless of the number involved or its certainty of failure, because of the damage the mere attempt could cause (341 U. S. at p. 509). Here, however, where the issue discussed by the Court of Appeals is the exercise of political control by the Party, the extent of its political strength and influence is obviously a most salient consideration.

Particularly in the light of the strong anti-Russian spirit apparent in this country in recent years, it is most difficult to suppose there is any danger petitioner will grow so large, or its views become so influential, that through it the Soviet Union can threaten to control or interfere with "our governmental affairs." And absent such a danger of control or interference, it is contrary to First Amendment fundamentals for this Government to attempt to prevent the expression of political opinion even though it may be formulated because of sympathy for a foreign power. A misleading or evil political influence in itself does not create a danger which is subject to Governmental suppression.

We submit that the now-popular viewpoint [37] that it is the Government's function to deal with any Communist-slanted influence on public opinion is contrary to the First Amendment. As long as the expression of pro-Communist

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[37] See, i.e., statements of Congressmen during hearings on Bishop Oxnam, cited *supra*, note 20, indicating that it was appropriate to investigate Communist influence among clergymen though it was recognized to be minimal.

or of any misleading opinion, is of such meager proportions that the free play of opinion can discount and counteract it, it must be left to the battle of the marketplace. It hardly needs our statement that in this principle is the barrier to the State-directed monolithic opinion of a totalitarian state.

**G. The statutory provision for registration of "Communist-action organizations" is unconstitutional for similar reasons to those invalidating the order against petitioner.**

The arguments we have herein made to show that the registration order issued against petitioner is unconstitutional under the First Amendment, apply either wholly or with slight modification to show the unconstitutionality of the registration provision itself. Our arguments as to the intentional restraint on peaceful expression and association through the imposition of a stigma; the intensification of the restraint by the other deprivations consequent on a registration order; the gravity of the interference with First Amendment rights from the standpoint of the *De-Jonge* doctrine; and the lack of justification for this restraint and curtailment of First Amendment rights, all go to the unconstitutionality of the statutory provision for registration, as well as the invalidity of the instant order. While conceivably an order could be issued under the instant Act without the great reliance herein put on the expression of peaceful political opinions similar to Russia's, the statutory provision allowing consideration of such opinions, particularly with its interpretation herein, stands as a continuing threat and restraint on the expression of such opinions. Accordingly, the section of our argument dealing with reliance by the SACB and the Court below on mere coincidence of views with Russia's, also substantially applies to the question of statutory validity.

Thus, we submit that the provision for registration of "Communist-action organizations" and all the provisions of the instant Act dependent thereon, are unconstitutional under the First Amendment.

## CONCLUSION

The judgment below should be reversed; the registration order should be held unconstitutional; and the Act's provision for registration of "Communist-action organizations", together with all provisions dependent thereon, should likewise be held unconstitutional.

Respectfully submitted,

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Office Supreme Court, U. S.
NOV 1955
HAROLD B. WILLEY, Clerk

# Supreme Court of the United States

October Term, 1955

**No. 48**

COMMUNIST PARTY OF THE UNITED STATES OF AMERICA,
*Petitioner*

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD

**On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit**

## BRIEF OF AMERICAN BAR ASSOCIATION, *AMICUS CURIAE*

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## BRIEF OF THE AMERICAN BAR ASSOCIATION AS *AMICUS CURIAE*

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This brief is filed pursuant to the consent of the attorneys for the parties.

## QUESTIONS PRESENTED

We believe that the two prime questions presented to this Court are:

1. Is the Internal Security Act of 1950 constitutional?
2. Is the Order appealed from and directed to peti-

tioner, Communist Party of the United States of America, a valid Order under the Act?

## CONDITIONS LEADING TO ENACTMENT

Over a period of years, antedating the enactment of this statute in 1950, the Congress of the United States had received detailed and convincing information that enemies of our form of government were actively at work to destroy the American system. Furthermore, it was shown that these enemies were under the domination and control of a foreign government. In addition, the elected representatives of the people determined that the enemies in question were intent on accomplishing their program by force and violence rather than through change in our constitutional system by orderly process.

From official sources, such as the Federal Bureau of Investigation, and other security agencies, the Congress received sworn testimony that the aims of communists were in furtherance of world revolution and the triumph of international communism. The achievement of this aim, the reports showed, would mean the violent and complete destruction of the United States government.

The Congress determined that the concerted activities of the Communist Party constituted a menace to the established order, and that the systematic interference of a foreign power in the domestic affairs of this country constituted a source of grave danger.

Throughout the period in question, committees of the Congress conducted investigations and hearings to ascertain all facts bearing upon the situation. Witnesses, who had held important positions within the communist network, testified as to the communist program of infiltration into the government service, defense plants, sensitive areas and the field of education in the Uni-

ted States. The law-making branch also learned that universities and colleges of the country had conducted separate inquiries of their own and had established facts which resulted in the expulsion of professors and teachers who failed to satisfy the responsible authorities of these institutions that they were loyal to the United States government.

Not only did committees of Congress investigate in Washington this information indicating that the security of the nation was being threatened by subversion; but they went to various parts of the country holding hearings in order to secure "on the spot" information as to the existence and extent of such dangers. The findings of the Congressional committees were reported to the United States Senate and House of Representatives and were available to all at the time the legislation leading up to the Internal Security Act of 1950 was under consideration.

It was against that background that the Congress legislated in 1950. The reports of the Committees, the thorough-going debates on the floor and the extensive consideration before the roll-call votes of both Houses on the several votes taken all combine to indicate that the action taken by the majority of the people's elected representatives was a deliberate one, and not a hurried judgment. The widespread public support for such legislation was demonstrated by the passage of the bill over the President's veto by the overwhelming vote in the Senate of 57 to 10 and in the House of 286 to 48.

It was the final decision of the legislative branch of the government to protect the security of the nation. Such judgment of our coordinate branch of the government must not be lightly overthrown. Congress, in the Act, Section 2, stated the necessity for such legislation.

As to the then existing conditions, see the concurring opinion of Justice Jackson in *Dennis* v. *United*

*States*, argued December 4, 1950, decided June 4, 1951, 341 U.S. 561-570.

## RESOLUTION OF AMERICAN BAR ASSOCIATION

At its Annual Meeting in Washington, D. C., on September 22, 1950, the American Bar Association through its Assembly and House of Delegates duly adopted a resolution that "world conditions and the objectives as set forth" in the proposed Internal Security Act of 1950 "require the prompt enactment of the legislation for the security of the nation" and recommended the passage of such legislation. (See 75 A.B.A.Rep. 149 (1950)).

## ARGUMENT

### I

### Congress Has the Duty and the Power to Enact Laws To Safeguard the Security and Welfare of the Nation.

There is no purpose or power in government more fundamental than the protection of the nation from invasion, domination or subversion.

The duty and the power were specifically vested by the people in our federal government by constitutional mandate. The words of the Preamble "insure domestic Tranquility, provide for the common defence, promote the general Welfare * * *" were supported by the specific grants of powers in Article I, Section 8. To amplify those express powers, the Constitution further provided Congress with the general power "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

The power of Congress to protect our people embraces every phase of national security. The duty of self-preservation must be exercised within the framework of the Constitution. The duty and the power of the Congress have well been restated by this Court in *Dennis* v. *United States* 341 U.S. 494 (by Chief Justice Vinson at page 501; by Justice Frankfurter at page 519).

There can be no individual rights or freedoms without national security.

In the light of existing conditions the Congress would have been derelict in its duty had it not enacted legislation within its power deemed by it adequate to protect the national welfare. The country was entitled to protection—not alibis or epitaphs.

Where no constitutional or statutory provision is violated, the courts are no more immune from the duty to safeguard the nation than is the Congress or the President.

## II

### The Act Is Constitutional

If the Act, as applied to this petitioner, is unconstitutional this Court must and should so declare. However, with great respect for this Court, but with equal firmness, we submit that only the constitutionality of the Act and the validity of the Order under the Act are the concern of this Court. In nowise is it the prerogative of this or any other court to pass upon the wisdom or the lack of wisdom of the method or the provisions chosen by the Congress—within its constitutional powers—to safeguard the nation from the menace that was obvious to it and to the people of this nation. That this Court or any of its members might deem a different plan or other provisions within the Constitution more effective and

more desirable is wholly immaterial. Changes in the Act in the light of experience may hereafter be required, but that, too, is the duty of the Congress and not of this Court.

The essentials of legislative functions are preserved when Congress authorizes a statutory command to become operative upon ascertainment of a basic conclusion of fact by a designated representative of the government.

Due process requires appraisal in light of conditions confronting Congress during the continuation of the challenged action. (*Kiyoshi Hirabayashi* v. *United States*, 320 U.S. 81)

The issues being numerous, however, our views, of necessity, will be restricted primarily to what we conceive to be the more significant issues presented.[1] In discussing these questions, we necessarily do so, of course, from the standpoint that the Communist Party is, as found, and as we believe, "a communist-action organization," as defined.

In order to consider the First Amendment and due process questions, as applied to petitioner, it must be done in the proper setting.

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[1] We are of the opinion that some of the questions, for varying reasons, do not warrant consideration by the Court on the merits, e.g., the self-incrimination question, which we believe is premature, and the preponderance of the evidence question, which we believe was correctly decided by the Court below in which was vested by the Act the responsibility for determining the sufficiency of the evidence, and in discharging this duty it is evident from the Court's opinion that there was "a fair assessment" of the record, thus leaving this Court to invoke "'. . . the usual rule of non-interference . . .'". *National Labor Relations Board* v. *Pittsburgh Steamship Co.*, 340 U.S. 498, 502-503. Again, the so-called sanction provisions do not lend themselves readily to sharp scrutiny since they do not come here in the context of the usual case or controversy. We discuss the "sanctions" nevertheless.

Fairness of procedure, as provided in the Act, is due process in the primary sense. (*Brinkerhoff-Faris Trust Co.*, v. *Hill* 281 U.S. 673, 681).

This Court takes judicial notice that findings of the legislature have support in facts. (*Home Building & Loan Association* v. *Blaisdell*, 290 U.S. 398; *Atchison, Topeka & Santa Fe Ry Co.* v. *United States*, 284 U.S. 248).

Succinctly then, we state what petitioner has been found to be and not to be by respondent and the Court below.

It has been determined not to be just one of those "unpopular causes" or a bona fide, domestic political party, albeit radical. It has been determined to be an organization serving under the control of the Soviet Union, an organization which will accept twists of discipline, intellectual and otherwise,[2] from the former and, under the control of the Soviet Union, has as its purpose the destruction of our form of government by unconstitutional means. (*Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123; *Dennis* v. *United States*, 341 U.S. 494; *American Communications Assn.* v. *Douds*, 339 U.S. 382).

In this setting, we turn to the First Amendment question.

The Communist Party-petitioner's contention that the Act violates its freedom of speech under the First Amendment is without merit. Section 1 of the Act eliminates any basis for such argument.

By no sane or sound construction of the Act can it be deemed to control freedom of thought or of speech or to apply to radical espousal or radical organizations unless they result from foreign domination of the communist

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[2] For example, its gyrations in regard to fascism and Nazi Germany before and during the World War II era.

movement. No organization and no individual—however radical but not so dominated—is encompassed by this Act. Nor is any person or organization prevented from advocating any change, however far-reaching, however unsound, however obnoxious, through change in our Constitution.

Article V of the Constitution provides one of the greatest of all rights—possibly even the greatest—that of the people to effect *any* change in our government by the adoption of appropriate amendment to the Constitution. Orderly change in the government by choice of the people is not one of the basic concepts of communism, which espouses rather subversion and violent revolution. In no country that communism dominates has it achieved power by the free choice of its people—not even in Russia.

**The Purpose Of The Act Is To Safeguard This Nation And Its People. The Act Is Carefully Drawn And Fixes Adequate Standards.**

The registration features require disclosure by petitioner and so-called sanctions on petitioner and its members automatically flow therefrom. It is our view that reasonable disclosure is entirely consistent with the thesis that the best approach to erroneous doctrines is exposure. Members of this Court have, in effect, so stated. (*Viereck* v. *United States*, 318 U.S. 236, 251, Mr. Justice Black dissenting, with Mr. Justice Douglas concurring). The required diselosure here is within what a sovereignty is surely entitled to know from an organization within its borders dedicated to its overthrow.

What petitioner seems to contend, in effect, is that it is constitutionally objectionable to cause the required disclosures by an organization which seeks to overthrow our government while nowhere coming to grips with the prop-

osition that a simple foreign agents' registration act is indisputably constitutional.[3] If this implication were taken to its logical conclusion, it would result in the contention that though faced with the proposition that a foreign agents' registration act is constitutional, it is unconstitutional if applied to an organization supported by a foreign power and a world movement which pose a grave threat to our national well-being. Thus, required registration and disclosure by an innocuous foreign agent would be constitutional but not so if required of one that has a harmful purpose.

The next question is whether the registration features of the Act are unreasonable, all things considered. The answer is "No". It is quite prudent that our government require that a domestic organization, supported as it is by the Soviet Union, register for what it is and reveal its officers and membership, as well as its finances. This is, under the circumstances, a restrained attempt to gain self-protective information and inform the public. Even now ingredients are required to be labeled under the Pure Food and Drug Act. Lobbyists are compelled to register. Securities offered for sale are required to be listed. To protect the public, states require their corporations to identify themselves as such by the addition of the words, "Corporation," "Inc.," "Limited" or other designation. It is apparent that the determination and Order that petitioner label itself "a Communist Organization" under the Act is a "bone in the throat."

The Order will no doubt curtail the former effectiveness of the Communist Party in this country—not so much because of the registration requirement, but because of the determination—under law—of its true conspiratorial na-

[3] Cf. *Viereck* v. *United States*, *supra*, where the constitutionality of the Foreign Agents Registration Act then under review was not even attacked as being unconstitutional.

ture and its foreign domination. Its consequent inability to secure cooperation and collaboration of thousands of innocent persons for its secret and traitorous work, as in the past, is one of the very objectives of the Act.

Legitimate political parties have not died or become ineffective because of the requirement for reporting campaign contributions and expenditures.

The petitioner's contention that the Act is "one of outlawry" has neither basis nor merit. The Act is directed to every communist-action organization whatever it be, or whatever its name. Any organization coming within the purview or purpose of the Act would be required to register or, upon its failure so to do, would after petition and hearing, be so ordered by the Board. If the Democratic, Republican, Prohibition, or any other political party were ever to become dominated by a foreign communist power, as provided in the Act, it would be subject to the same requirements and a similar Order as that appealed from.

The truth and the fact, well established before the Board, as well as in criminal trials and Congressional investigations, is that the petitioner, the Communist Party, is not a "political party" in the sense used by the American people, but is a foreign dominated group posing as a political party for subversive purposes. Justice Jackson's description in the *Dennis* case, 341 U.S. at 565-566, of the purpose, the method, and the effectiveness of a similar traitorous foreign dominated communist group in Czechoslovakia demonstrates the tragedy of a nation's failure at self-preservation.

Petitioner contends that to register would be to tarnish itself and lose for it access to the market place of ideas. If this speculation be true, petitioner must look elsewhere than to the Constitution for relief. The Constitution does not salvage from reasonable regulation those seeking, un-

der foreign control, its destruction. (Cf. *Dennis* v. *United States* 341 U.S. 494).

Notwithstanding the definition of a communist-action organization, which petitioner meets, it seeks support from *Thomas* v. *Collins*, 323 U.S. 516. But petitioner may not in the context of this case assume its role to be analogous to that of a labor organizer engaged in legitimate activities. The context here is so vastly different as to make *Collins* inapplicable. Nor, as petitioner contends, is there support for it in *Herndon* v. *Lowry* 301 U.S. 242 or *DeJonge* v. *Oregon*, 299 U.S. 353, both criminal cases. In the former, the Court held that the statute, as applied, violated the Fourteenth Amendment since ". . . the requisite proof is lacking.[*]" (p. 259), and "[t]he statute, as construed and applied in appellant's trial, does not furnish a sufficiently ascertainable standard of guilt." (p. 260). In *DeJonge*, the Court held that the state may not "seize upon mere participation in a peaceable assembly and a lawful public discussion as the basis for a criminal charge." (p. 365); and that the "statute as applied to the particular charge as defined by the state court is repugnant to the due process clause of the Fourteenth Amendment." (p. 366)

It is one thing to say that one may not be jailed under the circumstances of those cases and quite another thing to say that petitioner may not under the Act and on the record in this case be required to make disclosure and its members denied access to the areas covered. Further, there is not here a failure of the proof to meet the statute.

After it is the law of the land that an organization is determined to be a communist-action organization, it is

---

[*] The Court found that in the address in question the statutory requirement ". . . incitement or attempted incitement to insurrection by violence" was lacking (p. 259).

our view that the government may and should take reasonable protective measures in regard to the organization and its then fully apprised members and withdraw such governmental benefits as it would be fool-hardy to continue to bestow.

The determination of this appeal must be based upon the fundamental purposes of government contained in the Constitution, and not on imaginary, conjectures of matters not now before the Court. Conjuring inapplicable, hypothetical future cases is not a new tactic in presenting communist appeals to this Court. (See opinion of Vinson, C.J., *Dennis* v. *United States, supra* at page 502.) Neither may the conjecture or assumption that individuals will violate the law be the basis for testing its constitutional validity.

## The Sanction Provisions Are Within the Constitutional Powers of the Congress

At the outset, the Court may well, realistically, excise from consideration the sanctions relating to federal and defense facility employment since, as is generally known, those areas are, without regard to this legislation, presently not open to Communist Party members under existing regulations;[5] and the same would apply to the passport question since passports are denied to Communist Party members under existing departmental regulations, 22 C.F.R. § 51.135 *et seq.*

Discussing first those "sanctions" relating primarily to the organization, as such, we consider the requirement that it label publications for mailing or delivery in interstate commerce and announce its sponsorship of broadcasts. The publications and broadcast provisions being identical, in principle, only the publication provision will be discussed.

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[5] See Executive Order 10450, dated April 27, 1953 (18 F. R. 2489); see, also, *Bailey* v. *Richardson*, 182 F. 2d 46 (C.A.D.C.), affirmed 341 U.S. 918.

In essence, this provision, as applied here, amounts to no more than a requirement that petitioner utilize a letterhead on such publications and wrappers, something almost all organizations do automatically, even unpopular ones. It is no burden for the Communist Party to call itself "a communist organization"; and certainly, too, no organization is harmed by a letterhead unless deception is its aim. These provisions, therefore, strike us as reasonable in context.

The tax provision is simply a withdrawal of a matter of grace, *Helvering* v. *Ohio Leather Co.*, 317 U.S. 102. The prohibition of contributions to a communist-action organization by federal and defense facility employees is no different in principle from the Hatch Act prohibition of political activity by federal employees. *United Public Workers* v. *Mitchell*, 330 U.S. 75. It is far more deleterious to the government for its employees materially to support a communist-action organization than to engage in bona fide political activities. If it may prohibit such contributions by federal employees, it may do likewise in regard to defense facility employees since petitioner's roots are in the soil of the foreign nation accountable for most of our defense facilities.

The provision prohibiting holding office in or employment by labor organizations is, we submit, within the rationale of *American Communications Association* v. *Douds*, 339 U.S. 382, where this Court sustained the validity of the so-called non-communist affidavit provision of the Labor-Management Relations Act of 1947 (§ 9(h)). In the years between 1947 and the passage of this amendment to the Act at bar (1954) Congress must have concluded from the experience of those trying years that an extension of the non-communist affidavit provision was warranted and, under *Douds*, is valid.

The provisions applicable to aliens relate to (a) deportation and exclusion, (b) ineligibility for naturalization and (c) denaturalization proceedings. This Court

having decided the validity of the deportation and exclusion provision in *Galvan* v. *Press*, 347 U. S. 522, as petitioner concedes, there appears no point in discussing it further. It would seem, likewise, that, in view of the broad powers of Congress in relation to the grant of citizenship, it may withhold citizenship from aliens who though advised by the law of the land of the nature of the Communist Party, nevertheless insist on being members of or affiliating with it. As to the denaturalization provisions, we believe the Court below correctly declined to entertain their validity, stating ". . . denaturalization does not flow automatically from registration [and] . . . [n]o such case is before [the Court] . . ." as " . . . a regular proceeding for the purpose must be brought . . ." *Communist Party of United States* v. *Subversive Activities Control Board*, 223 F. 2d 531, 557. In any event, the rebuttable presumption created in the denaturalization proceeding is entirely reasonable in context and adequate notice to the individual is present.

This brings us to the question of whether, as contended (Pet. Br. 72, 75), the member-sanctions violate the First Amendment and the due process of law clause by ". . . imposing liability on individuals . . . solely because of their association . . . [and] without regard to the member's lack of knowledge of the claimed illicit purposes of the organization . . .". (Pet. Br. 73)

There is no question here of penalizing possibly innocent, unknowing association (*Weiman* v. *Updegraff*, 344 U.S. 183). Before any liability attaches it will have been declared the law that petitioner is a communist-action organization, with all that imports, and such fact will in addition be published in the Federal Register, which under the Act constitutes notice to all members (§ 13 (k)).[6] There comes a time when a member of an organ-

[6] Respondent's Report and the affirmance of the Court below provide further indication of the unlikelihood of unalerted members of the Party.

ization must be held to be aware of its nature and purposes and surely that time arrives when he is so advised by the Supreme Court of the United States, which would be the case here. If he then desires to remain a member, it is reasonable, in this case, that his name be registered. And, in any event, the element of scienter would have to be established if he were prosecuted, as in any other criminal prosecution. The members, therefore, have due process of law protection.

There is likewise no First Amendment violation. Upon a determination that an organization within its confines is a communist-action organization, Congress would be less than vigilant if it did not close off vulnerable areas (employment and passport provisions) and withdraw grants (alien provisions). After such judicial determination, Congress is not restricted to an expression of consternation, but, rather, may take reasonable, protective measures. And it has.

The petitioner—the Communist Party of the United States of America—has no right whatever under the self-incrimination provision of the Fifth Amendment, nor may it defeat the Act or the Order by indirectly invoking the Fifth Amendment through conjecturing future cases involving the rights of individuals who may be its officers or members. The right under the Fifth Amendment is a personal right granted only to individuals. The constitutional right of every individual against self-incrimination under the Fifth Amendment must, and will be, preserved to him. Such right is not lost by anything contained in the Act. Whenever properly asserted, the courts will protect such rights (*Blau* v. *U. S.* 340 U. S. 332).

The Fifth Amendment contains no equal protection clause and it restrains only such discriminating legisla-

tion by Congress as amounts to a denial of due process. (*Kiyoshi Hirabayashi* v. *United States*, 320 U.S. 81; *Detroit Bank* v. *United States*, 317 U.S. 329, 337, 338.

This Court may not, and should not, test the constitutionality of the Act or the validity of the Order as affecting this petitioner on the assumption in advance that individuals will refuse to obey the law or the Order. Such individuals may willingly comply. Whatever problems may be developed at a later date, and in future cases, they may not be the basis on this appeal of declaring the Act void or the Order invalid as affecting this petitioner.

The effectiveness of the Act must be distinguished from its constitutionality. This Act is constitutional although its enforcement might hereafter encounter such objections over the constitutional rights of the individual officers or members as to render the Act partially ineffective. The constitutionality of the Act and not its wisdom or its effectiveness is now before this Court.

## III

## THE ORDER AGAINST THE COMMUNIST PARTY OF THE UNITED STATES OF AMERICA HAS BEEN PROPERLY MADE BY THE BOARD.

Due process has been accorded the petitioner. The real complaint of the petitioner, Communist Party of the United States of America, is not that it did not receive a fair hearing, but that despite its every effort and tactic to prevent it, a thorough hearing was held and a just determination finally made. The hearing was in full accordance with the constitutional provisions of due process and the American concept of justice.

The findings of the Board require and fully sustain the ultimate determination that the Communist Party of

the United States of America is a "communist-action organization", as defined in the Act. The Order entered is valid in all respects.

The Court below, after thorough examination of the record, sustained the Board's findings with but slight and immaterial change as to two findings. In a detailed opinion by Prettyman, J., the majority has affirmed the Order of the Board. The dissenting jurist was lead into the very error we have contended against of determining this appeal by this petitioner on the basis of the possible future violation of some individual's rights.

This Court is bound by the findings of fact as found by the Board and the Court below.

The Order is valid and proper under the Act and should be affirmed.

## CONCLUSION

Much has been said and written by the petitioner on the dangers to American freedom if the Act and Order here under review are upheld. It is suggested to the Court, by petitioner, the Communist Party, and other *amici curiae* in substance, that the Act is fundamentally totalitarian in nature.

This is not so. A respondent in proceedings under the Act has complete constitutional protection and is afforded full appellate protection with a mandate to the Court of Appeals that in reviewing the sufficiency of the evidence the Court determine whether a preponderance is present, not merely whether as is customary, there is substantial evidence to support an Order of registration. Respondents before the Board have, for example, the use of subpoena power, the right to counsel, the right of cross-examination and the right of rebuttal (Section 13.)

Further, there is nothing in the Act to penalize unwitting individuals or organizations of bygone days.

It is pure fantasy to suggest that validation of the Act will result in "orthodoxy of non-deviation." And if we thought so we would not be here supporting the Act and the Order. As the Court below cogently stated, in a case involving an organization where domination by another is in issue, it is necessary to examine the policies of each, as all circumstances considered, identity of policies may well be probative and is one element to consider. *Communist Party* case, *supra*, pp. 560-61. But one may not reasonably conclude from this that because of the Act individuals or organizations are any less free to speak or publish their views. What is really contended, in effect, is that the Act will inevitably be maladministered and that innocents will be, or will fear being, trapped for sincere expressions of views. The answer to the first is that no *reasonable* construction of the Act supports such a conclusion and certainly no innocents will be trapped "while this Court sits". Holmes, J., in *Panhandle Oil Company* v. *Knox* 277 U.S. 218, at 223. No organizations or individuals who place trust in our institutions need, therefore, feel impelled to "orthodoxy" because of the Act. Not to our knowledge have the dire forebodings made before and after the Act's passage come true and, with a sound administration of the Act, there is no cause for them to come true in the future.

It is being urged upon the Court that to affirm in this case would be to damage the nation's standing at home and abroad and that the "new spirit of conciliation[7] . . . is incompatible with the premise of the Act . . ."

Those arguments, outside the record, are not properly addressed to this Court but must be addressed to the Congress.

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[7] This is a reference to the recent Geneva Conference.

Each of the Act's provisions, in context, and the Act *in toto* are, we contend, reasonable and valid.

To the extent that the current era may be thought to play upon the Congressional findings in the Act, we might say that in a period when most objective observers agree that the Soviet Union may be writing in the sands, it is important that the American people know, for example, who is propagandizing them, i.e., whether it be a communist-action organization or one truly interesfed in preserving our constitutional system.

The experience of recent history, which Congress had before it, shows that it is unwise to take petitioner lightly and pass it off as merely an organization of malcontents. It has been proven that with such approach its members may soon become imbedded to an astounding degree in our national structure by ruse and artifice.

We contend that the "spotlight of pitiless publicity"[8] should be turned on the Communist Party and it is reasonable that its members should be covered by the Act in the interest of the nation's well-being.

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[8] Mr. Justice Black, with Mr. Justice Douglas concurring, in *Viereck, supra*, at p. 250.

It is submitted that the Act is constitutional in all respects and the Order below should be affirmed.

Respectfully submitted,

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1955

No. 48

COMMUNIST PARTY OF THE UNITED STATES

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

## MOTION AND BRIEF FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE*

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1955

No. 48

COMMUNIST PARTY OF THE UNITED STATES,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

## MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE*

*To the Honorable Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:*

The undersigned, as counsel for the American citizens, whose names are hereto attached (Appendix A), respectfully moves this Honorable Court for permission to file the accompanying brief, *amici curiae*. The attorneys for the petitioner have consented to the filing of this brief.

Permission for leave to file has been requested from the Solicitor General of the United States. A copy of this request is hereto attached (App. B). The Solicitor General has not acceded to the request on the ground that he does not see a direct enough interest on our part but has stated that if a timely motion is made to this Court for such permission he will not oppose it (App. C).

Any American may be or may wish to become a member of an organization which may fall within the purview of the Act. We submit, therefore, that every American has

an interest in the outcome of this case that is both real and direct. Every American, if the Act is upheld, may well hesitate to remain or become a member of any organization which may be found to fall within purview of the Act. The Act establishes a barrier of non-association with any person who espouses "dangerous" causes and non-association in the affairs of any organization which espouses, or might espouse, controversial views.

The Act itself destroys the very democratic processes which, in another type of case, we would be asked to rely on for its correction and forces us back to relying on the interpretation of the Constitution by this honorable Court.

We are aware that this solution of the problem gives rise to a procedural difficulty. On the one hand, the nature of the problem is such, and its bearing on the rights of every citizen so great and immediate, as to suggest that every interested individual ought to have a right to be heard before the tribunal charged with responsibility for the final decision. On the other hand, the judicial process is adapted to hearing the claims of a small number of persons whose involvement in the immediate problem makes them parties before the Court. The device of the *amicus curiae* brief resolves this dilemma as well as we are able to resolve it. It permits us to express, in a form traditional and appropriate to the judicial process, our profound conviction that it is our liberties—and not just those of the Communist Party—on which the Court is being asked to rule. Moreover, no matter how ably the attorneys for the Communist Party may present the case, it is their right and duty to present it from the point of view of and the effect on the Communist Party and Communists. We desire to present the evils of the Act from the point of view of non-Communists. Nor, we submit, is our presentation premature since different questions may be involved as to non-Communist and Communist organization. The Act must be judged and its constitutionality determined in the light of

its total impact and that impact is not limited by the details of this, on any other, particular proceeding.

A summary of the points to be made is contained in the index of the brief which is hereto annexed and made a part of this motion.

WHEREFORE, it is respectfully requested that this Honorable Court grant this motion to file the annexed brief as *amici curiae*.

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# Supreme Court of the United States

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|---|---|
| COMMUNIST PARTY OF THE UNITED STATES, Petitioner, v. SUBVERSIVE ACTIVITIES CONTROL BOARD. | October Term, 1955 No. 48 |

## BRIEF AS FRIENDS OF THE COURT

### Statement

It is with the deepest concern over what we, the undersigned, believe to be the most terrible threat so far devised to freedom in America, the "Internal Security Act of 1950" that we request permission to file this brief. We cherish the ideal which gave our country birth and made it a mighty instrument in human progress, the ideal of a free people living under a government by law in which the few may not tyrannize over the many or the many over the few. We believe that such a concept of government, valuable as it has been in the past, is essential now. We believe that never before in our history has freedom to dissent, freedom to be different, freedom to experiment, freedom even to be wrong fallen into such a low estate nor the possibility that "government of, by and for the people" may pass from the American scene been more real. We believe that a new era opened in international affairs at Geneva which demands an agonizing reappraisal of the "clear and present danger" found to exist when this Court upheld the Smith Act. We believe as the eminent group of scientists, headed by the late Albert Einstein, recently said that:

> "There lies before us, if we choose, continual progress in happiness, knowledge and wisdom. Shall we, instead, choose death because we cannot forget our quarrels?

> We appeal, as human beings to human beings, remember humanity and forget the rest. If you can do so, the way lies open to a new paradise; if you cannot, there lies before you the risk of universal death."

We believe not merely freedom from war but freedom to think and freedom to dissent to be prerequisites of entering the world of promise, the way to which is open. We urge upon this honorable Court the need for America to recover the distinction between dissent and treason.

We hold as a firm tenet of our faith that violent revolutions should never be resorted to in a society where orderly change through the will of the people, freely expressed at the polls, is possible. We believe, however, that radicals as well as liberals and conservatives must, in such a society as ours, be guaranteed the right, within the framework of the democratic process, to urge changes which they seek. Radicals in the past have often been wrong but they have served a useful purpose, even when wrong, in calling attention to evils that demand correction. Any society which suppresses its most uncompromising critics runs the risk of becoming static. If there had not in every age been those who said, "Things are not good enough. We demand changes here," we would still be living in caves and wearing skins or loin cloths.

The truths for which we speak have found expression in memorable utterances by members of this Court.

In the August 1955 issue of The Progressive is an article by Chief Justice Warren in which he paid tribute to Bob LaFollette, which is prophetic in the truest sense of that word. The Chief Justice said:

> "There are still those among us who would call it (LaFollette's program) socialism; those who refuse to make any distinction between socialism and social progress; those whom Lincoln described as being unable to distinguish a horse chestnut from a chestnut horse.

> There will be such in every generation * * * freedom itself is radical * * *. Again he was squarely in the American tradition, with its reliance on the idealism and innate reasonableness of men. He had an old-fashioned faith in the sovereign power of reason in human affairs. But pre-eminently, Bob LaFollette was a dissenter—a dissenter in the finest sense of the word."

In his introduction to An Almanac of Liberty, Mr. Justice Douglas said:

> "There is room in this great and good American Family for all the diversities the Creator has produced in man. Our CONSTITUTION and BILL OF RIGHTS were, indeed, written to accommodate each and every minority, regardless of color, nationality, or creed. That is our democratic faith. Out of that diversity can come a unity the world has never witnessed.
>
> "The need these days is to practice and preach that democratic faith. It can easily become the most contagious political force the world has ever known. But we must first redeem it. In recent years, we have let it fall to low estate, as the people of Europe and Asia probably know better than we."

Mr. Justice Black, in his prophetic dissenting opinion in *American Communications Association* v. *Douds*, 339 U. S. 382 at 448, foresaw the possibility of such further encroachments on freedom as we have in this Act when he said:

> "But not the least of the virtues of the First Amendment is its protection of each member of the smallest and most unorthodox minority. Centuries of experience testify that laws aimed at one political or religious group, however rational these laws may be in their beginnings, generate hatreds and prejudices which rapidly spread beyond control. Too often it is fear which inspires such passions, and nothing is more reckless or contagious. *In the resulting hysteria, popular indignation tars with the same brush all those who have ever*

*been associated with any members of the group under attack or who hold a view which, though supported by revered Americans as essential to democracy, has been adopted by that group for its own purposes * * *. Guilt should not be imputed solely from association or affiliation with political parties or any other organization, however much we abhor the ideas which they advocate * * *.* Fears of alien ideologies have frequently agitated the nation and inspired legislation aimed at suppressing advocacy of those ideologies. At such times the fog of public excitement obscures the ancient landmarks set up in our Bill of Rights. Yet then, of all times should this Court adhere most closely to the course they mark." (Emphasis supplied.)

Mr. Justice Burton joined in an opinion with Mr. Justice Jackson in *Terminello* v. *Chicago*, 337 U. S. 1 where he said at p. 36:

"Suppression has never been a successful permanent policy; any surface serenity that it creates is a false security; while conspiratorial forces go underground. My confidence in American institutions and in the sound sense of the American people is such that with a stroke of the pen I could silence every fascist and communist speaker, I would not do it. For I agree with Woodrow Wilson who said: 'I have always been among those who believed that the greatest freedom of speech was the greatest safety, because if a man is a fool, the best thing to do is to encourage him to advertise the fact by speaking.'"

In his letter to the Chairman of the Loyalty Review Board dated November 29, 1947, Mr. Justice Clark, then Attorney General, gave the following memorable warning:

"In connection with the designation of these organizations I wish to reiterate, as the President has pointed out, *that it is entirely possible that many persons belonging to such organizations may be loyal to the United States;* that membership in, affiliation with, or sympathetic association with, any organization desig-

> nated, is simply one piece of evidence which may or may not be helpful in arriving at a conclusion as to the action which is to be taken in a particular case. *'Guilt by association' has never been one of the principles of our American jurisprudence. We must be satisfied that reasonable grounds exist for concluding that an individual* is disloyal. That must be the guide." (Letter of Tom C. Clark, Attorney General, November 29, 1947, to the Chairman of the Loyalty Review Board.) (Emphasis supplied.)

In his concurring opinion in *Dennis* v. *United States*, 341 U. S. 494, Mr. Justice Frankfurter pointed out at p. 548 that:

> "The treatment of its minorities, especially their legal position, is among the most searching tests of the level of civilization attained by a society. It is better for those who have almost unlimited power of government in their hands to err on the side of freedom. We have enjoyed so much freedom for so long that we are perhaps in danger of forgetting how much blood it cost to establish the Bill of Rights."

We respectfully submit that this is a case squarely within that concept of the Bill of Rights which was enunciated by President James Madison, who was one of its authors and protagonists. He declared:

> "The Bill of Rights is not a grant of privileges handed down to them (the people) by the government, but rather it is a curb and restriction laid upon government by the people. The Bill of Rights, we must remember always, is an instrument. It must be wielded and cared for by each generation."

The undersigned submit this brief in the profound conviction that decision of the present case is one of the most momentous constitutional responsibilities which has ever been thrust upon this Court.

Presented for this Court's decision is the constitutional validity of the Subversive Activities Control Act of 1950.

This, of course, is the short title which Congress has assigned to those provisions of the Internal Security Act of 1950, consituting Title I of that act, as amended which undertake to define "Communist-action," "Communist-front," and "Communist-infiltrated" organizations, impose a variety of sanctions on such organizations and their members, which set up procedures and a tribunal by which any voluntary association of private citizens in the United States can be subjected to a political trial, and which impose on the tribunal created to hold such trials a significant series of prejudgments.

This act we believe, and will try to demonstrate more fully below, has two principal features. The first is that it imposes penalties and civil disabilities on American Communists, designed to destroy their movement as completely as possible, not for plotting violent revolution, not even for "advocating" it, not for anything they are found guilty of having done or said, not even for being "foreign agents," as that term is ordinarily understood, but simply for being associated with Communists of other countries in an international movement and for sharing the ideas of Communists of other countries, especially, of course, those of the Communist Party of the Soviet Union.

Since this aspect of the Act will be argued to the Court by parties to the record, we will focus our attention chiefly on the Act's second principal feature. *This is that it represses the organizational activities of non-Communist Americans whenever they are found to have associated with Communists for any purpose, however innocent, to have collaborated with Communists for the attainment of any objective, however lawful and proper, or to have agreed with Communists concerning ideas and policies, even though the points of agreement may have been very remote indeed from the particular ideas and policies for which the Communists are assertedly condemned.*

This, it seems to us, is nothing less than the legislation of a new orthodoxy. It is an orthodoxy of non-association with any person who is, or might become suspect, of non-participation in the affairs of any organization which espouses, or might espouse, controversial views. Above all, it is an orthodoxy of non-deviation from the policies and proposals of those who, on any issue, most loudly and successfully contend that whoever does not agree with them must agree with the Communists and hence must be pro-Communist. This would indeed produce the unanimity of the graveyard. *West Virginia State Board of Education v. Barnette*, 319 U. S. 624, 641.

The great controversial issues of the day—the very issues on which we stand most in need of free, fearless, and uninhibited discussion—are characteristically two-sided issues. There are conscientious Americans on both sides of each of them. In conformity with our traditions, we cannot assume that either side has acquired a monopoly of truth or that the other has nothing to say which it would be to our benefit to hear.

On each of these questions, as the record in this case demonstrates, the Communist Party has taken, or is likely to take a position. The Court of Appeals found the ultimate Communist aim to be a stateless and classless world. However visionary, this is not an illegal or immoral objective. The opinion shows that Communists have many objectives and policies. Its immediate objectives include maintaining peace. A religious or peace organization which approved the results of the Geneva conference and urged further efforts toward ending the cold war would be supporting a Communist objective. Statements which are lawful for the President of the United States or the National Council of Churches to make may become evidence as furthering Communist objectives if made by lesser people. By the reasoning which underlies this Act, the side for which Communists express a preference becomes thereby the Communist side. The organizations on that side must

thenceforth change their views, disband, or risk being required to stand trial before the Subversive Activities Control Board on a charge of "non-deviation."

As Professor Zechariah Chafee, Jr., possibly our outstanding authority on freedom of speech, has so aptly demonstrated, the effect of this Act is thus to deny organized expression to one side, but not the other, on each of the great debates of the day (63 Harvard Law Review 1382). In our complexly interlocking society, exposed daily and hourly to the opinion-shaping influence of press, radio, television and other mass communication media, the idea which is denied organized expression, while its rival enjoys these advantages, has no chance in the market place, whatever its intrinsic merit. The practical effect, therefore, is to suppress one side of each these questions and erect the other into a semi-official compulsory creed.

*This is no chimera, for already the forces which produced this Act have carried us far along that road. Already, on many of the issues of the day, we have seen beginning to develop a safe and orthodox side, which the prudent espouse out of prudence with little examination, and a dangerous and "subversive" side, which only the bold care to listen to, read or examine. Just at the moment when this tendency is, happily, beginning to subside, this Act, if the Court upholds it, will freeze that tendency and convert it into an institution.*

The Congress which adopted this Act thereby expressed its understanding that the current danger to our institutions is that the American people will take ideas at their face value and judge them on their merits, instead of on the political backgrounds of those who put them forth. This indiscretion, the Act seems to say, may cause them to be lured by handsome strangers with no security clearance into dark byways where they will be seduced by false doctrines and persuaded to betray their country.

*We submit that, not only is this opinion without rational foundation, but that even its irrational foundation has long since passed away. The real and present danger is that the sudden rise in the world of a powerful ideology, rival to our own, and the fears, hatreds, frustrations and confusions generated by this unexpected and unexplained phenomenon, may cause us to lose sight of the meaning of our own heritage and to destroy it in the name of defending it. This Act, we feel, brings precisely that danger to a profound crisis, perhaps to a turning point.*

This danger threatens loss of liberty more gravely and more imminently than any minority political movement could ever threaten it. The danger, however, may not be limited to loss of liberty. Involved also is the fact that we are being urged—and, by this Act, compelled—to stake our survival on methods which history has shown have little survival value. We are asked to meet the challenge of the rival world ideology by becoming rigid and unbending, although history has shown that societies which cannot bend are not so much strong as brittle. We are urged to close ranks around our own ideology by adopting a coerced conformity. Yet the principal result of coerced conformity in other countries has been to destroy the delicate and complex machinery by which the mistakes which fallible leaders and statesmen must necessarily make can be detected and corrected before it is too late. We submit that the world of 1955 is not one in which even the world's strongest country should risk walking blindfolded.

It is with these considerations in mind that we respectfully submit, for the Court's consideration, the following brief.

## ARGUMENT

### I. The Act is unconstitutional as an overhanging threat to the exercise of rights protected by the First Amendment.

We think it unnecessary to dwell at length on a demonstration that, whatever conduct is reached by this Act is not merely regulated, but is penalized most severely—one might even say savagely.

Affected organizations are compelled to publish, when they publish anything, an estimate of themselves which, in the context of our time, must necessarily do them incalculable damage (Sec. 10). They are required to publish this in a form which resembles, as much as possible, a voluntary declaration representing their own opinion of their nature and purpose. Yet it may well amount to compulsory self-defamation, since those who believe in the organization and desire to see it continued may very well be the ones who stubbornly refuse to share the Board's opinion that it is "a Communist organization." Whether they share it or not, they are required to express it or be silent altogether, under extremely heavy criminal penalties (Sec. 15(c)). They are even required to express this opinion in a manner (putting it on the outside wrapper, as well as on the material itself) which could not conceivably serve any function or purpose except to frighten recipients into requesting that their names be removed from the mailing list.

If an organization which has fallen under the Board's ban desires to publish any opinion whatever, however moderate and reasoned, on any subject whatever, from social security to what ought to be done about the hydrogen bomb, it cannot do so without attaching to that opinion a label. This label, whether justifiably or not, will be widely understood as a declaration that the enclosure is Communist propaganda and that social security (or whatever

the organization desires to advocate) is "Communistic." That a given program is "Communistic" is typically the view, not of organizations formed to promote the program, but of the program's most fiery and irreconcilable opponents. Yet, in effect, it is *this* view, not its own, which the organization is required to publish—or be silent.

The labeling provisions of the Act are closely analogous to the device of compulsory arm-band identification, to which this Court has had occasion to refer. *American Communications Ass'n* v. *Douds*, 339 U. S. 382, 402. Professor Chafee has aptly said of them, before they were brought forward from the Mundt-Nixon Bill into the present Act: "This novel stigma recalls the practice of medieval princes to require Jews to wear special marks on their coats" (63 Harv. L. Rev. 1382, 1384).

Solely for their membership in disapproved organizations, the Act bars an incalculable number of persons from employment by the government, by a "defense facility," or by a labor union (Sec. 5). The government is already our largest employer. Production in any major industry might effect the nation's ability to defend itself. Thus the doors close automatically to an enormous fraction of the labor market. If the term "defense facility" is broadly interpreted this fraction can be expanded to cover very nearly the whole of it. It must be remembered also that many of the persons affected will be dependent for employment on special skills, knowledge or experience for which there is no demand outside the closed area. This is punishment of a most severe kind. *U. S. v. Lovett*, 328 U. S. 303. It is a proscription many times more sweeping than that involved in *Ex parte Garland*, 4 Wall. 333, and *Cummings* v. *Missouri*, 4 Wall. 277.

We put to one side as of little practical importance the distinction between members of "Communist-action" organizations, who are prohibited from accepting or retaining employment in a defense facility, and members of "Communist-front" organizations who, "in seeking, accept-

ing, or holding" such employment, must not "fail to disclose" their membership. The distinction is without a difference under the circumstances. If the atmosphere were such that the employee could entertain substantial hope of being employed despite such a revelation, the Act would not have been passed.

It is true that the sanctions discussed above are apparently inapplicable to "Communist-infiltrated" organizations, since the Act does not require the latter to register. However, the face of the Act makes it plain that the "Communist-infiltrated" category is aimed primarily, if not exclusively, at unions. Unions found to fit this category are subjected to virtual outlawry, since they are forbidden to carry on the most important functions which a union exists to fulfill (Sec. 13A(h)) and procedures obviously aimed at their displacement by rival organizations are set up (Sec. 13A(j)). Nor are we told by what means the organizations are supposed to find out whether there is Communist infiltration. Are they supposed to conduct internal witch hunts when even Congressional Committees armed with the powers of subpoena have found such difficulty in sifting fact from fancy in this area?

This Court has already recognized that, even without such sanctions, an official governmental designation of an organization as subversive severely cripples, if it does not proscribe it. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U. S. 123. The designation plus the sanction plainly attains the level of proscription by indirection. Even the majority opinion upholding the Act in the court below concedes that "realistically" the registration and accompanying sanctions will restrict freedom of expression (Op. p. 11). Somewhat more realistically, Professor Chafee has concluded with regard to provisions of the Mundt-Nixon Bill which have been brought forward (and even somewhat added to) in the Act: "All this virtually outlaws whatever organizations the [members of the Board] object to." 63

Harv. L. Rev. 1382, 1384. Yet it has frequently been noted by commentators on the operation of the American political system that our democracy has functioned through and been vitalized by voluntary association. As Professor Henry Steele Commager of Columbia University put it: "Most of our major reforms, political, social, moral were carried through by voluntary political associations. * * * Once the notion that joining may be dangerous is firmly established, all our organizations will be affected, and the American democracy will dry up at the roots." New York Times Magazine, November 8, 1953.

Most of these reforms were opposed as evil, socialistic or subversive. As Reverend Samuel J. May said of the abolitionists: "We are what we are * * *. It is unbecoming in abler men who stood by and would do nothing, to complain because we do not do better."

Congress itself has impliedly recognized right in the text of the Act that it was known to have, and intended to have, a highly penal effect. It is provided that the names of individuals shall not be published until they have had notice and an opportunity to deny the organizational connection. Sec. 9(b). An elaborate procedure is set up by which those able to prove non-membership in the affected organizations can get their names struck from the official blacklist. Secs. 7(g), 13(b), 13(i), 14(a). If the Act were genuinely regulatory, rather than punitive in substance and intent, such provisions would not have been thought necessary—or even thought of at all.

The real meaning of the Act is thus to be found in the conduct which organizations and individuals must forego in order to feel some assurance that these penalties will not be applied to them. We submit that the Act's standards are so vague, and their application so necessarily subjective, that no precaution can give entire assurance. However, the best hint as to what prudence requires is that given by Sec. 13(f)(4):

(f) In determining whether any organization is a "Communist-front organization," the Board shall take into consideration . . .

(4) the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of any Communist-action organization, Communist foreign government, or the world Communist movement referred to in section 2.

As we pointed out in our opening remarks, and as this record amply discloses, the Communist Party takes a position on a vast variety of issues which have no apparent connection with communism, indeed, on virtually every issue which is the subject of current debate. *Since an organization cannot know in advance what "extent of non-deviation" will seem significant to the Board, its only safe course is total deviation. The prudent organization, confronted with an issue, must resolve it by finding out what the Communist Party position is and then endorsing its opposite, whether or not that opposite seems to have any intrinsic merit.*

Even this may not be quite enough. The Communist Party line is subject to sudden and drastic changes—or, at least, so we have often been told. The Board, in applying the similar non-deviation test of section 13(e)(2), found that parallel statements by Russian and American Communists were equally significant to show domination of the latter by the former, regardless of which came first in point of time. It seems, therefore, that even after the prudent organization has established with reasonable certainty that a proposed policy is not now the Communist position, it still may not be a safe policy to espouse—the Communists might endorse it later.

***What this boils down to, as a practical matter, is that the prudent organization will take no position on any controversial issue which might offend the powerful, and the prudent individual will neither join or contribute to any.***

*organization which has ever taken such a position or which might conceivably do so in the future.* Thus the Act, as Professor Chafee has pointed out (63 Harv. L. Rev. 1382, 1384), interferes "by law with freedom of discussion through organizations" and "proposes to twist out of all recognizable shape one of the leading traditions of American life: the possibility of freely forming associations for all sorts of purposes—religious, political, social and economic."

We realize that it may be argued that some of these questions are premature in the present proceeding, since the petitioner in this case, the Communist Party, is not charged with being a "Communist-front," nor does it, we assume, deny that it is in some sense of the term, a "Communist organization." We submit, however, that the Act's validity must be decided in the light of its total impact on American freedom. That total impact is not limited by the details of this, or any particular, proceeding. *Thornhill* v. *Alabama*, 310 U. S. 88, 97. It is defined rather by the scope of the potential danger arising from the Act which an organization must assess before espousing any policy and which an individual must assess before venturing to join an organization. This total impact can be determined only by examining the pattern of the Act as a whole.

Such an examination is also appropriate in this proceeding for other reasons:

**First: The primary impact of the Act is not on the Communist Party, but on mixed organizations including non-Communist members.**

This fact is evident from the structure of the Act itself. The Board is created and staffed as a permanent organization; yet it can try the Communist Party only once and then devote the rest of its existence to other organizations. It is plain, also, that the trial of the Communist Party can only come first. The definitions of the Act are such, Sections 3(4) and 3(4A), that no organization can well be-

accused of being a "front" or of being "infiltrated," unless the Communist Party has first been tried and condemned. The Attorney General has so construed them in action by deferring his first group of front petitions until a few days after the Board issued its order in the present case.

It is also evident from the Act's setting, both legal and practical. If the findings of Section 2 are assumed to be correct, no new legislation was necessary to impose registration requirements on the Communist Party—it was already subject to registration requirements under both the Voorhis Act, 18 U. S. C. 2386, and the McCormack Act, 22 U. S. C. 611 et seq. Furthermore, Congress has rendered the Board's trial of the Communist Party perfunctory in advance by deciding that "*the* Communist organization in the United States," which could only refer to the Communist Party, constitutes "a clear and present danger." Sec. 2(15) (emphasis added). It has been rendered even more perfunctory in retrospect by Section 4 of the Communist Control Act of 1954, 68 Stat. 775 et seq., which specifically identifies the Communist Party as a Communist-action organization.

Moreover, the Board is not likely to have the independence required for judicial decision. In Collier's magazine for September 2, 1955, Hon. Harry P. Cain, a member of the Board, is quoted as saying that the President's secretary told him "This is a team and you're expected to play on it", and a high official of the Justice Department is quoted as saying that former Senator Cain should have resigned from the Board before criticizing the Justice Department. Whether or not these quotations are accurate it seems evident that the Board is more subject to political and public pressure than is a court of law.

All of this taken together makes it very plain that the primary function of the Act under review, in law as well as in fact, is not to subject the petitioner to sanctions, but to serve as a foundation for charges brought against other organizations.

**Second: The primary impact of the Act is on organizations a substantial number of whose members are neither Communists nor Communist sympathizers.**

Conceivably, the term, "Communist-front," might be applied to an organization made up entirely of Communists, but which does not proclaim that to be the fact. The Act makes it evident that this is not what Congress had in mind. Section 13(f) does not require or provide for proof that a majority, or even a substantial minority of the members are Communists. The findings in Section 2(7) speak of "fronts" as being "created and maintained, or used, in such manner as to conceal the facts as to their true character and purposes and their membership," and asserts that they are able to obtain "support from persons who would not extend such support if they knew the true purposes * * *." It is evident that what Congress is concerned about here is that organizations under some degree of Communist influence are able to attract and to retain as members a substantial number of persons who are neither Communists nor Communist sympathizers. The further assumption seems to be that Communists are such super-men and non-Communists such weaklings that the thinking and point of view of the Communists, even if they be in a minority, will prevail and dominate the policies and actions of the organization. This is not only guilt by association in crassest form—it is pernicious nonsense.

In the case of "Communist-infiltrated" organizations, the very name implies that the membership is chiefly non-Communist.

**Third: The primary impact of the Act on a mixed organization is not on the Communist members, but on the non-Communist members.**

This fact, we think, is plainly evident. The citation of a mixed organization before the Board can mean little or nothing to the Communist members, as individuals. It threatens them with no penalty to which they are not al-

ready subject. By contrast, its impact on the non-Communist members is enormous. It threatens them with being transformed, at a single stroke, from first class citizens into persons classified inferentially as spies by their automatic ineligibility for a passport, and as saboteurs by their blank proscription from government, labor union or defense industry employment.

**Fourth: The inhibitory effect of the Act on freedom of expression operates primarily not on insurrectionary ideas, but on non-insurrectionary ideas.**

This, we think, is also very plain. When this Act was proposed, the expression of insurrectionary ideas was already fully and exhaustively dealt with in the Smith Act, 18 U. S. C. 2385, and by the concept of conspiracy to violate the Smith Act. *Dennis* v. *United States*, 341 U. S. 494. *Obviously, therefore, it represents a Congressional judgment that activities which the Smith Act failed to reach should also be brought under control. This could only be the expression of ideas condemned not because of their insurrectionary nature, which would bring them within the purview of the Smith Act, but simply because they have Communist support.*

Taking all these factors into consideration, we think it very evident that the validity of the Act should be determined in this proceeding not by its impact on the petitioner, but by its impact on American civil liberties. *Thornhill* v. *Alabama, supra; Lovell* v. *Griffin*, 303 U. S. 444, 451, 453. If the Act fails for this reason, then it becomes immaterial whether Congress could validly have reached some activities of petitioner under a more narrowly drawn statute. *Reese* v. *United States*, 92 U. S. 214; *James* v. *Bowman*, 190 U. S. 127; *Winters* v. *New York*, 333 U. S. 507.

Taking the impact of the Act as a whole, it is clear that its vagueness and breadth make it invalid by bringing within the scope of its repressive effect much constitutionally protected conduct. *Stromberg* v. *California*, 283 U. S. 359;

*Herndon* v. *Lowry*, 301 U. S. 242; *Winters* v. *New York*, 333 U. S. 507.

It is a statute in which vague and fluid words set a trap for the innocent. *United States* v. *Cardiff*, 344 U. S. 174, 176-7. It exacts "obedience to a rule or standard . . . so vague and indefinite as really to be no rule or standard at all." *Small* v. *American Sugar Refining Co.*, 267 U. S. 233, 239. It is a prime example of that type of statute concerning which it has been well said that:

> Definiteness is designedly avoided so as to allow the net to be cast at large, to enable men to be caught who are vaguely undesirable in the eyes of police and prosecution, although not chargeable with any particular offense. Winters v. New York, 333 U. S. 507, 540 (Frankfurter, J. dissenting).

It acts as an overhanging threat to, and therefore as a prior restraint of, the free dissemination of ideas. *Thornhill* v. *Alabama*, 310 U. S. 88, 101-102; *Follett* v. *McCormick*, 321 U. S. 573, 575; *Cantwell* v. *Conn.*, 310 U. S. 296, 306.

It authorizes a Board of five men to sit in judgment on organizations, to determine that some are deserving and others are not, to permit deserving organizations free access to the market place of ideas, to deny access, except at the price of crippling restraints, to those deemed non-deserving. It is thus, in the substance although not in form, a statute which provides for the licensing of expressions of opinion and which confers broad discretion on the licensing officials. Such statutes are invalid on their face. *Schneider* v. *State*, 308 U. S. 147; *Cantwell* v. *Connecticut*, 310 U. S. 296; *Largent* v. *Texas*, 318 U. S. 418.

## II. The Act is unconstitutional because it rests on findings which are beyond congressional power.

### A. It is beyond congressional power to declare that the dissemination of non-dangerous ideas should be repressed because the disseminators are connected with a dangerous movement.

Congress, understandably dubious of its power to enact the statute, has attempted to bolster that power by reciting that: "The Communist organization in the United States, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger * * *."

Congress, we submit, has no such authority. The existence of a clear and present danger which would, under the decisions of this Court, justify an abridgment of freedom of expression has been recently ruled to be a question of law, to be decided by a court. *Dennis* v. *United States*, 341 U. S. 494. Congress, of course, can make law within the limits of its legislative authority. It cannot decide questions of law, arising out of particular facts, in such a way as to make its decision binding on a court.

Furthermore, Congress cannot lift itself by its own boot straps; it cannot legislate its own powers. Consequently, when the constitutional validity of a statute abridging personal and political freedoms depends on a finding, it necessarily follows that that finding, whether of fact or law, cannot be made by the Congress. Cf. *West Virginia Board of Education* v. *Barnette*, 319 U. S. 624, 638, 640; *Thomas* v. *Collins*, 323 U. S. 516, 529-30; *Thornhill* v. *Alabama*, 310 U. S. 88, 96; *Herndon* v. *Lowry*, 301 U. S. 242, 258.

The opposite result would virtually destroy our device of a written constitution and substitute legislative supremacy. If Congress can render an invalid statute valid by reciting that it finds the facts to be such as would render it

necessary, then nullification of First Amendment guarantees, and of any or all constitutional guarantees, is no more than a drafting problem.

If Congress can do what it has done here, it could also "investigate" the "Protocols of Zion," draft an appropriate set of findings, and proceed to restore all the civil disabilities to which Jews were once subject. See Wormuth, *Legislative Qualifications as Bills of Attainder,* 4 Vanderbilt Law Rev. 603, 616. As a matter of fact, in an atmosphere of anti-Semitic excitement, comparable to the atmosphere of anti-Communist excitement which prevailed in 1950 when this Act was passed, it is easily conceivable that such findings might be rendered. It is also easily conceivable that they might be supported by substantial evidence in the investigative record, since in such an atmosphere there would always be witnesses willing, for self-interest or even for a flattering spotlight, to cater to and inflame the current passion.

The position of the court below that Congressional findings are conclusive when they deal with a matter within the general scope of Congressional power, and are rendered after "extensive investigation" (Op. pp. 55-6), is untenable for several other reasons. Cf. *Chastleton Corp.* v. *Sinclair,* 264 U. S. 543.

The findings of Section 2 deal principally with the nature and historic significance of the "world Communist movement," with the nature of the governments of foreign countries in which that movement has come to power, and with the intentions of those governments toward the governments of non-Communist countries including our own. The conclusion is that we cannot co-exist with those of our own citizens who are Communists, yet this conclusion is little more than an inference derived from the almost explicit assumption that we cannot co-exist with "the Communist dictatorship of a foreign country," in which "the direction and control of the world Communist movement is vested . . . ." *These findings thus have their roots in judgments*

*in the field of international relations. This is a field which the Constitution entrusts almost entirely to the executive branch of the government. It is interesting to note that the executive branch has recently come to the conclusion that co-existence with Communist countries is possible and desirable and that it is now in process of being sought—conclusions which contradict the most basic assumptions and attitudes from which the findings of Section 2 were reached.*

The findings of Section 2 deal with complex and emotionally surcharged relationships between people and between institutions and movements composed of people. If an evaluation and interpretation of such relationships can be said to be a "fact" at all, it is at most a very relative, conditional and unstable fact. Developments of the last few months indicate that these relationships are beginning to undergo a profound change. For this reason alone, the position of the Court of Appeals that it is legally bound to assume that the fears expressed by Congress in 1950 provide an adequate, complete and conclusive picture of current reality, is unreasonable, if not wholly irrational. Cf. *Dennis* v. *United States*, 341 U. S. 494, 581 (Black, J., dissenting); see *Chastleton Corp.* v. *Sinclair*, 264 U. S. 543, 547-8.

The finding, in any case, is not a constitutional clear and present danger finding. The constitutional test has always been whether *the particular statements which are being suppressed* give rise to a clear and present danger of substantive evils which Congress has a right to prevent. *Schenck* v. *United States*, 249 U. S. 47. *It is a vastly and fundamentally different thing to say that expressions of opinion which have no inherent tendency to bring about any evil can be suppressed because of the dangerous character of the speaker, or even because of the speaker's affiliation with a dangerous movement.* Despite the use of the phrase "clear and present danger", this goes back to, and even beyond, the old "bad tendency" test. Even the discredited

"bad tendency" test at least purported to find the tendency in the speech, not in the speaker's political dossier.

It is not the law that the peaceful advocacy of lawful change can be suppressed or penalized because of the participation, influence or sponsorship of revolutionists. *De Jonge* v. *Oregon*, 299 U. S. 353.

**B. It is beyond congressional power to find that a specified group, association or movement, whether identified by name or by description, is engaging in proscribed activity.**

The findings included in Section 2 include a "purpose" to use treachery, deceit, infiltration, espionage, sabotage and terrorism. Subdiv. (1). The Board purports, in this proceeding, to have conducted an impartial trial of the question whether American Communists are foreign agents, yet the trial is held under an Act in which Congress instructs the Board at considerable length about the relations between American Communists and the world Communist movement. Subdivs. 4, 5, 6, 8, 9, 12. It is found in subdiv. (6) that American Communists are endeavoring to overthrow the government by force and in subdiv. (9) that they have repudiated their allegiance to this country. In subdiv. (11) Congress reveals that Communists are engaged in committing espionage and sabotage so cleverly that the government is unable to prove it.

These are findings of guilt and, to a considerable extent, of criminal guilt. They amount to verdicts, rendered against each and every member of the Communist Party, finding them each guilty of a considerable variety of serious felonies, including Smith Act violations and conspiracies to incite rebellion or insurrection, to overthrow the government by force, to commit espionage, to commit sabotage. They are also, in effect, findings that the leaders of the Communist Party are criminally liable for failure to register it under the Voorhis and McCormack Acts, supra, although the government has had ample opportunity to indict them on such a charge and has never seen fit to do so.

The power to render findings of personal guilt is one so delicate, so easily subject to abuse, that the framers of our Bill of Rights devised for it a whole interlocking system of limitations and safeguards. Among these are the sifting of accusations by grand juries in order to protect the accused from the injury of unsubstantiated charges, the right to know the nature and cause of the accusation, to confront and cross-examine adverse witnesses, to subpoena and present defense witnesses, to be tried by jury, to be heard by counsel in his own defense before the verdict is rendered. All these laboriously constructed safeguards are automatically swept aside when Congress conducts the trial and renders the verdict in the form of "findings" attached to an enactment.

We think that the basic reasons why bills of attainder are constitutionally prohibited is that the legislative process does not permit of adequate guarantees that such questions will be decided justly. We also think that Section 2 of the Act is in substance a gigantic bill of attainder in which thousands of individuals have been simultaneously adjudged guilty of serious offenses. *United States* v. *Lovett*, 328 U. S. 303; *Cummings* v. *Missouri*, 4 Wall. 277; *Ex parte Garland*, 4 Wall. 333.

The fact that the verdict is rendered against all members of a group, instead of against named individuals, does not render the finding more legislative in character. *Rather, it shows that Congress has undertaken to convict not only those individuals against whom it has heard evidence, but also many thousands of others concerning whom, as individuals, no evidence whatsoever was produced. This merely complicates the abuses which the framers of the Constitution feared in legislative trials by adding to them a still further abuse.*

The purely verbal trick of substituting "the Communist movement in the United States" and "the Communist organization in the United States" for the name, "Communist

Party of the United States," is a disguise so paper-thin that it would be unworthy of comment but for the fact that it shows Congress' awareness that it was attempting, in Section 2, something which would be held unconstitutional if done too openly. It is otherwise without significance. The great constitutional guarantees deal with substance, not form.

It is true that, if we are right in our view that there is a fundamental constitutional principle that questions of guilt must be decided by the judicial process, then this Court's decision in *American Communications Association* v. *Douds*, 339 U. S. 382, must be regarded as a departure from that principle. Yet even that case, which we think the Court will ultimately find it necessary to reconsider, is very far from providing any precedent for the upholding of the present Act. On the contrary, that case is specifically limited to situations where the penal effect on the individuals involved is slight, the number of individuals affected is small, and all of them are regarded as occupying strategic positions from which they can affect the flow of commerce. It was only because of those limitations that the Act there under consideration was upheld. In this case, as we have attempted to demonstrate under Point I, the penal effect is extremely severe, the number of individuals affected is enormous, and they are affected despite the fact that they may occupy positions of very minor importance, or none at all. Also, Section 2 of this Act undertakes to find its myriad defendants guilty of much more serious offenses than a tendency to indulge in political strikes. Even the *Douds* case, far from justifying the present Act, contains many indications by way of dicta that what has been here attempted would be invalid.

**C. It is beyond congressional power to evaluate political movements, pronounce them safe or dangerous, or to decide the relative merits of alternative forms of government.**

With its findings of guilt Section 2 mingles political interpretations and evaluations. It deals with the "purpose" and "nature" of the Communist movement. It pronounces on the desirability of Communism as a system of government. Subdivs. (2) and (3). It pronounces Communism as a political movement or tendency to be a dangerous aberration, which the government, subdiv. (15), must undertake to frustrate. It rules that Communist organizations, although they may "designate themselves as political parties," are "in fact" not political parties. Subdiv. (6).

Even those who wholeheartedly agree with all the political judgments embodied in Section 2 should recognize that a body competent to reach them, *not as personal opinions but with official finality,* must necessarily be equally competent to determine, if it should ever be so inclined, that the Democratic Party should be suppressed because it is "in fact" a plot to bankrupt the country and disrupt the national economy, or the Republican Party because it is "in fact" nothing but a subservient tool of private corporate greed.

We submit that the First Amendment was adopted precisely to prevent governmental findings on such questions. Indeed, in the field of political liberty, the First Amendment could serve no other practical purpose. No constitutional limitations are needed to prevent governments from suppressing views which those in power *do not* consider dangerous and unwholesome.

It is not the function of the Congress to decide whether a form of government is good or bad, whether a political movement is a danger or a promise, whether a political theory is true or false. It is not its function to decide that

persons who "designate themselves as political parties" should be denied the right to offer, endorse and oppose candidates, publish political platforms, support and oppose legislation, etc., because Congress disbelieves their political representations.

These are not questions of fact but questions of political evaluation. Their decision is an exercise, not of the delegated powers committed to a representative government, but of the ultimate powers reserved to a self-governing people. The power of determining such questions is withheld from the Congress by the First Amendment and reserved to the people by the Ninth and Tenth.

**D. The findings are not severable.**

The opinions which Congress has expressed in Section 2 constitute the foundation on which the Act's whole structure is erected. The definitions in Section 3 of "Communist-action", "Communist-front", and "Communist-infiltrated" organizations are expressed in terms of the findings. Without the definitions and the findings on which they rest, the remainder of the "Subversive Activities Control Act of 1950," as amended, has nothing on which to operate.

Hence, in this instance, despite the presence of a severability clause, the fact that the findings are beyond Congressional power necessarily invalidates the Act as a whole.

## III. The Act is unconstitutional because it authorizes ideological trials and penalizes beliefs, opinions and attitudes, not evidenced by overt acts.

**A. The Act authorizes ideological trials.**

The danger of any insurrectionary activity, we learn from Section 2 (15), is dependent on certain conditions precedent. There must first arise "a moment when the United States may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial

straits, that overthrow of the Government of the United States by force and violence may seem possible of achievement * * *." These, obviously, are remote, and entirely hypothetical circumstances, which may never arise at all. Yet without them, not even an unsuccessful insurrectionary attempt is predicted. For the present and the predictable future, "the Communist movement * * * seeks converts * * * by * * * schooling and indoctrination."

It is also interesting to note that Congress has not thought it necessary to require that condemned organizations report on whether they possess arms, ammunition or explosives, nor even on their resources in the way of short-wave apparatus, cloaks, daggers and supplies of invisible ink. It has, however, required:

> "A listing, in such form and detail as the Attorney General shall by regulation prescribe, of all printing presses and machines including but not limited to rotary presses, flatbed cylinder presses, platen presses, lithographs, offsets, photo-offsets, mimeograph machines, multigraph machines, duplicating machines, ditto machines, linotype machines, intertype machines, monotype machines, and all other types of printing presses, typesetting machines or any mechanical devices used or intended to be used, or capable of being used to produce or publish printed matter or material, which are in the possession, custody, ownership, or control of the Communist-action or Communist-front organization or its officers, members, affiliates, associates, group, or groups in which the Communist-action or Communist-front organization, its officers or members have an interest." Sec. 7 (d) (6).

This section, although not part of the original Act but added by a later amendment, may be said to speak for itself as a Congressional construction of the nature of the "clear and present danger."

The Act's instructions to the Board as to the matters it shall "take into consideration" set the stage for an ideological trial by their heavy stress on parallelism in views

and policies and on the subjective state of mind to be attributed to members or leaders of the accused organizations. This stress is matched by the Act's complete failure to require proof of any objective facts adequate to the determination of issues to which grave legal consequences have been attached.

Space does not permit a detailed analysis of the Board's voluminous report, yet we nevertheless submit that a close and critical analysis of that document, in particular its processes of inference, will make it clear that the abuses which the Act so obviously invites have in fact occurred.

A glance at the report is sufficient to make clear that references to historical works on Communist theory written by Europeans since deceased are enormously more numerous and have much greater bearing on the Board's conclusions than references to overt conduct found to have been engaged in by petitioner. By this method of reasoning the Board would be competent, if it should ever be so inclined, to proscribe the Democratic Party on the basis that Jefferson and Madison advocated revolution under certain conditions or the Republican Party on the basis of similar statements of Lincoln and Grant. See footnote to Opinion of Justice Jackson in *American Communications Association* v. *Douds* (supra), p. 440. On closer examination of the reasoning process, it becomes evident that the Board has not looked to petitioner's conduct as a test of what it really believes. On the contrary, it has started by attributing its own version of the theory to petitioner and then used this as a basis for inferring the significance and motivation of petitioner's conduct. Compare *Schneiderman* v. *United States*, 320 U. S. 118, 158-9. For example, when it wishes to know whether the Communist Party, despite its denials, intends to undertake violent revolution in the United States, the Board does not inquire whether the matter can be tested objectively, for example, by inquiring whether overt preparations for such an undertaking, such as military drills and the accumulation of secret arms

caches, have taken place. Instead, it looks to see what Lenin said about it.

In short, the Board has not tried the Communist Party. It has tried and condemned "Marxism-Leninism".

This process reaches its grotesque climax in the Board's finding that "Marxism-Leninism * * * has been promulgated and issued by the Soviet Union as the overall philosophy, authoritative rules, directives and instructions governing the world Communist movement" (p. 78) and that "the Marxist-Leninist classics are one of the chief means by which the Communist Party of the Soviet Union directs, dominates, and controls the Communist Party of the United States" (p. 43).

Thus, according to the Board's theory, if an American reads the "Communist Manifesto," a work written in England by German refugees more than half a century before the Russian revolution, and if he finds it convincing and adopts its ideas as his own, he thereby becomes *ipso facto* a Russian agent and falls under the sway of Russian Communist leaders who are "controlling and dominating" him through the medium of the book. This is witch-hunting at its weirdest.

**B. The Act penalizes beliefs**

Under Point I we have discussed the sanctions of the Act and what is said there need not be repeated. At this point, we wish merely to take note that some, at least, of these sanctions permit of only two interpretations. Either they are penalties imposed for the mere holding of a belief or they are conclusive presumptions, drawn from the mere fact of belief, that the individual involved is disposed to commit offenses which he is not shown ever to have committed.

For example, the Act subjects any member of an organization ordered to register to a penalty of $10,000 fine and

five years imprisonment, Sec. 15 (c), for the offense of applying for, using or attempting to use a passport. Sec. 6(a). No showing is required that the passport was used or intended for any improper purpose. Unless the intention is purely punitive, it must embody an implied Congressional judgment that *all* members of the Communist Party and *all* members of *all* "Communist-front" organizations are unfit to be trusted with passports. The Act contains nothing to explain or illuminate such a judgment, except the statement in Section 2 (8) that "travel of Communist members, representatives, and agents from country to country facilitates communication and is a prerequisite for the carrying on of activities to further the purposes of the Communist movement."

Yet the Act does not require a scintilla of proof that the individual denied a passport has ever served as an international courier or evinced any willingness to do so. It makes no provision for the consideration of affirmative proof as to why he needs to go abroad or what he intends to do. It does not permit the issuing officer to find that any combination of facts whatever outweigh the bare fact of an organizational membership. Indeed, it makes the officer guilty of a crime if he issues the passport with knowledge or "reason to believe" that the applicant is a member. If the right to a passport has in fact been cut off, not to punish the individual, but because of a supposed probability that he will serve as an international courier, then that probability has been conclusively presumed from the individual's supposed beliefs, attitudes and loyalties. Even the latter are inferred from the bare fact of membership and, in the case of a non-Communist member of a "front," from the bare fact of association. It will be a brave official indeed who will not resolve every doubt against an applicant.

Similarly, the Act conclusively presumes unfitness for government employment without proof of any disloyal act and for labor union employment without proof of any participation in a political strike.

Let us suppose the case of a skilled worker who has been in a defense industry for twenty years and for all that time has been a trusted and satisfactory employee. No job he worked on has ever been sabotaged. Now it develops that he must be banned from his present job, and from all defense industry, because of membership in an organization. Is this because he might commit sabotage? If so, why is the line of reasoning from his membership to his beliefs to his probable future conduct—an inference on an inference, winding up with a prediction—so compelling that his contrary record on the specific issue cannot even be taken into consideration?

The pretense that we are not punishing the heretic for his opinions, but are only guarding against the misconduct which his opinions might lead him to commit, is the most ancient and threadbare rationalization of persecution. It is the very hallmark of bigotry. It was used for centuries by Catholics to justify the imposition of disabilities on Protestants. Protestants, when they came to power, imposed similar disabilities on Catholics and offered the same excuse. Both used it to defend and explain discrimination against the Jews. Why should such a hoary pretext for intolerance rise to haunt the United States in mid-Twentieth Century?

Lord Macaulay wrote more than a century ago:

> "It is altogether impossible to reason from the opinions which a man professes to his feelings and his actions; and in fact no person is ever such a fool as to reason thus, except when he wants a pretext for persecuting his neighbors" (Historical Essays, London, 1932, p. 92).
>
> "If such arguments are to pass current, it will be easy to prove that there was never such a thing as religious persecution since the creation. For there never was a religious persecution in which some odious crime was not, justly or unjustly, said to be obviously deducible from the doctrines of the persecuted party . . .

*The true distinction is perfectly obvious. To punish a man because he has committed a crime, or because he is believed, though unjustly, to have committed a crime, is not persecution. To punish a man, because we infer from the nature of some doctrine which he holds, or from the conduct of other persons who hold the same doctrines with him, that he will commit a crime, is persecution, and is, in every case, wicked and foolish"* (Ibid, pp. 7-8). (Emphasis supplied.)

## IV. There is now no clear and present danger which would justify such an invasion of rights protected by the First Amendment as the Act under review makes.

This Court in upholding the Smith Act in *United States* v. *Dennis* (supra) weighed the probable danger to our national security from the Communist conspiracy, which had been found by the court below to exist, against the danger from the invasion of free speech and association and upheld the Smith Act as applied in that case on the probability of danger from the conspiracy to advocate the overthrow of government being greater than the danger from the curtailment of the protection of the First Amendment. Chief Justice Vinson said:

> "Chief Judge Learned Hand, writing for the majority of the Court below, interpreted the phrase (clear and present danger) as follows: 'In each case (courts) must ask whether the gravity of the "evil", discounted by the improbability, justifies such invasion of free speech as is necessary to avoid the danger.' 183 F. 2d at 212. We adopt this statement of the rule."

The restrictions of the Act were upheld on the ground of clear and present danger. This was a matter to be decided by the courts, not Congress. Since *Dennis* was decided and since the Act under review here was passed by Congress, conditions in the world have radically changed. The decision was clearly based on the belief that we were threatened by war with a powerful Communist bloc, headed by

the Soviet Union, and that there were ties between the leaders of the world Communist movement and the leaders of the American Communist Party which created a danger to our national security. See pp. 511, 547, 563, 589. Happily the danger of international conflict is receding. In his final statement at the close of the recent Geneva conference, President Eisenhower said:

> "If our peoples in the months and years ahead broaden their knowledge and their understanding of each other as we, during this week have broadened our knowledge of each other, further agreements between our governments may be facilitated * * *. I came here (to Geneva) because I believe mankind longs for freedom from war and rumors of war. I came here because of my lasting faith in the decent instincts and good sense of the people who populate this world of ours. I shall return home with these convictions unshaken and with the prayer that the hope of mankind will one day be realized." (New York Times, July 25, 1955.)

Time and again during and since the Geneva conference the President has expressed his faith that the leaders of the Soviet Union as well as its people sincerely desire peace. In Geneva he said: "There is evidence of a new friendliness in the world." (New York Times, July 27, 1955.)

It is true, as the President indicated in his address to the American Bar Association on August 24, 1955, that Geneva has not settled grave specific issues. It is equally true, however, as the President said, that "Geneva spells for America not stagnation but opportunity. Opportunity for our own people and for people everywhere to realize their just aspirations."

On the same occasion Chief Justice Warren truly said:

> "We, and other free countries, are endeavoring to demonstrate that freedom and dignity for all constitute the only sound basis for world peace. In such a gigantic struggle where the eyes of a critical world are constantly on everyone, the power of example is far more forceful than that of precept."

An article in the New York Times for August 7, 1955 written in Moscow under the by-line of Harry Schwartz headed "Signs of Eclipse of Molotov Noted" says that Soviet Foreign Minister "may have suffered a sharp eclipse in power and prestige along with the eclipse of the 'hard foreign' policy he laid down only six months ago . . . Last week, Premier Nikolai Bulganin uttered only soothing words, words of peace and good will, words echoed by lesser figures in the supreme Soviet debate that followed his speech."

In the same edition of The Times appeared an article headed "U. S., Soviet Closer on Atom Security" which quoted a United States official as saying:

> "Once you accept these basic principles there is only one way your policy can be directed. You have to try to figure out some means whereby you and the other fellow can live in the same world together. Otherwise you die together."

The article went on to say:

> "Moreover, another vital conclusion has been drawn —one that thus far seems at least partly to be accepted by Moscow. If the great powers are not going to defeat each other or destroy each other by nuclear attacks then they must learn how to live with each other and with their differences.
>
> This means that diplomacy assumes a new importance. Negotiators must sharpen their skills to try to ease tensions."

These are but a few of the indications filling the press of the world indicating that we are entering a new era of peaceful co-existence. But while the world moves the statute under review remains frozen in an earlier concept. If the new era is to be brought in it needs the popular support which the Act stifles.

In his address to the American Bar Association on August 24, 1955, President Eisenhower said that our program must be "dynamic and flexible" and the goals we seek could

never have been achieved "when men and nations confronted each other with hearts filled with fear and hatred" (New York Times, Aug. 25, 1955). Thus, the head of the Executive branch of our Government takes a position in 1955 which negates the findings of Congress in 1950 as expressed in Sec. 2 of the Act, which are based on fear, not faith; hatred, not amity.

Will President Eisenhower be denied a passport or required to register under the Act? Of course not. Senator Ellender was quoted in the New York Times for August 25, 1955 as saying in Moscow that if people who oppose friendly visits to the Soviet Union "came here they might see things in a different light." Will he and other members of Congress become victims themselves of the gag law they passed? One evil of the law is that it is bound, in practice, to be discriminatory.

Another evil in writing alleged findings of fact into law is that there is an assumption that history is static. The law remains on the books to plague us long after the concepts on which it is based have been outmoded by passing events. Who in Congress could have predicted when the Act was passed how vastly changed the world atmosphere would be before its constitutionality could be passed on by this Court?

An article in The Nation for August 20, 1955 says:

> "The Geneva Conference was born in January 1954 when it was decided at NATO headquarters in Paris that a future war should be fought with atomic weapons. It is almost a gift from Heaven that in this crucial time a man like General Eisenhower, with his military knowledge coupled with a deep humanitarianism and a sense of responsibility, is the President of the United States. Thanks to Geneva he has become a symbol of peace and the hope of peoples everywhere."

Even more significant of the changed conditions than the friendly utterances of statesmen are the exchanges of information on hitherto carefully guarded atomic secrets by

the scientists in the recent meeting in Geneva and the invitation to the scientists of the Soviet Union to visit the principal atomic energy plant in Great Britain and to make a complete inspection. It is inconceivable that the curtain of secrecy which has been so closely drawn over the area of nuclear energy could have been lifted had not the responsible heads of the Western governments, including our own, reached conclusions as to the danger of war which are at complete variance with the premises of the Act.

In a dispatch to the New York Times of August 20, 1955, from Geneva, Michael J. Hoffman says of the role of Americans at the Conference of Scientists:

> "It is impossible, American representatives here believe, that the demonstration of good faith and scientific leadership should not redound to the political advantage of the United States in the broadest sense of the term."

In an article on disarmament in the New York Times for August 21, 1955, Harrison E. Salisbury writes:

> "The questions the United States poses—questions of mutual survival in a nuclear world—are a measure of the metamorphosis in Washington's thinking on the subject.
>
> "Evidence of these changes has multiplied rapidly in recent weeks. Actually, the roots go back to the appointment of Mr. Stassen in March."

And on the same date the New York Times said editorially under the caption "An Atomic Milestone":

> "The first International Conference on the Peaceful Uses of Atomic Energy has ended in Geneva in what is universally acclaimed as a resounding success that made it a new milestone in the atomic age. Bringing together the leading atomic scientists from seventy-two nations, including in particular Soviet Russia, it not only rose above all political and ideological boundaries but also lifted a good part of the secrecy surrounding the new forces modern man has unleashed and turned the world's attention from their destructive potentialities to their constructive possibilities."

Also significant is the increasing flow of observers in both directions including the visits of farmers from the Soviet Union to this country and of American farmers to the Soviet Union.

In *Chastleton Corp.* v. *Sinclair* (supra), it was held that a law depending upon the existence of an emergency or other state of facts to uphold it may cease to operate if the emergency ceases or the facts change. The facts have changed since the Act was passed.

We believe that this Court has the opportunity and duty to make a contribution of utmost value to this new movement for better understanding by striking down this Act which is based on fear and false concepts of security. The Court can and should review the findings of fact on which clear and present danger was predicated in *Dennis* which, in the opinion of the Court, justified curtailment of First Amendment rights. If the danger has receded and if, as we believe, the current danger is not from attack from without but from the eroding of our liberties from within, the Act is clearly lacking in constitutional sanctions and is itself a clear and present danger to our historic freedoms and institutions, and should be struck down. Many of the most prominent leaders in our country, clergymen, rabbis, educators, editors, and jurists, including members of this Court have voiced alarm that freedom of speech and association are threatened as never before in our history. At least three Justices of this Court, Chief Justice Warren,[1] Mr. Justice Douglas[2] and the late Mr. Justice Jackson[3] have expressed their concern over the situation in widely reported public addresses.

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[1] Speech Reported in New York Times, Thursday, January 14, 1954, Dinner of Alumni of Columbia University.

[2] Address to American Law Institute, Washington, D. C., May 20, 1953.

[3] Address to New York State Bar Association, New York Times, January 31, 1954.

While the tide of repression in the name of combating Communism has mounted, the Communist stream of propaganda itself has dwindled. Yet the menace attributed to Communism has created a danger for every American who does not toe the orthodox line. As this is written a Congressional Committee is conducting an investigation into the entertainment industry and asking actors about their political beliefs as if there could be something subversive in speaking or listening to the lines of a play if spoken by the lips of a heretic. This is merely one straw in a vast gale of censorship, public and private, in which individual liberties are being blown away.

We believe that Judge Learned Hand, who wrote the opinion of the Court of Appeals in *United States* v. *Dennis,* 183 Fed. 2nd 201, was aware of the changed atmosphere of this day from that in which he wrote that opinion, when he said in a speech at the University of New York on October 24, 1952:

> "Risk for risk, for myself I had rather take my chance that some traitors will escape detection than spread abroad a spirit of general suspicion and distrust, which accepts rumor and gossip in place of undismayed and unintimidated inquiry. I believe that that community is already in process of dissolution where each man begins to eye his neighbor as a possible enemy, where non-conformity with the accepted creed, political as well as religious, is a mark of disaffection; where denunciation, without specification or backing, takes the place of evidence; where orthodoxy chokes freedom of dissent; where faith in the eventual supremacy of reason has become so timid that we dare not enter our convictions in the open lists, win or lose. Such fears as these are a solvent which can eat out the cement that binds the stones together; they may in the end subject us to a despotism as evil as any that we dread • • • *who knows but we may be on a slope which leads down to aboriginal savagery.*" (Emphasis supplied.)

Here, indeed, is a clear and present danger expressed by some of our greatest jurists which, weighed in the balance of probabilities against the danger found in *Dennis* v. *United States* (supra), may well demand the immediate strengthening by the courts of First Amendment protections.

To avoid burdening the Court with what it already knows about the honest fears of honest men that our traditional liberties are threatened, we confine ourselves to a few quotations from among the hundreds that have appeared in recent months.

In his report as President of the Fund for the Republic (N. Y. Times Aug. 22, 1955) Dr. Robert M. Hutchins declared:

> "The misunderstanding of civil liberties, the indifference to them, and the violations of them, to which we too easily grow accustomed, are still such as to cause alarm," noting that a political party had been identified with the "enemy", Dr. Hutchins added that "it has appeared that the peril to the country could be dealt with only by methods that drastically departed from those that have characterized Anglo-American jurisprudence."

Among other important statements are the following:

> "Under the plea that the structure of American society is in imminent peril of being shattered by a satanic conspiracy, *dangerous developments are taking place today in our national life.* Favored by an atmosphere of intense disquiet and suspicion, a subtle but potent assault upon basic human rights is now in progress." (Emphasis supplied.) From statement of General Council of the Presbytrian Church in the United States of America reported New York Times, November 3, 1953.

> "This incident (the examination of Bishop Oxnam by a Congressional Committee) is indicative of a trend in our American life *that threatens the security of our institutions and causes us to fear for the future of our*

*long, established liberties.*" (Emphasis supplied.) From statement of Council of Bishops of the Methodist Church adopted at the annual meeting in Omaha, Neb. Apr. 30, 1953, and reported in The Churchman for June 1953.

"If it is important to detect a conspiratorial Communist who wears the robes of a clergyman, it is equally important not to confuse a 'liberal Christian' or honest advocate of social reform with Communists. *This is something which is now happening to an alarming degree.*" From National Council Outlook, official journal of the National Council of Churches, in its issue of May 1953.

"In the midst of this roaring wilderness of political atavism, where the very air is filled with bombast, menace and threat, there has been a dismaying silence on the part of political figures whom Americans have always regarded as bold and passionate defenders of traditional American liberties and rights. This ignominious silence is itself a *measure of the abyss into which we have plunged.*" (Emphasis supplied.) From Congress Weekly, published in New York by the American Jewish Congress, editorial in issue of May 11, 1953.

"A more basic threat has been a growing tendency on the part of our people and their representatives in government to suppose that it is within the competence of the State to determine what is and what is not American." From statement by General Board of the National Council of Churches of Christ in America, reported in The New York Times, p. 20, Mar. 18, 1954.

Such quotations from high sources could be multiplied. The concept has been growing that the threats contained in the Smith Act extend to all sorts of organizations and to other ideas than the advocacy of force and violence. The Act under review confirms the fear. Persons advocating ideas for social reform or even peace advocates are to be subjected to or threatened by repressive action. Clearly the emphasis since the decision in *Dennis* has shifted and the weighing of probabilities of danger needs to be undertaken by the Court anew.

The opinion of the Court below in dealing with the right of an individual in a proscribed organization to withdraw or to seek Court review overlooks the basic error of the Statute. An individual has a Constitutional right to belong to an organization "infiltrated" with Communists. He should not be required to find out whether this is or is not a fact. He should not be required to withdraw or submit to penalties even if it should be determined by procedural due process that such is the fact. The test should be whether the organization has engaged in punishable activity. The test of the Act is association. It makes the Communist a political leper with whom non-Communists cannot work for the cause of peace or any other cause no matter how worthy. As the Court below correctly states "The critical questions concerning a so-called 'outlawry' statute are whether the matter prohibited is eligible for prohibition" but denying rights of association for constitutionally protected activities is ineligible for prohibition.

In the opinion of most Americans one of the most weakening and repugnant features of the Soviet Union has been what Sidney and Beatrice Webb called "the disease of Orthodoxy." The Act under review is an attempt to inject this virus into our American System in virulent form. Only this honorable Court can provide the antidote. It can help to restore our reputation in the world as the stronghold of liberty and our rights of freedom of speech and association at home by declaring the Act void.

## CONCLUSION

**We submit that the Subversive Activities Control Act should be held unconstitutional on its face. It follows that the decision below should be reversed.**

Respectfully submitted,

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## APPENDIX B

August 18, 1955

Hon. Simon E. Sobeloff
Solicitor General of the United States
Washington, D. C.

Dear Sir:

COMMUNIST PARTY OF THE UNITED STATES vs.
SUBVERSIVE ACTIVITIES CONTROL BOARD No. 48
October Term, 1955

In accordance with Rule 42 of the Revised Rules of the Supreme Court, I hereby request your consent to my filing of a brief *Amici Curiae* on behalf of a considerable group of prominent American citizens none of whom are Communists. The nature of their interest (Rule 2a) is their belief that serious constitutional questions are involved which far transcend those of the Communist Party itself. Some of them are or may be members of organizations which may be affected if the Subversive Activities Control Act of 1950 is held to be constitutional. If you wish the names and addresses of the persons who wish to act as Friends of the Court, I shall be glad to supply them.

I note the requirements of Rule 2b. I judge that it is not the intent of this rule to prevent the filing of an *Amicus* brief in a case where all important points of law will, no doubt, be covered by skillful counsel for appellant. The point of view from which the proposed brief approaches the problem, the nature of the interest, the emphasis and frame of reference are different from that of appellant. It will, moreover, raise a fundamental question as to whether "the clear and present danger" which justified the decision of the Supreme Court in *United States v. Dennis* is what it was when that restriction of First Amendment rights was upheld, or whether in the changed climate of today the

Court should re-consider that question with relation to such legislation as the 1950 Act under review. So far as I know this point will not be raised in appellant's brief.

Sincerely yours

ROYAL W. FRANCE

RWF/ts

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## APPENDIX C

OFFICE OF THE SOLICITOR GENERAL
WASHINGTON, D. C.

August 25, 1955

Royal W. France, Esq.
104 East 40th Street
New York 16, New York

Re: *Communist Party of the United States* v. *Subversive Activities Control Board, No. 48*

Dear Mr. France:

I have your letter of August 18, 1955, in which you request consent to filing of a brief *amici curiæ* in this case "on behalf of a considerable group of prominent American citizens none of whom are Communists". We have carefully considered your request, and regret that we cannot accede to it.

As you are aware, the Government believes that it must in each instance evaluate a particular request for consent in order to ascertain whether it meets the criteria appropriate for application under Rule 42 of the Revised Rules of the Supreme Court. Accordingly, we are obliged to consider, among other things, "the nature of the * * * interest" (Rule 42, par. 3) of the individual or group requesting consent.

Your request in this case is made "on behalf of a considerable group of prominent American citizens", some of whom "are or may be members of organizations which may be affected if the Subversive Activities Control Act of 1950 is held to be constitutional." From the description you supply, the group's interest seems too remote, indirect, and contingent to justify consent. There appears to be little more reason for this particular group to file a brief *amicus curiae* than for any other Americans, either singly or as a group. In the circumstances, we have been unable to conclude that this is an appropriate instance in which Government consent should be given.

This does not imply that the request of an *ad hoc* group could never warrant consent. We are sure you will understand, however, that unless there is a satisfactory showing of a direct or special interest or concern, the granting of consent would not be compatible with our responsibilities to the Court under its Rule.

This does not, of course, in any way prejudice your right to present a timely motion to the Court for leave to file your proposed brief. I may add that if you should file such a motion, the Government would not oppose it.

For your general information, a copy of a memorandum stating this Office's position on consent to *amicus curiae* briefs is enclosed.

Sincerely yours,

SIMON E. SOBELOFF
OHP

Simon E. Sobeloff,
Solicitor General.